

Voices for Justice

Victims of crime with disabilities in Romania



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The Voices for Justice project focuses on the rights and experiences of people with disabilities who are victims of crime and how they access justice. It is an EU co-funded project taking place across 7 countries, carrying out research at the national level, identifying promising practices, creating practical tools for professionals and victims in the criminal justice system, and supporting international standards to protect the rights of people with disabilities who are victims of crime. The project references in particular the obligations set out in the European Union Victims' Rights Directive (2012/29/EU) and the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The project has the following partners:

- Coordinator: Validity Foundation
- Bulgaria: Chance and Support
- Croatia: Victim and Witness Support Service, VWSS
- Czechia and Slovakia: FORUM for Human Rights
- Lithuania: Mental Health Perspectives, PSP
- Romania: Centre for Legal Resources
- Slovenia: PIC – Legal Center for the Protection of Human Rights and the Environment; Social Protection Institute of the Republic of Slovenia, IRRSV; and University of Ljubljana



The full and formal name of the project is: Information and Communication: Cornerstones of justice for victims of crime with disability (878604 — InfoComPWDs)

Centre for Legal Resources

Centre for Legal Resources (CLR) is a non-governmental organisation, established in 1998 by the Open Society Foundation, which works for the creation and functioning of a legal and institutional framework that ensures respect for human rights and equal opportunities and free access to fair justice and contributes to capitalising on its legal expertise for the general public interest.

Voices for Justice: Victims of crime with disabilities in Romania

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Disclaimer

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Executive Summary

This report is part of the Voices for Justice - Communicating with Victims of Crime with Disabilities (878604-InfoComPWDs)¹ project, co-funded by the European Union Justice Programme (2014-2020) through the Call for Proposals JUST-AG-2019 / JUST-JACC-AG-2019 and it focuses on creating practical tools for people with disabilities who are victims of crime to ensure that they can actively participate in criminal justice processes. The EU Victims' Rights Directive (2012/29/EU) guarantees victims, among other things, the rights to understand and be understood, to information and to be heard.

The project aims to improve access to criminal justice for victims with disabilities, in accordance with the Victims' Rights Directive and the related acquis, as well as access to support and accommodation for beneficiaries to communicate effectively and be understood, and to equip practitioners in the justice field with improved skills and practical tools to communicate effectively with victims with disabilities. The project will be carried out in, and will directly benefit, beneficiaries in seven EU countries (Romania, Bulgaria, Croatia, Czech Republic, Slovakia, Lithuania and Slovenia), while the resulting tools and methods will be relevant across the EU. The project is coordinated by Validity Foundation, in partnership with eight organisations (Legal Resource Centre, Chance and Support, Victim and Witness Support Service - VWSS, Human Rights Forum, Mental Health Perspectives - PSP, Legal-Informational Centre for NGOs, Social Protection Institute of the Republic of Slovenia - IRRSV and University of Ljubljana) from the seven Member States (Romania, Bulgaria, Croatia, Czech Republic, Slovakia, Lithuania and Slovenia). The Centre for Legal Resources is the Romanian partner of this project.

The objectives of the project are to:

- i Improve beneficiaries' access to their rights;
- ii Improve access to assistance and accommodation for them;
- iii Improve communication skills of justice professionals and develop practical tools;
- iv Promote cross-disciplinary cooperation in the provision of information and communication by victims of crime with disabilities in all criminal justice disciplines;
- v Disseminate new knowledge and materials to key target groups in each project member country and across Europe; and
- vi Contribute to the consistent and coherent development, revision and implementation of the Victims' Rights Directive, the UN CRPD and the European Charter of Fundamental Rights.

Chapter 1 of this report provides an overview of the rights granted to victims of crime in Romania and existing support services, as well as the specific problems faced by certain vulnerable groups in the country. Three topics are then covered in detail, each in a separate chapter: Chapter 2 looks at information about, and directing victims to, the judicial authorities and support services, highlighting issues at all stages of the process, from filing a complaint to the post-judicial stage; Chapter 3 looks at how the authorities actually manage to communicate essential information to victims with intellectual or psychosocial disabilities, while Chapter 4 addresses how communication and information provision to victims could be improved and adapted. Throughout this report, details of good or promising practices identified in Romania in terms of targeting, assessing and informing victims are provided.

¹ Full project title: Information and Communication: Cornerstones of justice for victims of crime with disabilities (878604 - InfoComPWDs) JUST-AG-2019 / JUST-JACC-AG-2019.

In Romania, adult victims with psychosocial and intellectual disabilities are one of the most vulnerable categories of participants in the criminal justice process. Prejudice and excessive formalism of procedures coupled with the lack of knowledge and/or expertise of justice professionals often results in decisions that fail to meet the specific needs of people with disabilities.

A recent legislative amendment (April 2019) laid the foundations for the creation of generic national victim support services to operate within the General Directorates for Social Assistance and Child Protection (DGASPC), the State social services at county level. However, the services remain at a theoretical level, as in most DGASPCs these services are being reorganised or restructured. Therefore, Romania currently has specialised services for only some victims who are considered vulnerable: in particular, child victims of abuse and neglect, victims of domestic violence and victims of human trafficking. There is no specialised service for adult victims with disabilities.

Despite improvements made in recent years, specialist support services remain underdeveloped, insufficient and often inaccessible. This is due either to financial reasons (e.g. many victims have to pay out of their own pocket for psychological counselling as they cannot access it free of charge, regardless of the fact that national legislation grants them this right) or geographical reasons (support services are predominantly located in urban areas, so people in rural areas find it difficult to access them).

Research shows that although the Victims Rights Directive has largely been incorporated into national law, including provisions on referral (Articles 8 and 9 of the Directive), assessment (Article 22) and the right to information (Articles 4 and 6), its implementation in practice is poorly carried out.

Even though referral mechanisms are in place, especially within the police and social services, our research (Chapter 2) indicates a wide variety of practices in the country, ranging from good inter-agency cooperation to a complete lack of referral to support services. These problems are primarily due to a shortage of services, especially in rural areas, and ineffective collaboration between institutions - judicial authorities, social services and victim support organisations. Most referrals take place when the victim reports a crime or when the authorities carry out a criminal investigation, but victims can also be put in touch with support services through three national hotlines dedicated to children, victims of domestic violence and victims of trafficking respectively.

Furthermore, the research carried out for this study has shown that, in reality, effective communication practices focused on the individual needs of people with disabilities (Chapter 3) happens rarely and only in a limited number of institutions – in particular social services and non-governmental organisations – and is at times only accessible to certain categories of victims: children who are abused or exploited, victims of trafficking and victims of domestic violence. Although Romania has the legislative framework in place to protect the needs of victims with disabilities and ensure they are met, there are very few clear guidelines for judicial authorities on how to carry out individual assessments in accordance with the individual needs and specific circumstances of the crime, as detailed in the Directive. Nonetheless, social services and victim support organisations follow more detailed guidelines and procedures for needs assessments, either regulated by national legislation or, in the case of NGOs, in line with internal practices.

Chapter 4 provides a list of good or promising practices identified during the research in terms of provision of information to victims, victim referral and needs assessment. With regard to providing information to victims with disabilities, the report indicates that there are no formal mechanisms in place to ensure that victims truly understand the information being communicated to them, with the exception of providing an interpreter when the victim does not understand the language, has a hearing impairment or requires the presence of a legal representative. Often the judicial authorities - police officers, prosecutors and judges - use legal jargon when informing victims of their rights, without providing them with information on how to access or apply these rights. There is a lack of support materials containing information for victims (leaflets, posters, guides, websites, infographics), especially in easy-to-read, accessible formats for people with intellectual disabilities. There is also a lack of information/awareness-raising campaigns and insufficient or inadequate training of professionals on the needs of victims, how to provide victims with information, and on referral of victims to authorities and/or support services.

Last but not least, Chapter 5 compiles a series of recommendations to the competent authorities aimed at facilitating access to justice and support services for victims with disabilities. These recommendations include: creating generic national support services that are accessible and adapted to all victims of crime with intellectual or psychosocial disabilities; ensuring sufficient funding for service providers, including NGOs; improving outreach to victims with intellectual or psychosocial disabilities; creating and/or enhancing procedures and guidelines for referral/coordination between the institutions involved, through drafting protocols between specialised services and judicial authorities; developing and expanding existing procedures for assessing the needs of victims and providing adequate training specialists working with victims of crime with intellectual or psychosocial disabilities in the above-mentioned areas.

Chapter 1 - Introduction

This report provides an overview of the situation of victims of crime with intellectual and psychosocial disabilities in Romania, in terms of their access to the rights provided in the Victims' Rights Directive (VRD) and the related acquis, with particular reference to the specific procedures for accessing and referral to (psycho-legal) support and assistance services, as well as the way in which individual assessments are carried out, from the first contact with a judicial authority. The Victims' Rights Directive sets out a minimum set of rules on the rights, support and protection of victims of crime, leaving it to each Member State to improve its national protection framework once it has been transposed into national law.

The results of the report are based on quantitative and qualitative research conducted between September 2020 and June 2021, combining theoretical research, analysis of legislation and public policies with 10 semi-structured interviews with crime specialists and victims of crime across the country, and also 90 requests for public inquiries², addressed to state institutions responsible for the protection and support of victims of crime³.

The information of public interest that was requested covered as follows:

- For DGASPCs: the questions referred to the fulfilment of the obligations under L211/2004 regarding the establishment of the department/service for the support of victims of crime, the collaboration with private providers, the elaboration of the special Register on the reported crimes, the typology of these crimes, as well as the specialized training courses in communication with victims with psychosocial/intellectual disabilities for professionals interacting with them;
- For the Public Ministry and the General Inspectorate of the Romanian Police: the questions concerned information on the training of prosecutors in the rights of victims with disabilities, statistics on victims of crime by Court of Appeal, the institutions with which they collaborate;
- For the Superior Council of Magistracy: the questions concerned the tools used for the application and understanding of the provisions of the Victims Directive and the procedural adaptations made in the justice system to accommodate them.

The interviewees and institutions that were contacted were selected to obtain comprehensive and multidisciplinary information from professionals from different backgrounds, both from the public and NGO sectors in different areas of Romania, who provide support and protection for a wide range of vulnerable groups. Although the interviews and public enquiries did not cover the whole country, the representation and diversity of sources is a strong indicator of the state of affairs at

² Submitted under Law 544/2001 on free access to information of public interest.

³ The 90 requests for public access to information were addressed to: all 47 DGASPCs present at national level in each county and sector of the capital; the General Inspectorate of the Romanian Police; the Public Ministry; and the following 39 courts: The courts of Sectors 6, 2, 3, 4, and 5 of the Capital, Alba, Arad, Bacău, Oradea, Botoșani, Brăila, Cluj-Napoca, Huedin, Iași, Hirlău, Răducăneni, Sibiu, Mediaș, Timișoara, Lugoj, Deta, Râmnicu Vâlcea, Baia Mare, as well as the courts of Sibiu, Satu mare, Teleorman, Timiș, Tulcea, Vâlcea, Bucharest, Cluj, Iași, Prahova, Maramureș, and, finally, the courts of appeal of Bucharest, Ploiești, Alba Iulia, Cluj, and Timișoara. The inquiries aimed for wide geographical coverage, in particular to observe whether and to what extent the General Directorates of Social Assistance have succeeded in implementing the provisions of Law 211/2004. Also, this mention refers only to the authorities that provided a response within the time limit set by law, meaning that 5 of them did not provide a response at all.

the national level. The report found that despite positive developments over the last decade, mainly due to partial alignment with European and international legislation, Romania continues to face problems in terms of informing disabled victims of crime, access and referral to support services, and protection measures.

All Member States must guarantee effective protection of rights, unhindered access to justice and equal recognition before the law for victims with disabilities.

In Romania, the national legislation incorporating Council Framework Decision 2001/220/JHA and the Victims' Rights Directive (transposed into national law by Emergency Ordinance no. 24 of 3 April 2019) consists of several laws. The primary legislation is the Criminal Code (CC) and the Criminal Procedure Code (CPC). There are specific laws on measures to ensure information, support and protection of victims of crime (Law 211/2004, amended by Emergency Ordinance no. 24/03.04.2019⁴); preventing and combating trafficking in human beings (Law no. 678/2001); judicial cooperation in criminal matters (Law no. 302/2004); and mediation and the regulation of the mediator profession (Law no. 192/2005).

In addition, there is a law on the protection and promotion of the rights of persons with disabilities (Law no.448 /2006) that contains three key provisions in Article 25:

- i Para (1) states that "Persons with disabilities shall be protected against neglect and abuse, regardless of where they are located";
- ii Para. (6) provides for assistance by another person, stating "The parent, legal representative, guardian, as well as the non-governmental organisation whose member is the disabled person may assist them before the competent courts";
- iii Para. (7) continues: "The proceedings in cases concerning the rights of disabled persons under this law shall be expeditious".

Furthermore, it is important to point out that the two aforementioned Codes use the notion of "aggrieved person" - defined as "the person who has suffered a physical, material or moral injury through a criminal act"⁵, this notion being mirrored by a similar provision contained in Law 211/2004⁶, namely:

"For the purposes of this law, the following expressions have the following meaning:

*(a) **crime victim** - a private individual who has suffered harm of any kind, including physical, mental or emotional injury or economic loss, directly caused by a crime, as well as family members of a deceased person who has died as a result of a crime and who has suffered harm as a result of that person's death;*

*(b) **family member** - spouse, person cohabitating with the victim and sharing a stable and continuous household with the victim, direct relatives up to and including the second degree, brothers and sisters, and dependants of the victim [...]'.*

Unfortunately, in practice, due to the similarities, the terms are being used interchangeably which can lead to confusion both among the different authorities called upon to enforce the law, and among victims with disabilities themselves.

⁴ EMERGENCY ORDINANCE No 24 of 3 April 2019 amending and supplementing Law No 211/2004 on measures to ensure the protection of victims of crime, and other normative acts.

⁵ Para. 79 CPC.

⁶ And introduced by the amendment made by the GEO of April 2019, by Article 3.

The first stage of research consisted of gathering and reviewing the relevant legislation for the report at national level, as well as the relevant international norms, doctrines and any other practical guidelines relevant to the topic. Following the analysis of the legal provisions, we were able to extract the relevant information, both for this report and for the development of the methodology of the interview questionnaires, in order to be able to cover a wide range of topics.

The second stage of the research aimed to also promote awareness of the project. Therefore, through Law 544/2001 on free access to information of public interest, we sent inquiries to more than 90 institutions, including public prosecutor's offices, courts, DGASPCs etc. Unfortunately, we did not receive a response to all of the requests. We also sent requests for support to associations/NGOs in order to determine what the specific tasks are in cases involving adult victims with intellectual or psychosocial disabilities in criminal proceedings, how information is adapted to the type of disability and how subsequent communication with the actors involved in the criminal proceedings is carried out, as well as to understand the protection measures taken towards victims with disabilities.

For the last stage of research, we conducted interviews with people working with adult victims with and without intellectual or psychosocial disabilities in the criminal justice field. The interviewees and the institutions that were contacted were selected in order to obtain comprehensive and multidisciplinary information from professionals from different backgrounds, mainly from the public sector, who provide support and protection for a wide range of victims in vulnerable situations. Although the interviews and public enquiries did not cover the whole country, the representativeness and diversity of sources is a strong indicator of the state of affairs at national level. A total of eight interviews were carried out, divided as follows: Two with victims with disabilities who were involved in criminal proceedings, one with a judge, one with a psychologist, four with professionals from the social assistance and child protection system (psychologists, social workers and legal advisors). Seven of the interviewees were female and one was male. Most of the interviews were conducted on Zoom (as a protection measure against the increasing fluctuations of SARS-CoV 2 infection cases in Romania), with people's consent to be recorded. Two interviews were conducted in person. One with the help of a psychologist specialised in the field (interviewing one of the victims with disabilities, a person whom the psychologist also supported during trial - as an additional guarantee to protect the person with disabilities), and one through the CLR lawyer, who is currently representing the victim during legal proceedings. The participants came mainly from Bucharest, Prahova or Cluj counties.

In Romania, the existing legal framework offers victims, in a rather broad way (there are no specialised services for those with intellectual or psychosocial disabilities), the possibility to benefit from generic national assistance services for victims of crime. Both existing services and legislation (in the form of special laws) target categories of victims who are perceived to be more vulnerable, in particular child victims, victims of domestic violence and victims of human trafficking (for the purpose of sexual and labour exploitation). With the exception of some circumstantial cases⁷, the term disability is not present in any of these national legislative documents. Support services are provided by a number of State institutions, mainly: the General Directorates for Social Assistance and Child Protection (there is one such institution for each of the 41 counties and six sectors of Bucharest); the Public Social Assistance Services (SPAS), organised at local level (municipality, town, commune); the National Agency against Trafficking in Human Beings (ANITP); and to a lesser extent the National Agency for Equal Opportunities for Women and Men (ANES) within the Ministry of Labour and Social Justice. The DGASPCs operate at local level and are obliged to report to the

⁷ Art.77 CC - "aggravating circumstances: e) taking advantage of the state of obvious vulnerability of the victim due to age, health, infirmity or other causes; h) for reasons related to (...) disability, chronic non-contagious disease or HIV/AIDS infection".

Ministry of Justice the statistical data contained in the Special Register on victims of crime who are referred to the support and protection services. The other two authorities – ANITP, subordinated to the Ministry of Interior and ANES, subordinated to the Ministry of Labour – coordinate compliance with international and national standards and provisions, but only within their own legislative mandates. ANITP with regard to victims of human trafficking, and ANES with regard to domestic and gender-based violence. NGOs also often provide specialised services to victims, complementing or even replacing services provided by the State, sometimes without receiving financial support from public funds. In some cases, these organisations are the only option in terms of support services for victims of crime.

Amendments to Law 211/2004 on measures to ensure information, support and protection of victims of crime require the creation of generic services for the support of victims in Romania in the form of specialised departments that will operate within each DGASPC and whose teams will be composed of at least three specialists: a social worker, a psychologist and a legal adviser⁸. Thus, the services offered by the departments for victims of crime should include⁹: information on victims' rights, psychological counselling, counselling on financial issues related to the crime, emotional support, social inclusion services, information on the victim's role in criminal proceedings and preparation for the trial, as well as referral to other specialised assistance services: Article 7 of this Law 211/2004 states:

"(4) Support and protection services provided to both victims of crime and their family members may be:

a) information on the rights of the victim;

b) psychological counselling, counselling on the risks of secondary and repeat victimisation or intimidation and revenge;

c) counselling on financial and practical issues following the crime;

d) social insertion/reinsertion services;

e) emotional and social support for the purpose of social reinsertion;

f) information and counselling on the role of the victim in criminal proceedings, including preparation for participation in the trial. These information and counselling services do not extend to free legal assistance to victims of crime as provided for in Articles 14-20 or legal assistance to the aggrieved person as provided for in Law No 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented;

g) referral of the victim to other specialised services, where appropriate: social services, medical services, employment services, education or other services of general interest provided under the law".

⁸ Art. 3[^]1, Law 211/2004: "(1) In order to provide support and protection services for victims of crime, a department for the support of victims of crime shall be set up in the organisational structure of each Directorate General, which shall include at least three specialists, namely: social worker, psychologist, legal counsellor."

⁹ Law 211/2011 does not make it compulsory for these specialised departments to provide any of the above-mentioned support services, presumably to allow DGASPCs greater autonomy in managing existing resources and assessing victims' needs. However, the optional provision of these services entails a risk in terms of providing support to victims of crime.

These services are free of charge and are provided at the request of the victim or the victim's family. On request, free legal assistance is provided for victims of crimes, mainly victims of attempted murder, bodily harm and sexual violence¹⁰. Victims of other types of crime can receive free legal aid depending on their income.

In fact, an analysis of the responses to the requests for information of public interest sent to the 47 DGASPCs (of which four did not provide any response) shows the following with regard to the status of the establishment of the department for supporting victims of crime:

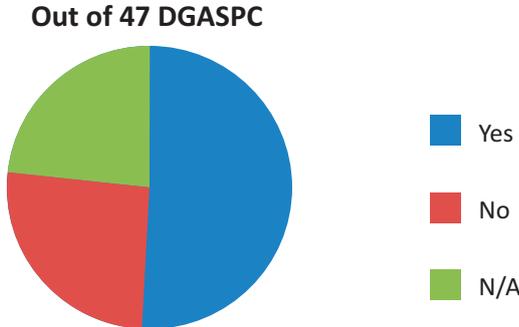
Not established	Established, but not functional	Not established, but its attributions are carried out by other services	Established and functional	Not clear
13 cases	10 cases	10 cases	9 cases	5 cases

The responses reviewed revealed that in general, the reasons for not setting up services to support victims of crime fall into the following categories:

- Steps are being taken for the set up/ institutions are being reorganised
- Established, but there are vacant positions/not advertised
- Tasks are taken over by other departments/services of the same institution

When asked about the existence of the special register on crimes that required referrals to support and protection services, the competent institutions replied that:

From the accompanying chart, it appears that just over half of the DGASPCs in the counties have succeeded in creating this register, the remainder giving reasons for its absence either because of the absence of the service itself or because of a lack of referrals, and for 11 of these the necessary data were not provided.



¹⁰ Art. 14, Law 211/2004: "(1) Free legal assistance shall be granted, upon request, to the following categories of victims: a) persons against whom an attempt has been made to commit murder, aggravated murder, as referred to in Art. 188 and 189 of the Criminal Code, a crime of bodily harm, as referred to in Art. 194 of the Criminal Code, an intentional crime resulting in bodily harm to the victim, a crime of rape, sexual assault, sexual act with a minor, sexual corruption of minors, referred to in Articles 218-221 of the Criminal Code; b) the spouse, children and dependents of the deceased persons by committing the crimes of murder, aggravated murder, referred to in Articles 188 and 189 of the Criminal Code, as well as intentional crimes resulting in the death of the person."

Data on the victims

In Romania, both existing services and legislation target categories of victims who are perceived as more vulnerable, in particular child victims, victims of domestic violence and victims of human trafficking. Assistance services are provided by a number of state institutions, DGASPC, SPAS, and ANITP as mentioned above. NGOs also often provide specialised services to victims, complementing or even replacing the services provided by the state, sometimes without receiving financial support from public funds. There is no state service that focuses on victims with intellectual, or psychosocial disabilities.

Following a request for public information addressed to the Prosecutor's Office of the High Court of Cassation and Justice, in the period 01 January 2020 to 01 June 2021 there were a number of cases involving victims with intellectual/psychosocial disabilities, as follows:

Territorial Prosecutor's Office/Court of Appeal	Cases concerning victims with intellectual/psychosocial disabilities ¹¹
POCA Alba Iulia	62
POCA Pitești	-
POCA Bacău	14
POCA Oradea	12
POCA Suceava	-
POCA Brașov	-
POCA București	26
POCA Cluj	3
POCA Constanța	-
POCA Craiova	64
POCA Galați	-
POCA Iași	-
POCA Târgu Mureș	-
POCA Ploiești	42
POCA Timișoara	-
DIICOT	12

¹¹ Information extracted from POHCCJ reply No. 921/VIII-3/2021 of 30 July 2021.

Analysing the answers received from the DGASPCs to the question regarding the number of entries made in the register of crimes to have received referrals to support and protection services, as well as their typology, we can see that, although in most instances crimes against minors were referred to, those in which adults with disabilities were referenced¹² the victims were:

- human trafficking (1 case),
- assault and other violence (16 cases),
- domestic violence or violence in the family (23 cases),
- attempted rape or consummated rape (11 cases),
- blackmail and fraud (2 cases).

Case example

The aggrieved person is a neighbour of the defendants. She (who is also a civil party) claimed that she was misled by the defendants, who told her that she was going to conclude a contract of employment with a company managed by them. She also stated that she had no knowledge of the fact that she had become the sole shareholder and director of the company or of the insolvency proceedings against the company.

However, the court did not accept the civil party's claims, as it appeared from her subsequent statements that she was aware of the takeover. Despite the fact that she was suffering from a medical condition which might have impaired her comprehension at the time of signing the contracts, the civil party was at that time married to a law school graduate who could have clarified their content. The court also noted that the hearing of the civil party went smoothly, as she was coherent in her answers, except in cases where she was asked questions to which she could not provide an explanation without a change in her procedural position - extract from a criminal judgment of the Bucharest Court of Appeal.

In addition, 24 criminal decisions received from courts and tribunals were analysed and, after searching the Ecris system of Romanian courts, they were able to find decisions referring to victims with intellectual or psychosocial disabilities. The analysis revealed the following:

a) Concerning the type of crimes

Note that in the request made by CLR on the basis of the Law on free access to information of public interest (requested in the framework of another project), the General Directorate of the Romanian Police (GDRP) stated that the statistical reports drawn up at the Romanian Police level do not contain data or information on the number of crimes for which the aggravating circumstance provided for in Article 77, letter h) of the Criminal Code has been retained (see footnote 7) and there is no possibility of disaggregating the indicators by discrimination criteria.

- Life threatening crimes: attempted murder (art. 31 para. 1 in connection with 188 para. 1 of the Criminal Code)¹³;

¹² In addition, some of the responses received refer to crimes against adults with intellectual/psychosocial disabilities, but without giving an exact number according to the crime committed - e.g., the response of DGASPC Caras-Severin, "63 cases - abuse, battering or other violence, bodily harm, rape, sexual harassment, theft, robbery, etc." and DGASPC Ialomita, "246 reports (verbal and written) of which 48 reports made by individuals or family, 197 made by institutions, the offences being sexual abuse, human trafficking, physical abuse, family/domestic violence, robbery/qualified theft, neglect, failure to comply with court order [. .]"

¹³ In 2 cases

- Crimes committed against a family member: domestic violence (199 para. 1 CC)¹⁴;
- Crimes against personal liberty: unlawful deprivation of liberty (205 para. 1 and para. 3 letter b CC)¹⁵;
- Trafficking and exploitation of vulnerable persons: human trafficking (Art. 13 para. 1,2 and 3 sentence II of Law no. 678/2001 rap. to art.12 par. 2 lit. a of Law no. 678/2001)¹⁶;
- Crimes against sexual freedom and integrity: sexual assault (219 NCC)¹⁷, rape (218 NCC)¹⁸;
- Crimes affecting the home and private life: violation of home (224 para. 1,2 CC)¹⁹;
- Crimes against property: robbery (211 CPC)²⁰, fraud (244 para. 1, 2 CPC)²¹;
- Crimes of forgery: forgery of private documents under private signature in continuous form (322 para. 1 CC)²², false statements (326 CC)²³;
- Other: determination and use of persons with psychophysical deficiencies in obscene acts (art. 10 of Law no. 196/2003)²⁴;

Case example

As a result of the forensic psychiatric expertise ordered in the case, it was found that the victim did not have the mental capacity to understand the content and consequences of these acts, so the court did not give them validity (the defendant had invoked the withdrawal of the prior complaint filed by the victim). The court found that a psychological examination of the victim had also taken place. On the other hand, the victim had the mental capacity to understand that she had been the victim of a wrongdoing. It is also important to note that the victim cannot read or write and is deaf-mute, and that she has great difficulty expressing herself through signs that do not correspond to the established tactile signing, requiring the presence of an interpreter.

Case example

"The defendant and the victim lived in the same house. Up to the time of the crime committed by the defendant, her relationship with her nephew was marked by numerous quarrels, the defendant even stating that she hated her nephew, as she considered him guilty of the death of his mother, the defendant's sister, and that she was also entitled to a part of the land inherited by the victim CG from her parents. She did not provide the minimum necessary food, nor did she take care of the clothing of the aggrieved person, who had to beg from their neighbours in order to feed himself, or even, despite his disability, to work. On the basis of some reproaches made by her nephew about the way in which his aunt "cleaned" a butchered chicken that afternoon, the defendant, who had consumed alcoholic beverages during the day, having on her person the knife with which she was slicing the bird, went towards him and tried to hit him, being struck in the back several times. Forensic report no.xxxxx/20.07. 2016 drawn up by NIFM (National Institute of Forensic Medicine) Iași concluded that the victim, CG had a

¹⁴ In 3 cases

¹⁵ In 1 case

¹⁶ In 4 cases

¹⁷ In 2 cases

¹⁸ In 8 cases, and we would like to point out the following crime: rape (218 para.1 CC) with application of art.77 para.1 lit. b, e CC (by cruelty or subjecting the victim to degrading treatment; taking advantage of the state of obvious vulnerability of the aggrieved person."

¹⁹ In 3 cases

²⁰ In 1 case

²¹ In 1 case

²² In 1 case

²³ In 1 case

²⁴ Please note that this is an offence.

thoraco-abdominal wound penetrating the spleen, left diaphragmatic wound, medium amount of haemoperitoneum, medium/large amount of left haemothorax; lacerations in the right elbow; lacerations in the left forefoot and requiring 25-30 days of medical care for healing; the traumatic injuries presented were of such extent to endanger the victim's life." (Excerpt from Criminal Sentence no. 123 of the Iași Court).

In our view, the above excerpt reflects a systemic problem with the justice system which continues to treat victims with disabilities solely through the lens of psychiatric medical opinion. However, when magistrates are properly trained, they can distinguish between the victim's will and preference (to be granted justice), and a settlement (or any other activity in which the victim has been influenced, without the consequences of their actions being explained to them). Thus, as in the previous case, judges may decide not to give effect to the withdrawal of the preliminary complaint.

b) Concerning the types of disabilities of the victim, we note the following:

- Intellectual disabilities: mild mental delay with autistic elements; epilepsy with generalised seizures, tuberous Bourneville²⁵'s sclerosis; behavioural disorders and mild mental delay, impaired ability to express her will to have sexual intercourse; mental disability; intellectual, socio-affective and behavioural disability; pronounced functional impairment; moderate disability, diagnosed with general epilepsy, microcephaly and mental disability; speech impairment;
- Psychosocial disabilities: attachment disorder-disinhibited type, schizophrenia and epilepsy;
- Other: visual impairment (but with severe disability classification); deaf-mute; medically certified psychophysical impairment.

This data was extracted from the above-mentioned decisions on the basis of the disability classification certificates provided to the judge by the parties.

Case example

"On 1.03.2019, the defendant DG, after entering the home of the victim DL when she was alone, engaged in an oral sex act with her, taking advantage of the victim's inability to defend herself and express her will, due to her medical conditions. The crime is confirmed by the conclusions of the forensic genetic expert, as the analysis taken from the genital organ of the defendant DG revealed a complete, mixed genetic profile, with the victim and the defendant being found in the mix. The court, on the basis of Article 218 NCC, under the charge of the crime of rape, sentences the defendant DG to 8 years imprisonment." - (Excerpt from Criminal Judgement no. 2698/2019 of the 5th District Court, Criminal Section.)

From the facts of the case, it emerged that the defendant DG is an elderly, unmarried person, living in the vicinity of the victim, having only attended primary school, having no job or pension, and his main occupation and source of income being the collection of waste and recyclable materials. These factors are a strong social indicator of the typology of aggressors of people with disabilities: those from disadvantaged backgrounds, without education and income, who have built a relationship with and are often trusted by people with disabilities.

²⁵ This being an autosomal dominant genetic disorder causing epilepsy, tegument spots, structural brain changes.

c) Concerning the typology of the defendant

In such cases, it was noted that the defendants were either family members of the aggrieved person (e.g. the victim's father, brother or even aunt who was also the victim's carer) or a person from a centre for adults with disabilities. These persons, through their relationship of authority towards the person with disabilities, managed, by coercive means, to make them commit criminal acts themselves (a case of human trafficking was analysed), or become victims of sexual offences. It was also noted that in cases where the defendants were not anonymous²⁶, they fit the typology of the perpetrator who takes advantage of the victim's vulnerability. This includes people much older than the person with disabilities, or people with no secondary education or no current occupation, or chronic drinkers, in one case an adult defendant with "antisocial personality disorder". Last but not least, several of the defendants were in a close relationship with the aggrieved persons, being their neighbours or having previously worked for the victims' parents/guardians, and in one case two of the adult defendants, together with a minor²⁷. In general, the sentences imposed were those of imprisonment (with limits ranging from two years to ten years), with additional penalties of disqualification from exercising certain rights, and only in two of the cases analysed there was reference made to the award of civil damages or payment of moral damages.

Case example

"The defendant, a beneficiary of the same centres where the aggrieved people were institutionalised, has a mild degree of disability, which allowed her to impose herself through verbal and physical aggression towards the victims with a more severe degree of disability. She was known for her authority and aggression in her treatment of colleagues and staff at the centres. Thus, the defendant coerced or misled the aggrieved persons to engage in prostitution with clients found by her, in order to claim the money. The court found that the statements of one of the aggrieved persons and of a witness, given during the criminal proceedings, in the absence of the defendant and assisted by a psychologist, gave them a state of comfort, compared to the statements given in open court, where they were visibly afraid of the defendant's presence." (Excerpt from a judgement of the Sibiu Court.)

The status of victims under Romanian criminal law

Article 19: The object and pursuit of the civil action

(2) *The civil action shall be brought by the aggrieved person or his successors in title, who shall constitute a civil party against the accused and, where applicable, the party liable in tort or delict.*

(3) *Where the aggrieved person lacks capacity or has limited capacity, the civil action shall be brought on his or her behalf by the public prosecutor, in accordance with Article 20 (3). (1) and (2). The legal representative of the aggrieved person who lacks capacity shall have the right to bring the civil action on his/her behalf.*

²⁶ This was the case for 6 of the 24 decisions analysed.

²⁷ Falling under the aggravating circumstance of Article 77(d) of the Criminal Code.

Article 79 of the CPC defines the **aggrieved person** as "a person who has suffered from physical, material or moral harm as a result of a criminal act". This has the status of a principal procedural subject²⁸ and a victim may become a party²⁹ to the proceedings if he or she chooses to bring a civil action in the criminal proceedings, constituting himself or herself as a civil party to the proceedings. The purpose of a civil action³⁰ in criminal proceedings is to hold persons liable in tort under civil law for damage caused by committing the act which is the subject of the criminal action.

In criminal doctrine, it has been stated that³¹ the aggrieved person can no longer be considered an active subject of criminal proceedings. According to the literature, the terms "*aggrieved person*" and "*victim of the crime*" are not equivalent. The latter, used in European legal instruments on the subject, being "only the individual in the position of passive subject of the crime"³². As they are also a passive subject in the criminal case which is being taken forward in criminal proceedings, it is natural to grant the aggrieved person the right to participate in the proceedings³³. Under the current regulations, the aggrieved party to a criminal offence for which criminal proceedings are initiated ex officio may choose not to participate in the criminal proceedings, in which case he or she must inform the judicial body, which, if it deems it necessary, may hear him or her as a **witness**.³⁴ In this regard, the literature notes³⁵ that removing the active role of the judicial bodies in relation to the participation of the aggrieved party in the criminal proceedings, determines a legislative gap regarding the time limit for the establishment of the aggrieved party in the criminal proceedings.

In this respect, an innovation of the CPC, in accordance with the provisions of the Directive, assumes that the following categories of victims are vulnerable:

"The following are presumed to be vulnerable: child victims, victims who are in a relationship of dependence with the offender; victims of terrorism, organised crime, human trafficking, violence in close relationships, sexual violence or exploitation; victims of hate crimes and victims affected by a crime because of prejudice or grounds of discrimination that may relate in particular to their personal characteristics; victims with disabilities; and victims who have suffered considerable harm as a result of the seriousness of the crime³⁶".

Therefore, special protection measures can be put in place for these categories of victims if the judicial authorities consider them to be threatened or vulnerable witnesses³⁷. Other protective measures for these victims may include a hearing by the judge/police/prosecutor in dedicated

²⁸ As defined in Art. 33 CPC: **The main parties to the proceedings:** "(1)The main parties to the proceedings are the suspect and the aggrieved person. (2)The principal subjects of the proceedings have the same rights and obligations as the parties, except for those which the law grants only to them."

²⁹ According to Article 32 of the CPC: (1) The parties are the subjects of proceedings who exercise a legal action or against whom a legal action is exercised.

³⁰ Art. 19 CPC

³¹ M. Udrioiu, *Criminal procedure. General part. New Code of Criminal Procedure*, Ed. C.H. Beck, Bucharest, 2014, p. 68.

³² Gh. Mateuț, *Treaty on criminal procedure. General part*

³³ V. Dongoroz, S. Kahane, G. Antoniu, C. Bulai, N. Iliescu, R. Stănoiu, *Theoretical explanations of the Romanian Criminal Procedure Code. General part*, Vol. I, Ed. Academy of the Socialist Republic of Romania, Bucharest, 1975, p. 89.

³⁴ art. 81 para. (2) CPC

³⁵ I, Neagu, M. Damaschin, *Treaty on criminal procedure. General Part - In the light of the new Code of Criminal Procedure*, ed. a II-a, Ed. Universul Juridic, Bucharest, 2015, p. 178.

³⁶ Art. 113 (2) CPC

³⁷ Art 113 (1) CPC

settings and in the presence of a psychologist or social worker whose aim is to prevent the risk of secondary victimisation³⁸. These victims should only be heard a second time if strictly necessary and by the same person. In addition, vulnerable victims are given the right to be heard by a person of the same sex, upon request.

Persons with disabilities are less likely than people without disabilities to have access to the justice system when they need to complain about an injustice or a violation of their rights. Only 40% of people with disabilities³⁹ know how to proceed or understand their rights when they approach the justice system (compared to 54% of people without disabilities⁴⁰). In particular, in terms of accessing the means and taking the steps needed to obtain a remedy, a lower percentage of people with disabilities manage to go through the steps related to filing a complaint (40% compared to 60% of people without disabilities) and to lodging an appeal (15% compared to 29% of people without disabilities).

Limited ability of victims with disabilities to make decisions

Another important aspect to be mentioned is the matter of victims with disabilities who are protected by a court order - in other words, they are placed under a legal injunction. Legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights and should not be conditional on real or perceived mental capacity deficits. Legal capacity is essential because it affects all areas of life, including the participation of victims in criminal proceedings. Any deprivation of the legal capacity of persons with disabilities, for example through substitute decision making, violates their fundamental rights.

In Romania, the recognition of the equal right to decide has been achieved in successive stages. The CRPD was ratified by Law no. 221 of 2010, and currently it is no longer allowed to take interdiction measures (CCR unconstitutionality decision, July 2020). Placing a person under a legal injunction refers to the appointment of a person by a judge to make decisions based on what the judge considers to be the best interests of the person with a disability, even against his or her own will.

Persons with disabilities placed under a legal injunction may not stand in their own name in court and are represented by guardians. Relevant criminal legislation provisions in Romania are:

Art. 289: The complaint

(1) *The complaint is the notification made by a individual or legal person of an harm caused by an offence. [..]*

(8) *In the case of a person who lacks the capacity to act, the complaint shall be made by his legal representative. [..] If the offender is the person who legally represents the aggrieved person or who agrees to the acts of the aggrieved person, the complaint shall be filed ex officio.*

³⁸ Art. 11 CPC

³⁹ According to the National Authority for People with Disabilities, Children and Adoption(ANDPDCA)'s Diagnosis for 2020.

⁴⁰ National survey conducted by the World Bank, quoted in the Diagnosis.

Art. 295: Preliminary complaint

(1) Criminal proceedings shall be instituted only on the basis of a prior complaint made by the aggrieved person in the case of offences for which the law provides that such a complaint is required.

Art. 296: Time limit for filing a preliminary complaint

(2) Where the aggrieved person is a minor or an incapacitated person, the three-month period shall run from the date when the person entitled to complain became aware of the offence.

(3) If the preliminary complaint is filed against their legal representative, the time limit shall run from the date of appointment of another legal representative.

Consequently, although criminal procedure law provides some guarantees (such as the possibility for prosecutors to refer cases *ex officio*), regarding access to justice for people in a situation of dependence on the active role of their guardians, more often than not, the persons called upon to protect them (including employees of residential centres, directors of state institutions providing social services) become the persons against whom criminal proceedings should be directed. People with disabilities in residential centres are the most exposed to violence and abuse and face additional barriers in accessing the justice system⁴¹. In most cases, the lack of mechanisms to complain, isolation from the community, lack of means of communication and the discriminatory attitude of employees mean that the number of complaints submitted is very low compared to the actual number of crimes.

⁴¹ E.g. the case referred by the CLR to the competent bodies concerning a young institutionalised disabled woman who was suffering in inhuman conditions and was systematically denied medical treatment and care necessary for her recovery. More details: <https://bit.ly/3spZZuj>

Chapter 2 - Informing victims with disabilities

CRPD: Article 16, Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

Article 4 of the Victims' Rights Directive describes the victims' right to receive information from first contact with a competent authority. Article 6 sets out on the right to receive information about one's own case. These are both largely transposed into national law, in the CPC and Law 211/2004, as measures to ensure information, support and protection of victims of crime. However, there are still many issues remaining which are required to uphold these rights in practice, as detailed below.

Specifically, Law 211/2004 indicates that judicial bodies are obliged to inform victims about:

- victim support services, including information on medical care, housing, psychological counselling, according to individual needs;
- the judicial authority where they can submit a criminal complaint;
- where and how to obtain legal assistance;
- their rights during criminal proceedings;
- conditions for inclusion in the witness protection programme;
- how to obtain financial compensation from state authorities;
- the right to be informed if the offender, if legally deprived of liberty, is released;
- the right to a mediator; and
- contact details of the judicial authority responsible for providing information to victims if they decide to bring forth a complaint⁴².

The same law stipulates that the above information must be provided by the first judicial body with which the victim has contact - usually the police, as is the practice - but also that the information must be provided in a language the victim understands. The victim's right to be informed is included in the CPC in Article 81 - Rights of the aggrieved person and Article 111 - How to hear the aggrieved person. More specifically, victims have the right to be informed about their rights and the stage of the proceedings, the right to consult the file, the right to be heard, the right to an interpreter when

⁴² The provisions are found in Art. 4, Law 211/2004: '(1) Judicial bodies have the obligation to inform victims of crime about: a) the type of support victims may receive and from whom, adding, if relevant, basic information on how to access medical assistance, any type of specialized assistance, including psychological assistance and alternative accommodation; [...]'

they do not understand or communicate well in Romanian, the right to consult a mediator, to present evidence, raise objections and draw conclusions, as well as the right to be informed about the proceedings and to make a preliminary complaint⁴³.

The 21st preambular paragraph of the Directive encourages competent authorities to use simple and accessible language when providing information to victims, as well as a variety of media, to ensure that victims really understand what is being communicated to them. Information should also take into account the victim's "age, maturity, intellectual and emotional capacity, education and any mental or physical impairment", as well as "difficulties in understanding or communicating which may be due to any type of disability, such as hearing or speech impairments"⁴⁴. Although there are provisions regarding interpreters for victims who do not know Romanian, as well as interpreters for sign language⁴⁵, neither Law 211/2004 nor the CPC make explicit reference to the obligation of the authorities to adapt the language and information transmitted to the victim's ability to comprehend. This is accompanied by a lack of internal regulations and procedures to ensure that victims actually fully understand the information they receive.

In practice, the research revealed that the main way in which victims are informed about the existence of specialised services is by contacting NGOs or private support services either through ANES⁴⁶, social networks, hearing radio ads or, in some cases, people seek out the services of associations that have supported them in the past.

Interview with a social worker:

"The most difficult thing is to convince [the victims] to file a complaint, especially when they have intellectual disabilities, in those cases they need much more guidance, advice [...]" - (Excerpt from interview R/SC/1.)

There is a section within the centre that is dedicated solely to assisting offenders. The court may oblige the offender to attend psychological or social counselling sessions, recommending a minimum number of sessions. The offender will have to submit to the court or other judicial bodies a certificate attesting that he or she has attended counselling sessions. Unfortunately, there is no penalty for failure to attend a minimum number of sessions, but a certificate can be issued certifying the number of sessions actually attended, and this certificate is a document that can be invoked against third parties, and is accompanied by internal documentation drawn up by the centre, which is not made available to him.

⁴³ Art. 81, CPC - Rights of the aggrieved person: "In criminal proceedings, the aggrieved person has the following rights: a) the right to be informed of his/her rights; b) the right to request the judicial authorities to take evidence, to raise objections and to draw conclusions; c) the right to make any other requests concerning the resolution of the criminal side of the case; d) the right to be informed, within a reasonable time, of the stage of the criminal proceedings, at his/her express request, provided that he/she indicates an address in Romania, an electronic mail or electronic messaging address, to which this information shall be communicated; e) the right to consult the file, under the conditions provided by law; f) the right to be heard; g) the right to ask questions to the accused, witnesses and experts; g¹) the right to an interpreter free of charge when he/she does not understand, does not express himself/herself well or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is deemed necessary and does not hinder the exercise of the rights of the aggrieved person; g²) the right to be provided with a translation into a language he understands of any decision not to prosecute, when he does not understand Romanian; h) the right to be assisted by a lawyer or have a legal representative; i) the right to have access to a mediator, in cases permitted by law; j) other rights provided by law." Art. 111, CPC - How to hear the aggrieved person: "(2) The aggrieved person shall be informed of the following rights and obligations: a) the right to be assisted by a lawyer, and in cases of compulsory assistance, the right to be appointed a lawyer ex officio; b) the right to appeal to a mediator in cases permitted by law; c) the right to request the taking of evidence, to raise exceptions and to submit conclusions, under the conditions (d) the right to be informed of the progress of the proceedings, the right to lodge a preliminary complaint and the right to be joined as a civil party; (e) the obligation to attend when summoned by the judicial authorities; (f) the obligation to notify any change of address;"

⁴⁴ Argument 21, Directive 29/2012/UE.

⁴⁵ Respondent 1 confirmed that sign language interpreters are indeed made available to victims in court, at least in some parts of the country.

⁴⁶ National Agency for Equal Opportunities

In an interview with a social worker from an NGO that provides psycho-legal counselling to victims who are unable to defend themselves, before they make their first contact with the judicial authorities, she stressed the need to draw up a service plan from the first contact with the victim in order to redirect them to other centres or specialists needed, depending on the case⁴⁷. The profile of people who seek the services of the association is kind of similar. It is contacted exclusively by adults who are either victims of domestic violence or who come from abusive backgrounds, and often with reasonable and procedural accommodation requirements.

The main information provided by the association to people with disabilities who are victims of crime refers to protection orders and how they can be obtained, about the consequences of the actions of their aggressors, and how to prevent further cases of abuse. Details are also explained on how to report the facts to the police or which department they could contact, as well as information about the stages of the legal process. They also respond to any other questions the victim may have, so that the victim is well informed and can use this knowledge during their case if necessary.

In another interview, conducted with representatives of a centre for preventing and combating domestic violence, they provide this kind of relevant information during the second meeting. Following a comprehensive assessment, the victim is referred to support services according to his or her specific needs. Counselling then begins, when the director of the service issues a fixed-term arrangement, a contract is signed and a plan is made. Counselling sessions usually take place weekly, but in practice it can happen that the victim contacts the centre by phone between sessions or sessions take place every two weeks. During the state of emergency and the state of alert caused by the pandemic, sessions were also held by telephone. Victims are informed of the need to comply with the procedure and deadlines. One of the representatives of the centre commented on the difficulty of obtaining the necessary information during this procedure and the lack of a proactive attitude on the part of the police regarding the administration of the risk questionnaire for issuing the provisional protection order.

Furthermore, as an additional victim protection measure, a safety plan is drawn up, which is communicated and explained verbally and in writing to the victim from the first meeting. This plan includes safety measures: calling 112, locking doors, identifying another person who is aware of the victim's situation, ensuring there are witnesses at discussions between the victim and the offender. The plans differ depending on whether or not the victim lives with the offender.

Asked how such an interview generally goes, the centre's legal adviser stated:

- The first time the alleged victim contacts the centre, an appointment is made at the centre's office, as they do not have an emergency service.
- If the victim is unable to reach out or the centre's staff are unable to contact the victim, they will visit them for the initial assessment.
- The initial assessment is done by a team (psychologist, social worker or specialist inspector and legal adviser).
- General information is given (all national services for victims of domestic violence), and if the victim gives information about potential discrimination, the centre informs them about the CNCD and the contact number.

⁴⁷ Excerpt from interview R/SC/1.

- If there is a likelihood of seeking help at night (when the centre has no opening hours because there is no emergency service), victims are given the single emergency number for victims of domestic violence in written and verbal form.
- The person is encouraged to ask questions. If they have difficulty understanding, they make use of certain materials, including the guide developed by the CLR - accessible at, and contact a support person, with the victim's consent, who accompanies the victim and explains the situation, ensuring that the support person is not on the abuser's side.
- Information is provided in written and verbal forms.

Interview with a psychologist:

"In order to be able to offer services that are as adapted as possible to the needs of victims, the institution develops its own documentation, consulting sources from other institutions, civil society and even from abroad. As for the probative role of the initial assessment, it is only an internal document that does not leave the centre - the only way anyone can have access to it is if the court formally requests it in writing. However, the document can only be passed on if the victim is informed. In theory, the initial assessment is not made available to the victim, as it is an internal document, but in practice, if there is a judicial body that expressly requests that the entire existing file be made available as part of the assistance that a public institution has provided to the victim, those documents will be made available to the judicial bodies, but not to the parties in the trial (i.e. to the defendant-aggressor)."

Equally revealing was the information found during the interview⁴⁸ with a psychologist from the National Agency Against Human Trafficking, Bucharest Regional Centre. The Agency is in charge of assistance, protection and monitoring of victims of human trafficking, some prevention tasks (organizing prevention activities in schools or centres within the DGASPCs), coordination tasks in the criminal process of victims of human trafficking, including attending hearings with victims, informing them about their rights as victims of human trafficking, informing them about their rights to assistance, referring victims for assistance if they want to opt for these rights.

Her experience with victims with disabilities is extensive. She has helped identify the immediate needs of victims, in particular referring them to institutions or private entities which provide assistance with emotional and psychological support during criminal proceedings as well as coordinating and monitoring victims afterwards. It can be that dealing with victims with disabilities is more difficult, especially communicating with them, but the authorities try to adapt to their needs.

Asked about the course and stages of the criminal proceedings when it comes to a victim of human trafficking, the psychologist stated that she has discussions with the victims before the start of the hearing in order to get to know them and inform them about her work at the Agency. Victims are given a statement of their rights as a victim of human trafficking according to Law 678/2001 and Law 211/2004. If victims agree and opt for assistance, they sign the statement.

⁴⁸ Information drawn from interview R/P/1; <https://bit.ly/3GFyWyN>

The main rights victims are informed about are those provided for in Law 211/2004 and Law 678/2001:

- the right to legal assistance;
- the right to be a party in a criminal trial;
- the rights they have in the criminal trial;
- the rights to assistance (to receive assistance and shelter for a fixed period);
- the right to have reflection and recovery for a period of 90 days;
- the right to receive recovery and psychological assistance;
- the right to receive medical assistance;
- the right to social reintegration and employment with priority over other;
- the right to be assisted by a lawyer during the criminal proceedings;
- the right to receive legal assistance not only from a public defender but also from institutions with which the ANITP collaborates, usually NGOs where lawyers work.

Although victims are informed about the option to make a statement against the trafficker, some victims have not wanted to do so because of a psycho-emotional dependency on the trafficker.

Chapter 3 - Communicating with victims with disabilities

Interview with a social worker:

Concerning the cooperation of NGOs with the authorities, the most difficult is, by far, the interaction with the police:

"Cooperation [with the police] is often difficult, with police officers underestimating the situations in which victims find themselves and refusing to help them because of minor details, such as the fact that the victim does not belong to that police precinct, or other justifications, for example the fact that the victim has not been physically assaulted recently, equating domestic violence only with the form of physical violence."

It is the opinion of the respondent⁴⁹, a social worker, that victims with disabilities should be accompanied and helped in the drafting and filing of the complaint with the police, as well as in the subsequent stages before the court or other authorities.

Collecting data from victims is another important area of support. In order to be able to communicate with them in the most appropriate way, it is important that they provide detailed information about their abusers, their children, their background and their relationship with the abuser. This will help the social worker or psychologist who is interviewing them to form an overall picture of the circumstances of the crime. The information must and will remain confidential, both from the police and from the court, and can only be obtained with permission from the victim. If possible, other evidence relevant to the investigation is gathered.

Since the onset of the pandemic, communication with victims of crime has had to adapt, and has largely moved online. Some associations also offer telephone consultations via TelVerde hotlines. However, in cases where the confidentiality of the psychologist/social worker's relationship with the victim could not be ensured, for example due to living with the offender in the same house during the state of emergency, non-governmental organisations tried to mediate the meeting with the victim physically. In addition to counselling, some organisations⁵⁰ try to help victims with clothes or food when needed and possible. At the same time, there is ongoing cooperation with centres that provide shelter for victims of domestic violence and their children.

Interview with a social worker:

On being asked what she thinks could be improved in the current framework for victims with disabilities, the social worker notes that:

"It is important to have support groups for victims, networking groups where victims can share their experiences with each other, as well as different training and counselling programmes for the professionals who interact with them."

⁴⁹ Excerpt from interview R/SC/1.

⁵⁰ Excerpt from the interview given by a representative of the ANAIS Association.

In another interview⁵¹, with two representatives of a centre for preventing and combating domestic violence belonging to a DGASPC in the capital, they stated that, in their interactions with representatives of the criminal investigation authorities, they were "pleasantly surprised that we did not find any actual cases of direct discrimination, as provided for by the law on combating domestic violence⁵²". For example, when they first meet the victim, they are required to inform them of their rights, such as access to multidisciplinary assistance, direct legal assistance before the judicial authorities, and social and psychological assistance. Victims receive the centre's 24-hour hotline number and information tailored to their situation. In the case of domestic violence, the victim has the right to ask the police to issue a restraining order. Although they want to prevent re-traumatisation of the victim through repeated hearings, they recognise that in a public institution this is not always possible due to the lack of special cameras or video recordings.

Interview with a social worker:

Regarding the needs of victims with disabilities, the social worker states that:

"Regarding the judicial practice according to which, when a provisional restraining order is issued or extended only to the mother, who is the legal representative of the minor children, but the order does not also prohibit the father from seeing them, so that, in reality, he can contact the victim very easily [...]"

Although the assessment forms for victims of crime are public, on the institution's website, in accordance with the centre's working procedure, this can generate certain conflictual situations. This is especially the case among those who provide counselling and psychological assessment services, because these specialists consider that "if you [the person with disabilities] see the exactly what is sought in the assessment, you might distort the answer, give an answer that is expected, especially since this situation is slightly questionable, coming from a state institution that you don't trust, that you know has the right to take your child away".⁵³

In their relationship with the victim, the centre's representatives try to inspire empathy and trust, so that the victim is honest and does not avoid the counsellors, and the counsellor provides "guidance from the side-lines and is of real proactive use, not a lady who scolds and monitors her if she often cries after an abusive husband or not." Monitoring is not used to terminate parental rights, which are not the role of the centre. The steps are done in accordance with Government Decision (GD) 49 for case management in social services. One of the representatives of the centre notes that the terms used, such as "monitoring", "assessment", "investigation", contribute to the loss of the victim's self-respect. We believe, that the list could be extended to include terms referring to "individual assessments", This is also a reason why the centre representative believes that these internal documents should not be used in any way against the victim, for example as evidence during the proceedings.

⁵¹ Excerpt from interview R/SC/2.

⁵² Law no. 217/2003.

⁵³ We mention that, among the DGASPC's attributions, there is also the one specified in Art. 39 of Law 272/2004 on the protection and promotion of children's rights, "The public social assistance service shall take all necessary measures for the early detection of risk situations that may lead to the separation of children from their parents, as well as for the prevention of abusive behaviour of parents and domestic violence". (2) Any separation of the child from his or her parents, as well as any limitation of the exercise of parental rights, must be preceded by the systematic provision of the services and benefits provided for by law, with particular emphasis on appropriate information for parents, counselling, therapy or mediation, provided on the basis of a service plan."

One of the centre's representatives believes that the prevalence of domestic violence is difficult to estimate, and as the centre offers counselling on request, it is also necessary to help people open up to admit that they are victims of domestic violence and ask for help. Victims come into contact with the centre through verbal referrals from the police, information leaflets, and referrals from the child protection service or NGO partners.

Legal advisers do not have a mandate to overlap with the activities of a public defender in relation to free legal aid. Thus, one of the representatives of the centre commends the amendment to the special law on domestic violence which makes it compulsory for both the perpetrator and the victim to receive legal assistance through a public defender. The legal assistance provided by the centre is at the administrative level and the employees of the centre can accompany the victim, as representatives of the institution, when a specific procedure is being carried out.

The institution is required to provide continuous training for employees, but this is done on a general basis. One of the representatives considers that some training, involving all actors implicated in the procedure, would be useful. But the other representative is of the opinion that the interest in such elaborate training is low, as it would affect the continuity of the presence of professionals working with victims. She also noted that previous trainings organised by the CLR have lacked decision-makers from some institutions, which in some cases are not open enough due to lack of funds and lack of awareness. For this reason, one of the representatives felt that NGOs could have more flexibility and hoped for the possibility to bring together all the institutions involved.

One of the representatives of the centre underlined that the services are not adapted to persons with disabilities, that specialisation in a certain type of counselling is not requested, giving as an example the lack of interpreters for sign language. Another example would be a potential difficulty in communicating with a deaf-mute person. One of the centre's representatives felt that the use of a device (tablet) to facilitate communication would be useful.

Regarding communication, it appeared from the interview with the ANITP psychologist that this generally takes place orally in discussions between the ACN and the interviewee before the hearing begins. By talking to victims, the ACN tries to find out more about the victims' trafficking history in order to figure out what the relevant assistance points are currently and where they can refer them further for additional assistance. The ANITP mainly deals with referring victims for assistance. Assistance is provided by public institutions or non-governmental organisations, as they have professionals who can provide these services. According to Law 211/2004, representatives of the ANITP are required to attend the hearing together with the victim. They also participate in the hearing follow-ups in case victims are called back to the hearing or the prosecutor considers that certain issues need to be clarified. The purpose of the participation of representatives from the ANITP is to ensure the emotional well-being of victims during the hearing, as there is a risk of re-traumatising victims.

As an additional measure, they generally maintain telephone contact with the victim after the hearing stage. This is especially if the victim is undecided at the time of the hearing about whether to opt for support services or which support services to choose. Usually, after the victim is referred for assistance, no further contact is made, as follow-up is considered to be done by contacting the institution providing assistance and requesting regular follow-up reports. However, there were situations where the victims were contacted later, more often and for a longer period ("a year, a year and a half and so on") because they were in uncertain life

situations, for example change of address, raising children, finding a job. During the pandemic, interactions with victims of human trafficking took place more frequently by telephone, but interviews remained face-to-face.

In the case of victims with disabilities, the professionals we interviewed highlighted communication difficulties. As victims with intellectual disabilities "don't have very good spatial-temporal references", during the hearing authorities have difficulty understanding when the episode of exploitation started, over what period of time it took place, and in what locations. There have also been situations where it has been difficult to "establish with the victim or understand from them how they stand in terms of their position or status as a victim of human trafficking, often they [the victims] are emotionally younger than their biological age or have a history of psychological trauma just prior to the episode of exploitation". Because of these more pronounced vulnerabilities, victims with disabilities are more easily drawn into a relationship of dependency with the trafficker.

Following the hearing or after the first contact with the victim, an assessment of initial assistance needs is carried out. If there are indications of a disorder or psychopathology, contact is made with one of the NGOs with which they collaborate. This may be with psychologists who can carry out other psychological assessments, or with one of the hospitals in Bucharest for psychiatric assessment. The assessment carried out within the ANITP is designed to determine the immediate assistance needs of the victims, but in essence it adopts a medicalised understanding of disability and we believe does not take full account of the support and communication needs of the individual. They mention that in some cases prosecutors have requested a more detailed assessment. In our view, this practice may lead to enhancing or supplementing the medical approach to disability, and lead to better identification of the support and procedural adaptations needed for people with intellectual or psychosocial disabilities.

Asked about situations in which victims with disabilities are discriminated against by the authorities, she replied: "Yes, hearings are sometimes made difficult, indeed, because it is harder to communicate more fluently with these victims who have disabilities, but I would not say, however, that case officers or prosecutors are not understanding towards victims of trafficking who have disabilities, on the contrary, I have even noticed in the hearings I have attended that they do manage and make an effort to be more patient and rely more on the support of those of us who are psychologists or who assist the victim to help them understand certain aspects, i.e. they take breaks during the hearing, ask us questions or seek our help to talk to the victim to try to clarify certain aspects. The hearings are indeed a bit more difficult, but I would not say that [indecipherable] discrimination against the victim". So far they have not come across any situations where an interpreter is needed. From her experience in the ANITP (as of December 2019), there have not been very many victims with psycho-social or intellectual disabilities, let alone victims with physical disabilities.

The victims with whom the judge comes into contact are generally people with mental disabilities, victims of sexual aggression (99% of them), who, following the incidents, are placed in centres under the DGASPC. The number of cases of adults with mental or physical disabilities is limited, most victims being minors.

Interview with a judge:

"During the criminal process, if there are victims with special assistance needs or more complicated trafficking situations, risk assessment is carried out in terms of being re-trafficked or physical integrity of the victim. In this case, physical protection of the victim may also be provided as an additional measure (escorting the victim by a team of gendarmes). Victims also have the possibility to be a protected witness if they do not wish to participate in the trial as an aggrieved person."

The judge recounts an adult victim with both physical and mental disabilities so severe that the judge could not speak to her. However, at the prosecution stage, the victim attended an interview with a special psychologist from the DGASPC, who communicated with her by signs, signs that were later explained in the file for the judge's understanding. The communication was adapted to the victim's circumstances, so that certain gestures and sounds were used by the psychologist in order to accommodate the victim and interview her. The interviews were attended by the victim, her parents/guardians (if applicable, e.g. they were young adults or placed under a court order/institutionalised in a DGASPC centre), the psychologist, the lawyers, the prosecutor and the judge. They took place in a courtroom, creating a safe space where the main objective was to discuss the incidents that happened, without retraumatizing the victim. Hence, even before this pre-meeting, the judge was in contact with the psychologist of the centre where the victim comes from to see to what extent and how the minor can be spoken to. The judge has received no training in communicating with victims of this kind, basing his approach on his experience with other victims. In the even more rare cases where the victim needed interpretation, the court called in a professional. Such interpreters come from different associations, but they have to be authorised by the Ministry of Justice in order to participate in the trial. During the trial, they translate from Romanian into sign language and vice versa, so that the victim can express himself or herself in court. The judge pointed out that the criminal procedure does not differentiate between people with and without disabilities, putting all people on an equal footing, and that the lack of legislation for people with disabilities is justified by the rigour of the criminal process. The judge recognised, however, that people with disabilities require special attention, especially when it comes to communicating with them, which must involve a different level of awareness. The treatment of the law, however, must be equal for all persons.

Chapter 4 – Recommendations

Effective access to justice for people with disabilities is hindered by a number of barriers. The justice system is often difficult for any individual to navigate, among other things because of rules requiring specialist knowledge, the formality and strict procedures of court hearings, or the prohibitive costs. Persons with disabilities face additional barriers in accessing the justice system due to inadequate physical, information and communication accessibility of legal services and institutions, procedures not being adapted to the type and level of disability, prejudices of justice system employees regarding the lack of credibility of people with disabilities as witnesses and victims, fees and costs making many legal services inaccessible to persons with disabilities who have financial difficulties. Ensuring access to justice is all the more important as people with disabilities, especially those with intellectual and psychosocial disabilities, are especially vulnerable to violence and neglect.

There are 5 key-elements for solving the problem:

- Improving access to infrastructure and services specific to the justice system
- Ensuring the procedural accommodations inherent to the administration of justice
- Ensuring access to free or affordable legal assistance and representation
- Training of justice system staff
- Collecting statistical data at all stages of the justice system.

In practice, ensuring access to free legal aid is hindered mainly by a lack of procedural accommodations. From the Diagnosis report regarding the situation of people with disabilities published by the ANDPDCA in 2020, it appeared that judges make efforts to provide ex officio assistance for people with disabilities, or other solutions, but there are difficulties in providing representation for people with mental disabilities, due to the impossibility of communication adapted to their needs⁵⁴. At the same time, obtaining public legal aid, PLA, is difficult because the procedural rigours, such as gathering and completing the necessary documents and submitting them on time, which are a challenge even for people without disabilities. These barriers are all the more detrimental to accessing justice for people under a legal injunction or guardianship who are dependent on a guardian or curator for drafting, signing, filing applications for probation, bringing actions and appeals. At present, there is no record of the number of persons with disabilities who have received legal aid and PLA, and the types of costs that PLA has covered - payment of legal assistants, provision of interpreters, etc. Also, prisons do not collect data on persons with disabilities who have applied for and received free legal aid.

First and foremost, Romania should work to ensure full and correct implementation of the Victims' Rights Directive and other EU legislation on victims with intellectual and psychosocial disabilities of crime, in particular the provisions on their access to information, assistance and protection. Awareness-raising campaigns on victims' rights, including assistance to the vulnerable and those with specific needs, should also be launched at the national level. Here are some of the most interesting answers received to the question "What were the public information campaigns organised by your institution, from 2018 to 1.07.2021?" addressed to the DGASPCs in the country:

⁵⁴ The CRPD Committee recommended that Member States, as a measure to ensure free or accessible legal assistance, to provide lawyers with all procedural accommodations - such as interpreters, assistive technologies and intermediaries or facilitators to support their effective communication with clients with disabilities or other persons with disabilities involved in the justice process. Source: CRPD Committee (2020: 21).

- "At the level of the Centre for Prevention and Combat of Domestic Violence, information about the services and rights of victims was disseminated through posters, leaflets, website press releases and on the institution's Facebook page";
- "The following events were organized: on 4 June and 12 June, together with Toma Caragiu Theatre in Ploiesti; on 18 October 2020 - European Day against Human Trafficking".
- "Campaigns with the County School Inspectorate, Cluj Police Inspectorate, County Town Halls for information and prevention against human trafficking, abuse/neglect, and campaigns in schools - middle and high school - for students, parents, teachers, but also for the University Babes-Bolyai";
- " "All against violence" with IPJ, ISJ Timiș, DAS Timișoara, CJRAE and the organization Save the Children Timișoara - domestic violence prevention and information through 2 telephone lines for reporting cases; "Stop the violence in your life!" with IPJ Timis, DAS Timisoara, Serv. Probation Timiș, the Asociaation for Conflict Mediation "MISIT" and TVR Timisoara; 25 November 2020 - International Day for the Elimination of Violence against Women" with ANES; "Self-esteem and Good Choices = Freedom" with ANITP- reducing the risk of victims of human trafficking";
- "14.05.2018 - "Combating and preventing domestic violence" in partnership with IPJ Argeș; 19.09.2018 - "Know your rights! Follow your responsibilities!" partnership with ANITP - prevention of sexual exploitation and trafficking of women and children; 15.10.2018 - "Prevention of human trafficking week" - information sessions on the way victims from vulnerable categories are recruited; 19.10.2018 - "Prevention of crime week" - partnership with DAS Mioveni and IPJ Arges, information and preventive actions on domestic violence and human trafficking; 29.01.2019 - "Sexual harassment" - partnership with FILIA Association; 25.11.2018 - "25 November - International Day for the Elimination of Violence against Women" - partnership with the Faculty of Education Sciences, Social Sciences and Psychology." ;
- "Every year in November - "Protest march against violence" and regular transmission of press releases and other information materials on services offered at county level for adult victims with disabilities"

Although the list is not exhaustive, we believe that these campaigns are achieving their aims. Nevertheless, we believe that civil society should also be more actively involved in these actions, in particular with increased cooperation and joint advocacy to campaign and strengthen the rights of victims with disabilities, including with the help of available European Union funding.

At the same time, there should be increased cooperation with national authorities, including judicial and law enforcement authorities such as the police, prosecutors' offices, ANITP, and DGASPCs, for example through participation in mutual training activities. Information materials, such as posters and leaflets, on victims' rights and the steps to take in the event of a crime being committed should be constantly available and updated in police stations throughout the country. They should also be available in public institutions providing services to the public, and in doctors' offices and hospitals. The materials should be adapted to the needs of people with intellectual or psychosocial disabilities. They should be written in an easy-to-read format, with clear language, supporting pictures or graphics, and clear indications of the competent authorities in each situation.

Procedural accommodations concern the modification or introduction of specific arrangements to facilitate effective access to justice. Procedural accommodations may include: provision of interpreters to facilitate alternative and augmentative communication (including in sign language);

availability of legal and judicial information in accessible formats; provision of assistive and personal assistive technologies; modification of the mode of hearing (time allocated for answers, wording of questions, modification of the brightness and noise level in the courtroom, etc.); or procedural flexibility regarding specific participation requirements - e.g. remote participation and testimony via audio-visual means, change of venue, participation of interpreters in court hearings, including non-public hearings, extension or adjustment of procedural deadlines, and adaptation of procedural formalities and timing. The CRPD Committee⁵⁵ has recently produced a guide on ensuring access to justice for persons with disabilities, which provides a detailed description of the types of procedural accommodations - including the types of communication supports - needed to effectively ensure this right.

On the other hand, it is equally important to take measures to ensure that all victims, including those with intellectual disabilities or mental health problems, have access to justice, regardless of their situation, whether institutionalised or living in a family environment. Ensuring the recognition of victims of human trafficking includes facilitating cooperation between the competent authorities of the Member States and entities providing specialised assistance to make sure that victims have access to relevant information, especially in cases involving inter-state operations. In addition, this also means the involvement and cooperation of civil society as well as public bodies. These are just some of the steps that should be taken urgently by the relevant national authorities.

It is important to inform victims properly from the very first interaction with the police, the prosecutor or even the staff of the centre, if the criminal act took place in an institution or residential centre. Communication must take place in an accessible and appropriate manner, adapted to the type of disability, and, as far as possible, with the support of a psychologist or an interpreter⁵⁶ of the victim's choice. Another key aspect of interaction with the judicial authorities should be the effective communication of information, which should be both verbal (the person providing the information has a duty to check that it has been adequately understood by the victim) and written (in a manner adapted to how it has been understood verbally - easy to read format, and the language must be clear and concise, as stated above). Victims with disabilities should be accompanied and assisted in the drafting and filing of the complaint with the police, as well as in the subsequent stages before the court or other authorities.

Another important action is the creation of national strategies on victims' rights that take a comprehensive and holistic approach to the rights of people with intellectual and psychosocial disabilities and involve all those who are likely to come into contact with victims, as well as taking action to create a more resilient society by promoting greater involvement of civil society in actions at the national level.

Moreover, action is also needed with regard to professionals who interact with victims with disabilities in judicial proceedings. With regard to the practical training of police officers, prosecutors, judges and social service providers, their training needs to be carried out in an intensive and multidisciplinary manner, with a focus on the specificities of intellectual and psychosocial disabilities, including the psychological effects of crime on these victims, but also effective communication skills, preparation of information materials in an adapted, reader-friendly manner.

⁵⁵ Together with the UN Special Rapporteur on the Rights of Persons with Disabilities and the UN Secretary General's Special Envoy on Disability and Accessibility.

⁵⁶ As referred to in General Comment No. 1 to Article 12 CRPD - Equal recognition before the law:., Where, after significant efforts have been made, it is not practicable to determine the will and preferences of an individual, the "best interpretation of will and preferences" must replace the "best interests" determinations.'

This training should also include information sessions on victims' rights, the effective application of the UN CRPD and the Victims' Directive, as well as sessions on overcoming prejudices towards victims, especially victims of violence or institutionalised victims.

Training professionals who come into contact with victims of crime should include information on the following issues: the legal obligations of authorities to inform victims of their rights, assess their needs and refer them; existing support services and referral of victims to appropriate services; conducting individual needs assessments; providing information to victims in a timely and appropriate manner; ways to avoid secondary and repeat victimisation; and cross-disciplinary issues aimed at increasing professionals' understanding of the vulnerability of victims of crime.

Training professionals⁵⁷ who interact with people with disabilities should be carried out both in a coordinated and separate manner, depending on the type of interaction with people with disabilities. Training of magistrates should be carried out in multidisciplinary teams with social workers, psychologists, lawyers, psychiatrists and should include information on the CRPD, legal capacity and decision support measures, including the rights to procedural accommodations and effective communications in the courts, as well as understanding the needs of people with disabilities in psychiatric hospitals and the role of social services for people with disabilities. At the same time, training should take into account the type of interaction and specific services offered to persons with disabilities by each profession and in each type of institution. Training should provide both an increased level of awareness of the right to have legal capacity recognised among professionals and provide skills on how to interact and facilitate access for people with disabilities to all public services on equal terms.

There is also a need for a multi-disciplinary approach to services designed to specifically support victims with disabilities, so that they are not hindered in their pursuit of justice. Therefore, in order to remove some of these obstacles, all services should be available in one specific location so that the victim does not have to travel repeatedly. In addition, these premises should be equipped with appropriate materials for people with disabilities and ensure privacy and psychological comfort.

As far as national legislation is concerned, in order to comply with the provisions of the Victims' Directive, victims should, first of all, be protected by avoiding repeated hearings or meeting the defendants/attackers in the hallways of courts, thus avoiding re-victimisation. Secondly, victims should receive an individual assessment, as provided for in Article 22 of the Directive, in order to establish the risks to which the victim or his or her family may be exposed, the risk of intimidation and reprisals, the assistance services appropriate to the victim's situation, and the necessary protective measures. The assessment should be carried out from the first contact with the judicial authorities, either by a multidisciplinary team, comprised of police, social services and victim support organisations, or on the basis of a nationally agreed methodology, focused on the type of disability of the victim, and supported by intensive training of the authorities in this area.

⁵⁷ As it is recommended in the 2020 Disability Situation Diagnosis Report for Romania prepared by ANDPDCA with the support of the World Bank.

Chapter 5 - Overall conclusion

All victims of crimes against an individual are entitled to access justice, as fair compensation, and should be treated in accordance with this right. However, in order for this right to be effective, account must be taken of the victim's individual situation and needs. It is therefore important to take into consideration the specific needs of victims according to their own characteristics (gender, age, disability, religion) or according to certain categories of crime. From the early stages of information provision until the end of court hearings, communication safeguards should be implemented to ensure understanding by all victims of crime, regardless of their linguistic and intellectual abilities, taking into account the accessibility requirements of victims with visual, hearing and speech impairments, including victims with learning disabilities and young adults.

It is important to note that all victims of crime with disabilities must be recognised and treated in a respectful, professional, accommodating and non-discriminatory manner. This requires the involvement of all those who come into contact with victims, including judicial authorities, law enforcement agencies, court staff, victim support services, practitioners and compensation authorities. Some victims are also dependent on medical staff, teachers, social service staff or psychiatric hospital staff.

Disability is not a new concept, but a dynamic, evolving one - yet awareness of the information and communication needs of victims with intellectual and psychosocial disabilities and their rights is almost entirely non-existent. The information they receive is often incomplete, and certainly not adapted to their level of understanding. Often the lack of clarity or cooperation between authorities leads to victims' mistrust of authorities, and the fragmented information they receive about what victims should do legally, and about the services/support system, become a major obstacle to access to justice.

Not uncommonly, interactions with the police in particular, but sometimes also in the courts, were reported as traumatic and there seem to be no procedures or practices in place to avoid subjecting victims to secondary and repeat victimisation. On the contrary, victims have been asked to recall incidents of violence on multiple occasions. However, the atmosphere in the courts is experienced quite differently by a victim than by the police or the prosecution, and it can be a very difficult setting although it is often characterised as undemanding or neutral.

In addition to the very limited access to information, there is real difficulty in getting free legal assistance and legal support from lawyers or disability rights advisers who can better represent victims in court and build a case. These lawyers should not just be those affiliated to specialist NGOs - as these were the lawyers that interviewees said were trained and helpful - but any lawyer.

The state must protect victims with intellectual or psychosocial disabilities. This can only be achieved by adapting criminal procedures and by resolving their complaints quickly, as lengthy procedures create uncertainty and, ultimately, a lack of effective access to justice, which also revictimises and retraumatises victims.

By caring for victims, we demonstrate that there are no forgotten citizens in Europe whose suffering, trauma or disability would not be a collective emergency. This is why defending and strengthening victims' rights must now, more than ever, become a more real and urgent political and common issue for the Commission, Member States and society.

Table of Abbreviations

Alin.	Line
ANITP/NATHB	the National Agency against Trafficking in Human Beings
ANES/NAEOWM	National Agency for Equal Opportunities for Women and Men
ANDPDCA/NAPDCA	the National Authority for People with Disabilities, Children and Adoption
Art.	Article
C.civ	Civil Code (Law No 287/2009, in force since 1 October 2011)
CC	Criminal Code (Law No 286/2009, in force since 1 February 2014)
CCP	Code of Civil Procedure (Law No 134/2010)
CPC	Criminal Procedure Code (Law No 135/2010, in force since 1 February 2014)
ECHR	The European Convention on Human Rights
CJRAE/ CCERA	County Centre for Educational Resources and Assistance
CRPD	United Nations Convention on the Rights of Persons with Disabilities
CoE	Council of Europe
ECHR	European Court of Human Rights
DAS/DSA	Directorate of Social Assistance
D.C.C.	Decizia Curții Constituționale
DIICOT/DIOCT	Directorate for the Investigation of Organized Crime and Terrorism
DGASPC/GDSACP	General Directorate of Social Assistance and Child Protection
e.g.	Exempli gratia (for example)
Ed.	Publishing house
GD	Government Decision
IPJ/CPI	County Police Inspectorate
ISJ/CSI	County School Inspectorate
NIFM	National Institute of Forensic Medicine
Infra	See below
Court.	Courthouse
Lit.	Litera
G.O.	Government Ordinance
NGO	Non-governmental organisation
UN	United Nations
EGO	Emergency Government Ordinance
Para.	Paragraph
PICJ/POHCCJ	the Prosecutor's Office of the High Court of Cassation and Justice
SPAS/PSAS	the Public Social Assistance Services
Vol.	Volume