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Report of Various Size – Fieldwork research (FRANET)

Rights of crime victims to have access to justice – a comparative analysis

Country Report Poland 2017

Helsinki Foundation for Human Rights
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Executive summary

In the light of the Polish law, a victim is either a natural or legal person whose legally protected interest or good has been directly violated or threatened by a crime. The position of a victim in the Polish legal system is mainly regulated by the Code of Criminal Procedure. In the light of its provisions, a victim is by default a party to pre-trial proceedings, be that an investigation or inquiry dependent on the severity of the crime. The victim can also be a party to court proceedings, either as an auxiliary prosecutor (when acting alongside the public prosecutor) or, in certain cases, as a subsidiary auxiliary prosecutor when acting in the stead of a public prosecutor. As a party to proceedings, a victim has a wide scope of rights and duties. The victim, upon their own initiative or through a legal representative, has a right to, among others, call witnesses and present evidence, participate in procedural acts carried out by law enforcement bodies in the course of an investigation, challenge decisions of law enforcement bodies during the investigation and participate in court sessions.

Despite a wide scope of legal provisions regulating the position of the victim in criminal proceedings, research results showed numerous gaps and challenges regarding the execution of these provisions in practice. The main results of the research are summarised below:

- Although the Code of Criminal Procedure provides numerous possibilities for victims to actively participate in criminal proceedings, professionals usually perceive victims as the source of information necessary to carry out effective criminal proceedings. In practice, the role of the victim is usually reduced only to presenting information and pieces of evidence. The wide catalogue of victims' competences and rights in criminal proceedings is rarely used, unless the victim expresses their firm will and has access to professional representation.

- The research results showed that victims' attitude towards the proceedings influences their course.

- In Poland, victim support services are provided by the generic system, e.g. institutions of social assistance, and by specialised NGOs. The research shows that professionals have at least some awareness of available victim support services. However, they more often name institutions of social assistance, such as social care centres or crisis intervention centres, than specialised NGOs which deal specifically with victim support. Even though the police were able to list some support services, interviews with victims reveal that the latter do not really learn about support services from the police. This certainly opens a field for more awareness-raising, also on the role the police could play as a possible link between victims and relevant services.

- When it comes to informing victims about their rights, all professionals noted that victims receive a written letter of rights. However, most of the interviewees were critical of its languge and content. Professionals noted that the letter was written in a formal and difficult language; it contained a lot of information and discouraged victims from reading. As a result, victims are not informed in a comprehensive and effective manner. The results of interviews with victims show that they have not been comprehensively and effectively informed about their potential role and rights in proceedings. Nor have they received full information on how to access an appropriate support service. It seems that information on the rights and role in proceedings is provided more often than that on available support services.

- The research showed significant discrepancies in professionals' perceptions as to the crime notification process and initiation of criminal proceedings by law enforcement bodies. Respondents from groups S and L firmly stated that the police enjoy a wide margin of appreciation while deciding whether to investigate or not. By contrast, the representatives of group P did not agree with it at all, while respondents

from group J presented more mixed answers. The respondents' answers also showed that victims were in some cases discouraged from notifying law enforcement bodies about the crime.

- The research results also showed that there were significant discrepancies in interpreting the necessity to prove the crime. While respondents from group S and L stated that victims have to present solid evidence, respondents from group P stated that victims have to show only some "basic facts."

- In general, victims are heard in criminal proceedings as witnesses in order to provide information, only rarely are they heard for their opinions. If they are heard more than once, it is usually to supplement evidentiary material. Victims can call for evidence during investigation, but their motions are often denied. The victim's possibilities to actively participate in the trial are dependent on their status as an auxiliary prosecutor. Even though such status gives victims wide access to information and evidentiary initiative, information about it is provided ineffectively.

- The research results show that there is no comprehensive and effective mechanism protecting victims from secondary victimisation. The assessment of victim's individual needs is done on a case-by-case basis and, usually, the only measure applied to protect a victim from secondary victimisation is being interviewed by the law enforcement official of the same sex.

- The research results also show that there are no standard procedures of conducting assessment of the risk of repeat victimisation, nor are there standard procedures to follow when there is a need to implement immediate protection measures. The matter is resolved on a case-by-case basis. The law provides possibilities for an arrest, application of preventive measures or protections measures, etc. However, only an arrest is performed by the police and immediate at the same time.

- Interviews both with professionals and victims confirmed that state compensation is not used in practice. The practice around restitution and damages is slightly better, however victims still rarely apply for that, also due to lack of effective information.

Introduction

The fieldwork research lasted from 20th December 2016 until 23rd May 2017 (with one follow-up interview conducted on 2nd June 2017). Within the course of the fieldwork research, 33 interviews were carried out with representatives of 5 groups.

Altogether 21 professionals from 12 different cities (Warsaw, Zielona Góra, Wrocław, Tarnów, Łódź, Poznań, Katowice, Radom, Sidle, Białystok, Legionowo, Żyrardów) took part in the fieldwork research. The researchers carried out interviews with five representatives of the S group (organizations providing victim support services), five representatives of the P group (police), seven representatives of the J group (three judges and four prosecutors) and four representatives of the L group (lawyers).

Additionally, two researchers carried out 12 interviews with victims of violent crime. The interviews were carried out in seven cities (Warsaw, Wrocław, Tarnów, Poznań, Łódź, Zielona Góra, Lublin). The gender balance in the victims group was equal – six men and six women. The interviewees were victims of different violent crimes including battery (PL/V/4, PL/V/8, PL/V/9, PL/V/10, PL/V/11, PL/V/12), domestic violence (PL/V/1, PL/V/5, PL/V/6, PL/V/7), stalking (PL/V/3) and sexual abuse (PL/V/2). Furthermore, the group was also diverse when it comes to respondents' national origin– three interviewed victims were migrants living and working in Poland. All the proceedings were initiated in 2015 or later, six of the proceedings were final or completed at the stage of the first

instance, while five other proceedings were still pending. One of the proceedings was entirely solved within the Blue Cards rocedure.The respondents were engaged in the proceedings in different roles. Seven of the interviewees (PL/V/2, PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/11 and PL/V/12) participated in the proceedings as auxiliary prosecutors, in case of the remaining six interviewees their proceedings in their cases did not reach the trial stage (PL/V/1, PL/V/10) or participated only in the capacity of a witness (PL/V/7, PL/V/8, PL/V/9).

The recruitment process was one of the most challenging aspects of the fieldwork research. Respondents from professional groups were recruited through official correspondence with prosecutors' offices, courts and police

> Given that this report is based on small-scale qualitative research, which is reflected in the small number of interviews for certain categories of respondents, the reader should bear in mind that the findings reported here are only representative of those persons who were interviewed.

stations. Altogether, in the recruitment process, the research team contacted nine prosecutors' offices, six courts and eight police units. General feedback was quite positive, however there were a couple of negative responses to our request to carry out an interview. The response was usually motivated by the lack of time or will among representatives of a given unit to participate in the fieldwork research.

The representatives of group S were recruited through email or over the phone. In general, representatives of victim support organisations were very eager to participate in the fieldwork research. They were also very helpful as gatekeepers and helped in the recruitment process of the interviewees from group V.

The recruitment of victims was carried out through various channels, including:

- organisations working in the system of victim support (altogether 33 NGOs);
- organisations providing free legal aid or organisations dealing with human rights protection;
- monitoring of media;
- consulting lawyers cooperating with the Helsinki Foundation for Human Rights (HFHR).

Eight of the interviewees (PL/V/1, PL/V/2, PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/7, PL/V/11) were recruited thanks to the help of victim support organisations and NGOs dealing with human rights protection. The remaining four interviewees were recruited through monitoring of the media or referred to us by lawyers cooperating with HFHR. In general, all of the interviewees were eager to participate in the research. There was only one potential respondent who did not agree to talk about his case for fear of experiencing additional stress.

By way of introduction and in order to provide more clarity to readers who are not fully acquainted with the particularities of the Polish criminal procedure, specific institutions and procedures functioning in the Polish law are presented below:

- **Auxiliary prosecutor** (*pl. uboczny oskarżyciel posiłkowy*) – The victim can act alongside the public prosecutor in court proceedings. According to Article 54 § 1 of the Code of criminal procedure (hereinafter: „CCP"),[1] if a public prosecutor filed an act of indictment, the victim can, until the beginning of court proceedings at the main trial, declare that they will act in the capacity of an auxiliary prosecutor. Together with such a declaration, the victim becomes a party to court proceedings and gains all the rights bestowed upon the party. Withdrawal of the act of indictment by the public prosecutor does not deprive the auxiliary

[1] Poland, Code of criminal procedure (*Ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

prosecutor of their rights. A victim who previously did not use the possibility to act as an auxiliary prosecutor can, within 14 days of receiving information on the withdrawal of the act by the public prosecutor, declare that they would like to join court proceedings in this capacity. As visible, the main condition for victims to act as auxiliary porsecutors is to abide by the deadline for such a declaration. Additionally, the court can limit the number of auxiliary prosecutors acting in the case if this is necessary to secure the proper course of proceedings. However, an auxiliary prosecutor who does not take part in proceedings for this reason, can still present their views to the court within 7 days of receiving a notification. Victims who enjoy the status of auxiliary prosecutors can act on their own or be represented by a lawyer.

- **Subsidiary auxiliary prosecutor** (*pl. subsydiarny oskarżyciel posiłkowy*) – The victim can also act in criminal proceedings in lieu of the public prosecutor. According to Article 55 CCP, after a repeated decision on the refusal to initiate proceedings or discontinuation of proceedings, the victim can within a month file a subsidiary act of indictment. Such an act should be prepared and signed by a professional legal representative. However, even though the act itself has to be professionally drafted, the victim can choose to act as a subsidiary auxiliary prosecutor on their own.

- **The "Blue Cards" procedure** (pl. *procedura "Niebieskie Karty"*) is neither part of criminal nor civil procedure. It is based on the Act on preventon of domestic violence[2] and a regulation thereto.[3] The procedure can be initiated without the victim's consent in cases of domestic violence by professionals belonging to one of five groups, including police officers, social workers, medical doctors, teachers, and members of municipality commissions for solving alcohol problems. A professional initiates the procedure by completing Blue Cards form A. The form is then sent to the president of the local interdisciplinary team who forwards it to other members of the team or a relevant working group. The case is later considered within the interdisciplinary team or working group, and both victims and perpetrators are involved.

- **Protection measures based on the Act on protection and support for victim and witness**[4] - Based on this act, the police can apply three kinds of specifc protection and support measures – protection during a procedural act (*pl. ochrona na czas czynności procesowej*), personal protection (*pl. ochrona osobista*) or support in changing the place of residence (*pl. pomoc w zmianie miejsca pobytu*). These protection and support measures are applied by the voivodeship commander of police within whose jurisdiction the protected person has their place of residence. They are applied when there is a risk to the victim's life or health. The type of measure depends on the degree and nature of said risk. The act also provides basis for granting financial assistance.

1. Perceptions of the victim's role in the criminal justice system

[2] Poland, Act on prevention of domestic violence (*Ustawa z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie*), 29 July 2005.
[3] Poland, Regulation of the Council of Ministers on the „Blue Cards" procedure and templates of „Blue Cards" forms (*Rozporządzenie Rady Ministrów z dnia 13 września 2011 r. w sprawie procedury "Niebieskie Karty" oraz wzorów formularzy "Niebieska Karta"*), 13 September 2011.
[4] Poland, Act on protection and support for victim and witness (*Ustawa z dnia 28 listopada 2014 r. o ochronie i pomocy dla pokrzywdzonego i świadka*), 28 November 2014.

1.1. Views of practitioners

1.1.1. How do practitioners of various professional groups view the primary role of victims in criminal proceedings and its significance (please refer to Question Pr 1.1)?

	S	P	J	L
As a witness testifying and thus providing evidence;	3	0	5	2
As a damaged party seeking restitution;	2	2	1	0
As a party to the criminal proceedings entitled to have a say in the proceedings;	1	3	0	0
Other, please specify below!	1	0	1	2
Don't know	0	0	0	0
TOTAL	6/5*	5/5	7/7	4/4

*Although in group S, there were 5 respondents. One of the respondents PL/S/5 indicated two answers

As well as completing the above table, please provide an analysis and your own interpretation of the results:

The majority of the respondents agreed with the statement that victim's predominant role in criminal proceedings is to be a source of evidence which is important to carry out effective proceedings. However, the respondents of each group perceived the same role in a different way – respondents from **group J** tended to perceive victims' role in the perspective of an investigation and trial. To these respondents, victims' role seemed to be limited to being a source of information, while respondents from **group S** (and to some extent from **group L**) usually regretted that victims are perceived **only** as sources of information.

> *"One (osoby pokrzywdzone – red.) są nieustająco traktowane jako osobowe źródło informacji. One są traktowane tylko do tego, by dostarczyć niezbędnych dowodów potrzebnych do przeprowadzenia z sukcesem postępowania."*

> *"They (victims – ed.) are constantly treated as a personal source of information. Their only role is to provide the justice system with evidence sufficient to successfully conclude proceedings." (PL/S/3)*

Respondents from **group S** stated that limiting victims' role to providing information prevents them from seeking compensation (emotional or material) and coping with trauma.

The answers provided to that question by respondents from group P revealed an interesting discrepancy. At the stage of declaring their perception of victims, the majority of the respondents from group P stated that victims are mainly an active party to the proceedings. This may be caused by the fact that the police work with victims at the initial stage of proceedings when victims manifest their strongest engagement, i.e. notify the police about the crime and give their first testimonies. Further results of the research show, however, that the group P's perception of victims is mainly limited to them being a source of evidence. In this context, the perception of victims' role in the proceedings by the police is closer to the perception revealed by **group J than group S** – for the vast majority of respondents from **group P** victims were usually sources of information necessary to carry out an effective investigation (please see also point 1.2)

Four respondents presented different perception on victims' role in proceedings. One representative of **group S** (PL/S/2) stated that the victims with whom she works usually have negative experiences in contacts with law

enforcement officials and, therefore, they do not feel as fully legitimate parties to proceedings. Two respondents from **group L** (PL/L/3 and PL/L/4) presented interesting, but contradictory observations. In the opinion of respondent PL/L/3, the provisions of CCP allow victims to play an active role in the proceeding, but in practice it is not welcome by law enforcement bodies. However, in the opinion of respondent PL/L/4, victims are persons who replace prosecutors or the police, and they are as engaged in the proceedings as if they themselves were the detectives.

1.1.2. How significant do practitioners assess the role of victims in criminal proceedings, apart from victims testifying as witnesses? (Question Pr 1.2)?

Although the question tried to reach beyond the victim's role as a witness, establishing other roles played by victims in the perception of professionals, while answering it the respondents still concentrated on the victim as a source of information. The majority of respondents perceived victims as the most important actors in the proceedings whose testimonies and evidence may be solid basis for carrying out effective proceedings. Some respondents, however, stated that the role of the victim in the proceedings is unnecessarily reduced to testifying, and despite numerous provisions regulating the position of the victim, the latter's rights and duties are not properly exercised in practice. Between those two ends of the spectrum, only some respondents recognized victims as persons harmed by a crime and in need of assistance.

The respondents from **group S** reiterated that victims' role is usually limited only to being a source of evidence (PL/S/1, PL/S/3, PL/S/5). One respondent even stated that the justice system tends to focus more on the crime than the victim, and as a result the victim's harm is not always treated with due respect.

„Wymiar sprawiedliwości zajmuje się bardziej przestępstwem, niż samą ofiarą"

„The justice system is more focused on the crime than the victim." (PL/S/5)

While answering this question, the respondents form **group S** pointed at a dualistic role of the victim in the criminal procedure. During pre-trial proceedings, the victim is a party to proceedings by default, however in the course of court proceedings, in order to be recognised as a party to such proceedings, the victim has to make a declaration that they will act as an auxiliary prosecutor. Only when acting in the capacity of an auxiliary prosecutor can victims play an active role in court proceedings. They then can call for evidence, ask witness questions and call for their own witnesses (see also PL/S/4). Furthermore, such a role may to some extent be empowering for victims, since it can reduce or prevent an impression that proceedings are carried out beyond them (see PL/S/2). The respondents' answers revealed that victims should be informed about this right in order to exercise it properly (PL/S/2, PL/S/4). Even when victims have enough information about the possibility to act as auxiliary prosecutors, they still might be reluctant to act in this capacity (PL/S/3), as they might be for example living in great fear of the perpetrator (PL/S/4) or expect the justice system to decide on this case without their participation (such a will was expressed by one of the interviewees from **group V** – PL/V/9). The same observation was shared by one of the respondent from **group J** (PL/J/6) who admitted that victims' potential is often unmet as victims are not as active in the criminal proceeding as they could be.

The answers from respondents in **group P** revealed interesting discrepancies in the general perception of victims in criminal proceedings. Two respondents (PL/P/2 and PL/P/3) perceived victims in a more empathetic way – to these respondents victims are "persons who seeks help" or "human being harmed by a crime." Against this background, the perception of a victim as just a party to criminal proceedings expressed by PL/P/1 seems to be the strongest among the respondents.

*"A: […] Ofiara to jest **osoba pokrzywdzona, która ma określone uprawnienia**. My do tego nie podchodzimy w jakiś sposób emocjonalny, wykonujemy swoje po prostu czynności, takie jakie są zlecone, jakie wynikają z*

toku sprawy. A jeżeli wymagają tego okoliczności, to ta osoba korzysta wtedy w postępowaniu z różnego rodzaju pomocy podmiotów […]"

*„A: A victim is a **harmed person who has certain rights**. We don't approach it in any emotional way, we simply conduct procedural acts which have been requested, which follow from the course of the case. And when the circumstances demand it, then this person [victim] in the proceedings uses the support of all sorts of institutions […]" (PL/P/1)*

Although the question sought to define a variety of victims' roles, in **group P**, all the respondents agreed that the role of a victim in criminal proceedings is extremely important, hence victims can provide law enforcement bodies with necessary information to carry out an effective investigation. In this regard, the respondents tended to perceive victims mainly as a source of information and important witnesses (PL/P/1, PL/P/3, PL/P/4). All the respondents stated that it would be very difficult or even impossible to carry out an investigation without victim's participation.

Similarly to group P, also respondents from **group J** perceived victims mainly as sources of information.

„Pokrzywdzony jest przede wszystkim dostarczycielem faktów dla wymiaru sprawiedliwości."

„The victim is, first of all, a provider of facts for the justice system." (PL/J/5)

Furthermore, the respondents in **group J** found the role of the victim as crucial from the perspective of the efficiency of criminal proceedings (PL/J/1, PL/J/2, PL/J/3). Two respondents (PL/J/5 and PL/J/7) referred to the broad catalogue of rights that victims enjoy in proceedings (e.g. calling for evidence to be secured, accessing case files or submitting motions for expert witness' opinion). None of the other respondents from group J mentioned this catalogue of rights. Furthermore, only one respondent (PL/J/2) perceived a victim in the context broader than just the proceedings and stated that the victim's personal feelings may be key factors affecting the court's decision-making process. Also, only one respondent (PL/J/6) admitted that victims' role in the proceedings is not usually as active as it could be. In the respondent's opinion, the reason behind it is a poor cooperation between victims and prosecutors. And the attitude of the latter towards victims may be largely negative.

„Nasza wizja pokrzywdzonego jest wizją namolnego pokrzywdzonego. Gdyby przychodziły do prokuratury osoby przeciętne, gdybyśmy widzieli osoby naprawdę skrzywdzone ten błędny obraz pokrzywdzonego by się zatarł. Jest krzywa Gausa, są na niej jedni i drudzy, ale my mamy nadreprezentatywność tych trudnych. Stąd, jak to mówią prokuratorzy powszechnie: pokrzywdzony nasz wróg."

„Our vision of the victim is that of a relentless victim. If average people came to the prosecutor's office, if we saw truly hurt people, then this distorted image of the victim would be dispelled. There is the Gaussian curve, both groups are on it, but we have overrepresentation of those difficult ones. Hence, as the prosecutors commonly say – the victim, our enemy." (PL/J/6)

Furthermore, only few respondents from group J pointed at the possibility for victims to seek compensation during criminal proceedings.

Similarly to respondents from groups S and J, the respondents from **group L** also indicated that the role of the victim is extremely important in the entire proceedings. Among others, the victim can provide law enforcement bodies with information concerning the perpetrator's motives (PL/L/2) or evidence (PL/L/1). Beyond that, the respondents from group L perceived victims in a much broader context than just participation in criminal proceedings. To interviewed lawyers, victims were "a person in need of support and assistance" (PL/L/1) and whose "legally protected interests should be taken into consideration during the entire criminal proceeding" (PL/L/3).

„Z drugiej strony osoba pokrzywdzona przede wszystkim powinna być – przy okazji tego pierwszego kontaktu – niejako „zaopiekowana" pod kątem zdrowotnym; to w pierwszej kolejności, jeżeli tego wymaga jej sytuacja.

Po drugie powinna jej być udzielona wszelka pomoc, która pozwoli jej wyjść ze stanu wiktymizacji i nie powrócić do niego."

"However, the victim should, above all, be given any medical attention required on first contact; if the situation demands it, that's a priority. Secondly, this person must be afforded all possible assistance that will enable them to escape victim status and never return to it." (PL/L/1)

The interviewees in **group L** agreed that the provisions of CCP give victims a wide space to participate in the proceedings, however in practice this possibility is not fully used (PL/L/2 and PL/L/4). One respondent (PL/L/4) stated that victims may have a possibility to influence the course of the investigation only when they are represented by a professional lawyer. Victims, however, may face numerous challenges in accessing professional representatives in practice. In the opinion of two respondents (PL/L/4 and PL/S/1), victims who are natural persons are represented by professional lawyers less often than e.g. victims which are legal persons, or may be denied access to a legal representative by the courts which motivate their decision by asserting that "the victim will manage" (PL/S/1).

1.2. Views of victims

1.2.1. How did the interviewed victims assess their role in the proceedings (Question V 1.1 – V 1.3)?

The interviewed victims' assessment of their role in proceedings was composed of three elements: their motivation towards initiating and participating in the proceedings, their assessment of their contribution and influence on the proceeding as well as their expectations towards the proceedings.

The motivation of the interviewed victims differed depending on their personal attitude towards the proceedings and, to some extent, the crime from which they suffered. Victims of domestic violence (PL/V/1, PL/V/5 and PL/V/6) stated that their motivation to start the proceedings and to participate in them resulted from their will to protect their children and themselves. Furthermore, some respondents (such as PL/V/11) were motivated to initiate the proceedings because they could not tolerate injustice. Interestingly, none of the interviewed victims stated that their participation in the proceedings was motivated by revenge or seeking compensation. Quite the opposite, several persons (PL/V/4, PL/V/10, PL/V/11, PL/V/12) who were victims of crimes such as battery, hate crime or unlawful threat presented their motivation in a much broader context. Their decision to initiate and participate in the proceedings was motivated by the necessity to draw public attention to certain problems (in case of PL/V/9, it was violence of the law enforcement officials) or combating the atmosphere of hatred and hate crimes (as in the case of PL/V/ 4 and PL/V10).

> *Q: Dlaczego zgłosił pan przestępstwo na policję?*
>
> *A: Uznaliśmy z żoną, że sytuacja jest absolutnie szczególna. Nie byłem absolutnie w żaden sposób winny. Uznaliśmy też, że powód w obecnej sytuacji [w kraju] niebezpieczny i charakterystyczny. […] Decyzja była dość oczywista – czegoś takiego nie można po prostu zostawić. Gdybym na przykład był pijany, pokłócił się z kimś, uderzył kogoś… to bym się zastanawiał. Tymczasem byłem absolutnie niewinny. Biorąc dodatkowo kontekst, który nastał – to, że ktoś mówi Irańczykowi, że ma się wynosić i jest to czymś absolutnie oczywistym… Pół roku temu to jeszcze budziło pewne zdziwienie, sprzeciw i opór. […] Miałem świadomość, że to wyrasta poza zwykłe chuligaństwo. […] To było dla mnie istotne. […] Ważne było dla mnie to, że ja chcę rozmawiać w tramwaju w innych językach i nie chcę się tego obawiać.*
>
> *Q: Why did you report the offence to the police?*
>
> *A: My wife and I decided that the situation was highly exceptional. I was a totally innocent victim. We also found that in the current situation [in the country] the reason dangerous and typical. [...] It was pretty obvious to us that something like that shouldn't go unpunished. For instance, if I had been drunk, got into an argument with someone, hit someone... Then I would give it a second thought. But I was absolutely innocent. Considering this additional context that we live in – the fact that someone can tell an Iranian to get out [of Poland] and it is totally natural... Six months ago this would cause surprise, objection and opposition. [...] I was aware that it went beyond an ordinary act of hooliganism. [...] It was important to me. [...] It was important to me that I can speak foreign languages on a tram and I don't want to be afraid of doing this. (PL/V/4)*

When it comes to the assessment of victims' contribution and influence on the proceedings, the victims' answers fell under two different categories. On the one end of the spectrum, several victims (PL/V/1, PL/V/, PL/V/10 and PL/V/11) assessed their role and influence on the proceedings as completely irrelevant. Not only were they deprived of the chance to present their own observations (e.g. the participation of PL/V/10 was limited only to giving testimonies), but their role was also limited to some – in their opinions insignificant – actions.

> „*Ja mogę stwierdzić, że ja tam w ogóle nie byłam potrzebna. Ja tam im byłam tylko po to, żeby podpisać im papier."*
>
> „*I can state that I wasn't needed there at all. I was there only to sign some papers for them*." *(PL/V/1)*

***

W P., mogę powiedzieć, że naprawdę zaangażowałem się w sprawę. Wszystko w niej było jak należy. W drugiej sprawie, tutaj w Ł., mogę powiedzieć, że nie za bardzo byłem w nią zaangażowany. Policjanci nie chcieli uwzględnić mojego punktu widzenia. Nie chcieli nic ode mnie usłyszeć. Chcieli zamknąć sprawę.

In P. I can say I was really involved in the case. Everything was right regarding my case. In the second case here in Ł., I can say, I was not very involved in the case. They (police officers) didn't want to consider my point of view. They didn't want to hear anything from me. They wanted to close the case. (PL/V/12)

On the other hand, there were several interviewees who asses their role as very important and their engagement brought a particularly important contribution to the entire proceedings. For example, interviewee PL/V/2 who acted as an auxiliary prosecutor in the proceedings concerning sexual abuse of her daughter assessed her role as very significant in terms of her influence on the proceedings (she, among others, presented specific pieces of evidence and applied for an eviction order against the perpetrator). Furthermore, two other interviewees (PL/V/4 and PL/V/6) assessed their roles as very important when it comes to initiating the proceedings (PL/V/6) and changing the legal qualification of the crimes (PL/V/4).

Beyond those two categories, there were also examples of victims who did not want to engage in the proceeding, but in face of the police's passiveness felt compelled to apply a more active approach (PL/V/8), and a victim who deliberately refused to participate in the proceedings in order to assess the justice system's capacity to deal with cases concerning law enforcements (PL/V/9).

„Q: Jak ocenia pan swój wkład i swoją role w postępowaniu?
A: Starałem się być osobą jak najbardziej pasywną, aczkolwiek nie utrudniającą postępowania. Wypowiadałem się zawsze gdy była potrzeba, żebym się wypowiedział, złożył zeznania, dostarczył dowody, więc działałem na tyle aktywnie na ile wymiar sprawiedliwości tego wymagał."

„Q: How do you assess your input and role in the proceedings?
A: I tried to be as passive as possible, without however hindering the proceedings. I spoke whenever there was a need for me to speak, testify, provide evidence, so I was as active as the justice system demanded." (PL/V/9)

When it comes to victims' expectations towards the proceedings, interestingly almost none of the interviewees declared that they were fully satisfied either with the course of proceedings or their own involvement. Three interviewees (PL/V/1, PL/V/10 and PL/V12) stated that they expected more involvement. This assessment was not dependent on the outcome of proceedings – each of the proceedings ended in a different result and at a different stage. Furthemore, these three respondents played different roles in the proceedings. In cases of respondents PL/V/1 and PL/V/10 the proceedings did not reach the trial stage, while in the case of PL/V/12 one of the proceedings ended with a convition and one was discontinued. At the early stage of the proceedings, each of these respondents wanted to participate in the proceedings, but their engagement shrank gradually in the course of the proceedings. They were discourage by the ineefectivness of law enforcement bodies (PL/V/10 and PL/V/12) or representatives of the support system. In this context, the case of PL/V/1 seems to be the most striking, since she admitted that during her stay in the support centre she became convinced that the abusive behavior of her partner was her fault.

On the other hand, three interviewees (PL/V/4, PL/V/6 and PL/V/8) did not strictly refer to their engagement, but stated that they expected the police and prosecutors to be more active in the course of the proceedings. Two of these respondents (PL/V/4 and PL/V/6) participated in the proceedings as auxiliary prosecutors (PL/V/4 and PL/V/6) and one as a witness at the trial stage (PL/V/8). The respondents seemed to be disappointed by the way the prosecutors qualified the crime (PL/V/4), the lack of proper support they wanted to receive from law enforcement bodies (PL/V/6) and the pace and manner of the law enfrocement's work (PL/V/8). The answers of these respondents showed, first and foremost, that to some extent they felt left alone in the proceedings and,

secondly, that their engagement in the proceedings was dictated by the fact that they did not see a proper devotion on the part of law enforcement officials.

The only respondent who was quite satisfied with the level of her engagement (PL/V/2) acted as an auxiliary prosecutor in the proceedings concerning sexual abuse of her daughter. She assessed her role as very significant in terms of her influence on the proceedings. This example shows how an active approach towards the proceedings can be empowering for a victim. However, the same respondent expressed a negative assessment of the entire proceedings. In her opinion, the justice system in Poland favours perpetrators over victims.

An interesting observation was also provided by respondent PL/V/11 who found his role in the proceeding as relatively inactive. In his opinion, a victim should be able to choose the extent to which he or she wishes to be involved in the proceedings (similar observation was echoed by one of the respondents from professional groups – PL/L/4).

2. Victims reporting their victimization to the police

2.1. Views of practitioners

2.1.1. How do practitioners assess the impact of victims' reporting (or underreporting) on the criminal justice system's effectiveness (question Pr 2.1)?

Given the fact that victims' role in the proceedings is perceived as crucial, the process of notifying law enforcement bodies about a possible crime should address victims' potential fears and should be, as much as possible, oriented on the victims' needs. The majority of respondents, however, stated that usually victims are afraid or reluctant to notify law enforcement bodies about a possible crime. Interestingly, the element of fear or reluctance was not raised by any of the interviewed victims, while talking about their motivations towards reporting about crimes (only one victim – PL/V/2 – did not want to notify the police about domestic violence, since she wanted to preserve the relations between her husband and her daughter). Therefore, it can be assumed that fear and reluctance are the factors that mostly prevent victims form reporting crimes.

In reference to victims' attitudes towards reporting crimes, the respondents from **group S** usually pointed at two ends of the spectrum. In their opinion, victims are usually afraid or ashamed. Some respondents stated that the impression that the justice system will not believe victims (PL/S/2, PL/S/3, PL/S/4) or the perception of the justice system as ineffective (PL/S/3) may also be among factors preventing victims from notifying crimes. On the other hand, respondents within this group were familiar with cases in which victims were very determined to seek justice. This may depend on the type of crime and victims' personality, but one respondent (PL/S/5) stated that it might be a case also of victims of domestic violence who sometimes suffer for a long time before they decide to notify law enforcement bodies.

> *„Inne osoby przychodzą mówią: już mam serdecznie dość, zawsze podpowiadano mi, żebym zrobiła to czy tamto, a ja czekałam. Dziś przyszłam, zgłaszam, chcę podjąć odpowiednie kroki. Po takim przełamaniu wszystko idzie łatwiej, sprawniej. Taka osoba wie czego chce w życiu."*
>
> *"Other people come and say: I'm fed up with this, they've always told me what to do and I was waiting. Today, I've come to make a report and I want to take certain steps. After such a breakthrough, it all goes easier, more smoothly. Such person knows what she wants from life." (PL/S/5)*

The respondents from **group P** indicated a similar set of emotions and attitudes that victims may show towards reporting to the police. In their opinion victims may feel insecure, afraid or not comfortable with talking about their experience (PL/P/2, PL/P/3 and PL/P/4). In the opinion of one of the respondents (PL/P/1), the reason for it may

be rooted in the past when certain stereotypes of the police and justice system were very vivid. In his opinion, however, things in this field have observably changed for better. On the other hand, the respondents from **group P** pointed at cases such as battery or violent aggression in which victims may be much more determined to seek justice (e.g. PL/P/3).

While the respondents from **groups S and P** focused on a set of possible emotions or factors that may prevent victims from notifying a crime, respondents from **group J** perceived this problem in a more casuistic way, usually stating that a victim's attitude may depend on a type of crime or victims' personality (PL/J/2, PL/J/3, PL/J/4, PL/J/5 and PL/J/7). In the opinion of the respondents, the victims who suffered from crimes against property or health may be more determined to seek justice and participate in the proceedings. On the other hand, victims who suffered from violent sexual crimes may be too afraid and ashamed to initiate proceedings. In this context, the respondents also pointed at the fact that victims may differently react to the crime – some of them may be determined to seek justice, while some may be too stressed or traumatised to initiate any proceedings. One respondent (PL/J/6) noted that there is a group of victims, namely LGBT persons, who have a negative attitude towards criminal proceedings and their reluctance towards law enforcement bodies leaves them vulnerable to secondary victimisation (a similar observation was shared by respondent PL/L/2 who stated that LGBT victims are usually afraid that the police will not treat them seriously). Furthermore, in cases of domestic violence victims may be very reluctant towards the investigation and perceive police or prosecutors' engagement as infringement upon victims' personal business.

> *„Zdarzają się sytuacje, często przy przemocy domowej, gdzie prokurator słyszy od ofiary: odczep się ode mnie."*
>
> *„There are situations, often in domestic violence cases, when the prosecutor hears from the victim: get away from me." (PL/J/6)*

Furthermore, a vast majority of respondents (with an exception of the respondents from group J) admitted that victims' attitude towards notifying a crime impacts the proceedings. All the respondents from **group S** clearly stated that victims' attitude toward reporting a crime has an influence on the entire course of proceedings. The respondents within this group drew a positive correlation between victims' activity and chances for a successful conclusion of the proceedings. The more active the victim, the greater his or her chances.

Similarly, to respondents from group S, also respondents from **group P** admitted that victims' attitude towards reporting crimes impacts the proceedings. Furthermore, the respondents from group P also notated that changes in victims' attitude towards prosecuting a crime may consitute unsolvable obstacles in continuing the investigation, in particular in cases of domestic violence (PL/P/2 and PL/P/3). Two respondents (PL/P/1 and PL/P/3) perceived the changes in victims' attitude through the lense of police work and engagement. In their answers, the relation between the police and victims seemed to be perceived as cooperation in which both sides should aim at the same result. For respondent PL/P/2 victims' withdrawing from testifying seemed to be a waste of work and a police officer's emotional engagement, while for respondent PL/P/1 the lack of victims' engagement seemed to be a frustrating element that does not correspond to idea of police work and involvement in the case.

> *„Tylko te rzeczy, które gdzieś tam wyjdą na powierzchnię trafiają do nas […] No niestety trzeba przyznać, że pozycja pokrzywdzonych, które są w tych sprawach jest sprzeczna z ideą prowadzenia postępowania przygotowawczego. To znaczy, że te osoby niby od nas oczekują pomocy, ale od siebie nie chcą nic dać. Jest problem nawet na przykład wezwać taką osobę na czynności. I sprawa się przedłuża."*
>
> *„Only those things which come to the surface reach us. […] Unfortunately, it has to be admitted that the attitude of victims in those cases is contrary to the idea of conducting pre-trial proceedings. It means that these people expect help from us, but do not want to give anything themselves. There is a problem to even summon such a person for procedures. And the case is prolonged." (PL/P/1)*

Contrary to groups S and P, respondents from **group J** did not draw a clear correlation between victims' engagement and the progress of proceedings. The respondents from group J seemed to stand on the position that the proceeding should be carried out by law enforcement bodies in the most effective way with or without victims' personal engagement. Respondents from group J, however, similarly to the police and representatives of victims support organisations admitted that victims' personal engagement makes carrying out the proceedings easier, among others with respect to access to the most important information, such as victims' knowledge about the details of a given crime.

> *„Zdarza się bowiem, że człowiek mówi ja nic nie będę mówił, mam to gdzieś, niech sąd się martwi. A sąd tam nie był, nie widział, nie jest władny niczego wymyślić."*
>
> *„It happens that somebody says I'm not going to say anything, I don't really care, let the court worry. But the court wasn't there and has no authority to come up with anything." (PL/J/5)*

Interestingly, one respondent (PL/J/6) stated that some victims may be too active in the proceedings which may lead to unnecessary waste of time and resources, and usually the proceedings in such cases are discontinued.

Similarly to group J, also respondent from group L stated that victims' attitude towards reporting the crime depends on the type of crime and victim's personality. For example, respondent PL/L/4 stated that in cases concerning crimes against property some victims may be very determined to seek justice while some may not want to inform anybody about the crime. Respondents PL/L/1 and PL/L/2 also stated that victims of sexual crimes or crimes motivated by homophobia or transphobia may not be eager to notify the police about it. Also, respondent PL/L/2 added to this set the factor of victims' previous experiences with the justice system and the fact that sometimes the police may discourage victims from notifying the crime. A similar statement was presented by PL/J/6 who specialises, among others, in cases concerning hate crimes. In her opinion, LGBT persons together with victims of domestic violence may be these groups who are mostly reluctant towards notifying the police about a crime.

> *"Policja wciąż nie jest nastawiona frontem do pokrzywdzonego i naprawdę ze zrozumieniem się odnoszą i chcą pomóc pokrzywdzonemu. Przy czym chyba przy tych brutalnych przestępstwach chyba są bardziej skorzy do tego, by pokrzywdzonemu pomóc"*
>
> *"The police are still not victim-friendly [enough], [they do not] show enough understanding and that they want to help a victim. But, in the case of such brutal offences, they are probably more eager to help a victim." (PL/L/3)*

One of the interviewees (PL/L/1) made an important observation regarding prosecution of sexual crimes. In the past, rape used to be prosecuted upon a motion, however, due to the changes in legislation is should be publicly prosecuted. Despite this change, there are still problems with initiating an investigation, and sometimes the police still demand a specific motion from a victim.

> *"Generalnie nie powinno być tak, że z automatu postępowanie jest umarzane, ale tak się bardzo często dzieje. Bo policjanci mówią, że powinniśmy uszanować wolę tej osoby, pomimo że to już nie powinno od niej zależeć. Po drugie zawsze mogą przyjąć, że jeżeli tracą tego kluczowego świadka, jakim jest pokrzywdzony, to nie będą mieć jakiegokolwiek wiarygodnego dowodu na to, żeby podejmować kolejne czynności postępowania – stawiać zarzuty, występować z aktem oskarżenia. Dzisiaj więc od tej woli zależy bardzo dużo. W tym sensie, że niestety uważam, że bardzo koniunkturalnie podchodzą do sprawy organy ścigania. „Nie będziemy ścigać, bo osoba pokrzywdzona sobie tego nie życzy".*
>
> *"In general, it should not be the case that the proceedings are automatically dropped, but this is very often what happens. Police officers say that they have to respect the wishes of that person, despite the fact that it should no longer be up to her. Secondly, they can always assume that if they lose this key witness, the victim, then they will not have any credible evidence on which to proceed with further steps in the investigation – make charges and issue an indictment. So today, a great deal depends on this willingness. Unfortunately, I believe*

that the authorities approach this question in an opportunistic way: "We will not investigate because the injured party does not wish it." (PL/L/1)

Also, respondents from group L were certain that the victim's attitude towards notifying a crime impacts the proceedings. Furthermore, respondent PL/L/3 noted that not only the attitude towards informing law enforcement bodies but also the timing may be of crucial importance, especially in cases concerning crimes against health.

2.1.2. How do practitioners assess the potential of the following measures in terms of improving the situation of underreporting? Would the following measures make it significantly easier for victims to report (question Pr 2.2)?

Professional groups	**S –** Agree or strongly agree	**P -** Agree or strongly agree	**J -** Agree or strongly agree	**L -** Agree or strongly agree
2.1.2.1 More victim support services available to victims of violent crime	5/5	4/5	6/7	4/4
2.1.2.2 Raising victims' awareness of their rights and of support services available to them	5/5	5/5	6/7	4/4
2.1.2.3 Better protection of victims against repeat victimisation and retaliation	5/5	3/5	6/7	4/4
2.1.2.4 Setting up specialised police units or contact officers for victims of certain types of crime	5/5	3/5	5/7	3/4
2.1.2.5 Measures aimed to enhance the trust of the public in the police	4/5	5/5	5/7	2/4
2.1.2.6 Measures strengthening professional, respectful and non-discriminatory attitudes and conduct in the police	5/5	4/5	7/7	24

As well as completing the above table, please provide an analysis and your own interpretation of the results:

In general, the overwhelming majority of respondents agreed or strongly agreed with the suggested measures aiming at improving the situation of underreporting. The analysis of the results shows that, among the respondents, the most popular solutions were those which were more focused on victims' awareness and their needs than the solutions concentrated on the organisation of the law enforcement system. Twenty out of 21 respondents indicated raising victims' awareness of their rights and of support services available to them. Also, almost all respondents (19) agreed with the statements that increasing the number of victim support organisations may be a good measure to combat underreporting. Two respondents (PL/J/6 and PL/S/1) underlined the need to introduce more specialised victim support services instead of developing the general support and one respondent (PL/P/1) stated that a sufficient number of victims' support organisation already exists, but in his opinion access to these services should be better.

The same number of respondents (18) agreed with the statements that better protection of victims against secondary victimisation and adopting measures strengthening professional and non-discriminatory attitudes among the police will be good measures for combating underreporting. One of the respondents (PL/P/1) stated that the measures protecting victims from secondary victimisation are already implemented and they have to be better used. The same respondent also stated that the police does not act in a way that may be discriminatory to anyone. On the other hand, one of the lawyers (PL/L/1), in reference to point 3, noted a certain double standard whereby a victim is sometimes expected to know more about the available measures than the police officer dealing with the case.

A relatively small number of respondents (16) agreed with the statement that setting up specialised police units would significantly limit underreporting. Some respondents from group P and J underlined that such specialisations already exist in practice, however they are not sanctioned by any special regulation. These respondents stated that within police units there is some specialisation according to the type of crime. Interestingly, the respondent PL/S/3, who in general agreed with this statement, made an important comment that such a specialisation may lead to some sort of automatism in decision-making and may be counter-productive in the long run.

Also, only 16 respondents agreed with the statement that enhancing public trust towards the police would significantly limit underreporting. Respondent PL/L/1 notated that according to the statistics public trust in the police is very high.

Although this question did not provide respondents with a possibility to comment on the statements, some of them took the liberty to justify their statements. This tendency was particularly visible among police officers – every respondent from group P provided additional information. The comments of respondents from group P varied from statements underlining the need to improve the effectiveness of police work to comments stating that more work should be done in the field of increasing victims' awareness of their rights.

Only one respondent (PL/J/7) did not agree with almost all of the proposed solutions. In his opinion, all of the suggested measures are already in place and the only concern should now be better implementation of these solutions in practice.

2.2. Views of victims

2.2.1. Did the interviewees report their victimisation to the police (Question V 2.1)?

Almost all (10 out of 12) interviewees reported their cases to the police. The vast majority of them did it directly and almost immediately after they became victims of crimes (PL/V/3, PL/V/4, PL/V/7 and PL/V/8). Three of them notified the police via calling an emergency number 112. PL/V/2 did it immediately after she discovered the crime, and PL/V/8 did it during the attack.

The police presented different approaches while receiving the notification. In some cases (PL/V/4 and PL/V/8) they immediately took some actions such as e.g. arrived for an intervention, started looking for the perpetrator or directed the case straight to the prosecutor's office. However, in some cases the police assumed a more discouraging approach, such as in the case of PL/V/3 in which the police downplayed the notification and sent a victim empty handed.

In this context, respondent PL/V/12 provided the most disconcerting example of police behaviour. The man was severely beaten in the street. When the police came, most probably notified by a witness, their first decision was to take him to the police station and not to the hospital. According to the interviewee, the police officers must have taken him for an illegal migrant because they threatened him with deportation. On the spot, the police officers did not ask him questions about the crime, but took him to the police station and checked the legality of his stay in

Poland (the respondent had a Green Card). Only after then the police officers called an ambulance. He eventually notified the police about the crime three weeks later.

„A: W L. zgłosiłem sprawę po około trzech tygodniach. (…) Byłem zaskoczony, bo jak przyjechała policja, jeden z funkcjonariuszy powiedział mi: „zostaniesz deportowany".
Q: Pamięta Pan, jakiego polskiego słowa użył?
A: Nie, powiedział to po angielsku. A ja byłem ranny. Krwawiłem a on o nic nie zapytał. Wezwali straż miejską i powiedzieli im, że zakłócam ruch."

"A: In Ł. I reported the case about three weeks after. (…) I was surprized because when the police came and one of them said to me" You will be deported.
Q: Can you remember Polish word, he used?
A: No, he said in English. An I was injured. I was bleeding and he did not ask anything. They called Straż Miejska and tell them that I am disturbing traffic." (PL/V/12)

2.2.2. What are the factors identified by victims, who reported to the police, facilitating this reporting (Question V 2.2)?

The interviewed victims who decided to report to the police about the crime identified several different factors which facilitated the process of notification. One of the most disturbing factor which mobilised victims to inform the police was extreme fear for their life or willingness to protect their children. Two respondents (PL/V/8 and PL/V/9) stated that they notify the police since they were afraid that the crime may escalate and may pose a significant threat to them and their lives.

„Q: Co skłoniło pana do zgłoszenia sprawy na policję?
A: Sytuacja zagrożenia życia. W momencie, gdy doznałem obrażeń, uznałem, że nie ma innego sposobu zapewnienia sobie bezpieczeństwa niż natychmiastowy kontakt z policją. Jak się później okazało, sprawcy [pobicia] […] w ciągu kilku minut wrócili na miejsce [pobicia] szukając mnie. To że zgłosiłem się na policję, być może uratowało mi skórę."

"Q: What made you report the case to the police?
A: The threat to my life. The moment I received those wounds I decided that there was no other way of ensuring my safety apart from an immediate contact with the police. As it later turned out, the perpetrators [of this battery], […] returned to the location of the crime looking for me. The fact that I reported to the police, perhaps, saved my life." (PL/V/9)

Two other respondents (PL/V/2 and PL/V/5) notified the police about the crimes, since they wanted to protect their children. What is important, in the case of PL/V/2 the important aspect which helped her in notifying the police about the crime was the assistance she received while calling on 112 and the approach of the police officer who received the notification.

Another important factor which helped victims to start the proceedings was the support they receive from their families. Two respondents (PL/V/4 and PL/V/ 11) stated that they decided to notify the crime or continue to follow the investigation thanks to the encouragement of their relatives.

For two other respondents (PL/V/3 and PL/V/6), the factor which turned out to be the most helpful was broadly a interpreted legal intervention. The police received the notification about the crime from respondent PL/V/3 only after she consulted a lawyer and presented a notification in a written form. Furthermore, in case of respondent PL/V/6 the notification about the crime was followed-up by the police only after she notified the prosecutors' office.

Last but not least, one of the factors which was indirectly mentioned by the interviewees as an aspect that makes the investigation more effective, was media attention. In two cases, the media reported on the proceedings and in the opinion of the victims it exerted some pressure on the police.

> *„Q: Czy były jakieś okoliczności, które ułatwiały lub utrudniały zgłoszenie się na policję?*
> *A: Nie, nie było nic co ułatwiało albo utrudniało. To była normalna procedura. (…) Dwa tygodnie przed moim wypadkiem był podobny incydent. Potem było moje pobicie i to spowodowało rozgłos medialny. I to była oczywiście presja na policję. (…) Konsekwencją rozgłosu medialnego było to, że policjanci byli bardzo aktywni."*

> *"Q: Where there any circumstances which made it easier or more difficult to report to the police?*
> *A: No, there was nothing that would hinder or ease it. It was a normal procedure. (…) Two weeks before my accident a similar incident had taken place. Then there was this battery and it caused the publicity in the media. And this was obvious pressure on the police. (…) As a consequence of media attention, the police officers were very active." (PL/V/11)*

2.2.3. What are the factors identified by victims, who reported to the police, hindering this reporting (Question V 2.2)?

The interviewed victims pointed at several factors that made the process of notification more difficult. The first set of factors is related to the police and their approach towards victims. Three interviewees (PL/V/3, PL/V/4 and PL/V/6) stated that the police's approach was either discouraging or indifferent. For example, in the case of PL/V/3, the police did not treat her case seriously and refused to collect the notification. Similarly, in the case of PL/V/4, despite the fact that the police immediately undertook certain actions, they were very sceptical concerning the effectiveness of the proceedings and stated that finding the perpetrator would be extremely difficult.

> *„Policjanci byli pełni empatii i zrozumienia […] ale też byli szczerzy. Mianowicie wątpili w znalezienie sprawcy. Policjanci pytali, czy sprawcy głośno krzyczeli. Kiedy powiedziałem, że nie krzyczeli tylko bili, to policjanci stwierdzili, że będzie ciężko [udowodnić przestępstwo z nienawiści – red.]. Bo jeżeli nie krzyczał głośno, to nie deklarował swojej nienawiści"*

> *„The police officers were full of empathy and understanding […] but they were honest as well. They highly doubted to find the perpetrator. The police officers asked me whether the perpetrators loudly shouted. When I said that they didn't shout but just beat me up, then they say it's going to be difficult [to prove a crime motivated by hate – ed.]. If the perpetrators didn't shout, then they didn't declare their hatred' (PL/V/4).*

Another hindering factor experienced by victims was emotions related to the process of notification such as fear or anxiety (PL/V/2 and PL/V/7). Two respondents pointed that the fact of not belonging to the community was also a factor that made the process of notification more complicated. For one of the interviewees (PL/V/5), it as the fact that she just moved to the new city and did not know anyone, and for another interviewee (PL/V/12) it was the fact that he does not speak Polish very well. The interviewees also pointed at some objective obstacles they face during the reporting – lack of a phone (one of the interviewees – PL/V/7 – could not make a call since her partner took her mobile) and injuries (in case of PL/V/9).

2.2.4. What are the factors identified by victims, who did not report to the police, impeding this reporting (Question V 2.3)?

There were three respondents who did not report the case to the police. One of them, PL/V/10, was not able to notify the police, since after the incident he lost consciousness. The women who found him unconscious in the street called the police. A similar case was mentioned by respondent PL/V/12 in reference to his first proceedings – it was the witness of the attack against him who called the police.

The third interviewee, PL/V/1 did not notify the police, since the only thing she was looking for at that time was finding shelter for her and her children. She did not want to report the case to law enforcement bodies, as she did not want her partner to be sentenced. She did not believe that the police would trust her. She believed they would put more trust in her partner's presentation of facts.

2.2.5. Would the victims, if they were victimised again, report to the police? What are the reasons given by interviewed victims for their responses (Question V 2.4)?

A vast majority (9 out of 12) of interviewed victims stated that if they fell victim to a crime once again they would definitely notify the police. Among the reasons for this decision, the interviewees indicated the need to protect themselves and their relatives (PL/V/3, PL/V/8), the fact that crimes should be effectively combated and that it is citizens' duty to report crimes (PL/V/4, PL/V/8, PL/V/9). The interviewees also pointed at the fact that initiating the investigation may be, in a sense, liberating for a victim (as PL/V/5 stated, there is nothing worst than living in fear). Two respondents could not provid an answer to this question. Only one respondent (PL/V/1) regretted the fact that she notified the police and, as she stated, she would not do it again. The interviewee was disappointed not only with the course of the proceedings, but also with poor support she received from the victim support institution. Secondly, the proceedings deeply resonated in her entire personal situation – the responsible social care units submitted a motion to the Family Court upon limitiation of her parental power on the grounds that in their house there was violence.

3. Empowerment of victims (support, advice and information)

a) Support and advice

3.1. Views of practitioners

3.1.1. How do practitioners assess the availability of victim support services to victims of crime (Question Pr 3.1)?

The answer to the question will be presented in two parts – concerning results of interviews in groups J, L, P and results of interviews in group S. This is because representatives of groups J, L, P spoke about the situation of groups S, while representatives of group S essentially talked about their own work. While respondents from groups S in general confirm the perceptions or intuitions of other professionals when it comes to the capacity of victim support services, they were able to expand on the specific problems.

Professionals from groups J, L, P

In general, professionals other than from group S **at least declare awareness of the existence of victim support organisations**. While it is impossible to say that these respondents displayed extensive knowledge of the system, and in some cases their familiarity with services proved superficial (PL/P/1, PL/L/1, PL/J/1, PL/J2, PL/J/7), there were also interviewees well-acquainted with the landscape of victim support organization (PL/P/3, PL/L/2, PL/L/4, PL/J/3) . Only two respondents were not aware of such institutions at all (PL/L/3, PL/J/5).

When talking about victim support services, respondents more often named generic institutions of the system of social assistance, such as social care centres (*pl. ośrodek pomocy społecznej*) or crisis intervention centres (*pl. ośrodek interwencji kryzysowej*), than NGOs which deal specifically with victim support. Even though some interviewees were able to name several organizations, generally when names were listed they included only the biggest and most well-known organizations (e.g. a famous church charity). This confirms that respondents are

not, in fact, deeply familiar with the system of victim support and that there is a **field for more awareness-raising** in this respect, especially considering that limited knowledge among professional can translate onto lower access to services for victims. Apart from institutions or organisations providing services, three interviewees also included police psychologists as one of the victim support services (PL/P/2, PL/J/4, PL/J/7).

While six interviewees were unable to assess the resources and capacity of victim support organizations (PL/P/1, PL/L/4, PL/J/2, PL/J/3, PL/J/4, PL/J/7), eleven did present their opinions. In the interviewees' assessment **insufficient resources, in particular funding, are by far the most pressing problem** within the system of victim support.

Professionals from **group P** displayed reatively the highest awareness with respect to the support system among these respondent groups. All of them were able to name at least some elements of the system. This is perhaps motivated by the fact that the police is the first line of contact for victims and has to respond to more requests for help. On the other end of the spectrum, there were professionals from **grups J** – judges and prosecutors – who, even though did declare or show some knowledge, were often not able to assess the capacity of the organizations. While in the context of judges, this may be justified by the fact that they meet victims fairly late in the proceeding, the same cannot be said for prosecutors. Nevertheless, one of the prosecutors, interviewee PL/J/6 made an important point related to the availability of victim support in cities/town of various sizes. According to her, it is easier to find a victim support organisation in a big city, while in smaller locations victims are left with other methods of dealing with their problems. This was also confirmed by interviewee PL/P/5 in an answer to a different question.

> *X. to olbrzymi teren, dużo wsi. W małych miejscowościach, tam najwięcej przemocy domowej, dużo alkoholu, mało pracy, bieda, nie ma dokąd uciekać. Rozwiazywania problemów następuje własnym sumptem, często z użyciem przemocy.*
>
> *X. is a vast area, many villages. Small towns is where the biggest occurrence of domestic violence, a lot of alcohol, scarcity of jobs, poverty, no place to run away. Individuals develop their own solutions to problems, often with the use of violence. (PL/J/6)*

Professionals from groups S

Understandably, the most comprehensive assessment of the capacity of victim support services was presented by representatives of group S. All interviewees from this group confirmed that insufficient resources, in particular funding, were a problem. They expanded on this assessment, but also noted other difficulties:

- **Lack of sufficient and stable funding**: All interviewees from group S noted the problem of insufficient funding which influences other areas, such as amount of services offered or organization's human and infrastructural resources.

  "W większości są to organizacje pozarządowe, które nieustająco borykają się z wieloma problemami, w tym problemem finansowym, ale też nieustającą fluktuacją dotyczącą w ogóle zaufania ze strony dysponentów pieniędzy"

  "Most of them [victim support organizations] *are non-governmental organizations that face mane problems, including financial problems and a constantly changing level of the general trust of the budget holders." (PL/S/3)*

  Two interviewees noted the lack of stability in financing caused by the system of annual grants (PL/S/1, PL/S/4, but also PL/P/5). The financing, both governmental and local, does not foster continuity of activities. As a result, some organizations have been forced to suspend activities or temporarily close down during breaks in financing. Interview PL/S/4 presented a full picture of the situation in her area. The municipality (in this case – the city) organizes annual tenders for support services to victims of domestic violence.

Offering such services is the task of the municipality which it does delegate to organizations selected in the tender. Such organizations then offer psychological, legal and other types of support. However, the conditions of services are very specific and limit the amount of support (e.g. the city funds only up to a certain number of psychological consultations, etc.). Additionally, the funding from the city is provided for a period of 11 months. It is not provided in January, so in this month victims have limited access to services. They can theoretically use other services, such as those offered by social care centres or specialised support centres, but the latter's resources are also limited. The interviewee speculated that perhaps limiting support to 11 months was a matter of savings for a city which is in debt.

- **Victim support provided by social assistance institutions**: Two interviewees (PL/S/1, PL/S/5) refered to the capacity of social assistance institutions to offer appropriate services to victims. Interviewee PL/S/1 noted that these institutions were not set up with such purpose in mind, but in fact with all people in crisis, while they are being marketed by the government as e.g. support for domestic violence victims. It may be that for this reason, as interviewee PL/S/5 noted, not all their methods are adjusted to the needs of victims. She assessed that, unlike NGOs, these institutions tend to be bureaucratic and inflexible. And, as part of competition for "clients", these institutions do not inform victims about NGOs offering specialised support.

Osoby pracujące w GOPSach niestety mają wypracowane działania, formy pomocy, które nie są dobre dla ofiar. Jak w urzędzie, wszystko idzie jednym torem. Nieważne, że dla tej osoby ten tor jest nieodpowiedni. Innego toru nie ma, innego nie chcą widzieć, nie chcą mieć.

Employees of District Family Support Centres have developed certain procedures, forms of support that aren't good for victims. As in a public institution, everything goes in one direction. It doesn't matter that it doesn't work for someone. There is no other way, they don't want to have it differently, do it differently. (PL/S/1)

***

Ośrodek Interwencji Kryzysowej nie informuje, osób korzystających z ich pomocy, że tu jesteśmy. Boją się żebyśmy nie odebrali im klientów. (…) Ciężko przekonać niektóre instytucje, że to jest dla dobra ludzi, a nie dla naszego własnego dobra.

The Crisis Intervention Centre doesn't inform people who rely on them that we're here. They're afraid we may take their clients. (...) It's difficult to convince some institutions that it is for the people's sake not our own. (PL/S/5)

- **Staff-related problems**: Interviewee PL/S/2 noted that limited resources translate onto **shortages of staff**, in particular psychologists which her organization cannot employ. This delays psychological support and makes it dependent on volunteer work. PL/S/3 noted that for lack of funds, NGOs are **not able to retain qualified staff**, which can obviously affect quality of offered support. As presented by PL/S/4, problems with staff also stem from **grant coditionalities**, i.e. certain conditions, requirements or limitation set up by donors. As she noted with respect to one donor, according to the grant rules, the organization cannot employ persons who have their own business activity (who are sole proprietors). This is particularly problematic with respect to lawyers who are attorneys or legal advisors. The former must conduct their own activity and the latter simply do so often. While they could additionally engage in the activity of victim support organizations, they are excluded on formal grounds. This is also the case with psychologists who usually, having gathered a lot of experience, set up their own practice (business). In this case, the most experienced professionals cannot be funded from the grant.

- **Limited services:** Interviewees noted that due to insufficient funding, shelters for women cannot accommodate all women in need of support (PL/S/1, PL/S/2). Lack of funding also affects psychological

and legal assistance (PL/S/2) and support is offered for a period of time insufficient for victims to recover (PL/V/5):

Tych pieniędzy jest za mało, żebyśmy mogli sobie pozwolić na dłuższe wsparcie. Jeśli osoba musi się wyprowadzić wziąć dzieci, zaczynać od zera, po kilkudziesięciu latach związku, to potrzebuje lepszej mocniejszej pomocy, w tym finansowej. Żeby mogła stanąć na nogi.

There is not enough money so that we could provide them with a long-term support. When a person has to move out, take children with her and start from scratch after more than twenty years of relationship, then she needs a better, more solid support, including financial ones. (PL/S/5)

3.1.2. In the view of the interviewed practitioners, are victims provided with information about the general support services available to them in an effective and timely way (Question Pr 3.2)?

Interviewed practitioners **did not positively assess police work related to informing victims about general support services**. As many as four interviewees stated that the police do not inform victims about support services (PL/P/3, PL/L/3, PL/L/4, PL/S/5); a similar number of professionals had doubts as to the effectiveness of this process (PL/P/5, PL/L/1, PL/L/2, PL/J/1, PL/J/6); yet another similar group noted that there are diverse practices often dependent on individual police officers (PL/P/2, PL/S/1, PL/S/3, PL/S/4). In fact, only three interviewees presented positive assessments (PL/P/4, PL/S/2, PL/J/7).

When interviewees believed that information is provided, they were likely to say that it was provided **at first contact** (PL/P/3, PL/P/4, PL/P/5, PL/L/1, PL/S/2, PL/S/4). However, some perceived this **timing as hindering victims'** understanding of information due to their mental state (PL/P/5, PL/S/2). As noted by interviewee PL/S/3, many victims who contact the police for the first time suffer from the post-traumatic stress disorder or are in shock, so they cannot process the information properly. This may suggest that the very first contact is not, in fact, the best moment to present victims with a big amount of information concerning their rights and role in the proceedings.

"Czasami, my wiemy, że policjant wszystko powiedział. Ale czasami, kiedy ludzie zgłaszają przestępstwo są w szoku i niekoniecznie do nich dociera wszystko, co się do nich mówi urzędowym językiem. Policja daje ulotki, ale do ludzi pewne informacje nie trafiają, ze względu na stan w jakim się znajdują."

„Sometimes we do know that a policeman informed a victim about everything. But sometimes, people are in a state of shock while they notify the police and they can't grasp everything that is said to them in legalese. The police give leaflets, but people don't get everything because of the condition in which they are". (PL/S/2)

Within **group J,** three respondents were not able to assess whether victims are informed in an effective and timely way (PL/J/2, PL/J/3, PL/J/5). Three more were either unsure of effectiveness or presented a negative assessment of the process (PL/J/1, PL/J/4, PL/J/6). Interviewee PL/J/1 was not sure of the effectiveness of the letter of rights in this respect due to its excessive length. Interviewee PL/J/4 stated that police lack knowledge about support services, while PL/J/6 related lack of effectiveness to a certain minimisation of effort among police officers to not go beyond what is strictly required. And since the required letter of rights does not contain such information, such information is not effectively provided:

Policja wręcza grzecznie pouczenia, grzecznie przepisuje formułkę że pouczono, ale w zasadzie nie ma tam nic o usługach wsparcia.

The police dutifully hand out letters of rights, dutifully scribbles down a note that it has informed, but in fact there is nothing there on support services.

Wszystkiego czego nie musza mówić to nie mówią. Dopóki ktoś nie zapyta (…).Jest sztywne myślenie, tylko to co w procedurze, klapki na oczach.

All they don't have to say they don't say. Unless someone asks (…) There is narrow thinking, the procedure only, eyes shut. (PL/J/6)

Representatives of **group L** presented a very unified, negative assessment of police practice of informing victims about victim support organizations. Two interviewees critically noted that the police limit themselves to handing out an official letter of rights (PL/L/1, PL/L/2), while two others either never witness a situation when a victim would be directed to an organisation (PL/L/3) or thought that the police simply does not inform victims about that (PL/L/4). According to representatives of group L:

> *"Moim zdaniem w zdecydowanej większości przypadków rola policji kończy się na tym, że jest wręczany formularz pouczenia o prawach osoby zawiadamiającej, tudzież osoby pokrzywdzonej, tudzież świadka. I na tym rola policji w zakresie informowania się w zasadzie kończy."*
>
> *"In my opinion, in the vast majority of cases, the role of the police extends as far as providing an information leaflet advising the reporting person, victim or witness of their rights. And with that the role of the police as far as information ends." (PL/L/1)*

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> *"Najczęściej kończy się to na podpisaniu pouczenia o prawach i obowiązkach. Niektórzy pokrzywdzeni czytają to, a niektórzy nie. Ale nawet te osoby, które to czytają, to bardzo często wskazują, że to pouczenie było skonstruowane w takim języku, że dla nich nie było to zrozumiałe".*
>
> *"Usually it ends with signing the notice on a victim's rights and obligations. Some victims read it, some don't. But even people who read the notice very often say that it is written in a language that they can't understand". (PL/L/2)*

Responses in **group S** show that there is no unified practice of informing victims, and much depends on individual police officers, yet all answers – in one way or another – reveal an **importance of cooperation** between organisations providing support and the police. Interviewees noted that when such cooperation was active, then information was passed to victims in an effective and comprehensive manner (PL/S/2, PL/S/3). When, in turn, cooperation is missing, victims are not informed (PL/S/5):

> *Ciągle się przypominamy, pytamy ich, dlaczego nie informujecie pokrzywdzonych o naszym ośrodku? Ostatnio pan policjant odparł mi: a dlaczego ja mam o was informować?*
>
> *We remind them of our presence all the time, ask them why they don't inform victims about our centre. Recently, a police officer has said to me: and why should I tell them about you? (PL/S/5)*

Responses in group S, but also in group P, show how important it is that police officers themselves have access to information/resources concerning support services, such as lists of relevant organisations or their leaflets (PL/S/1, PL/S/3). If not given to police officers, it is also important that information is displayed somewhere in the police station, including on a poster.

> *"To w interesie Policji jest, aby przepchnąć tę osobę do organizacji pozarządowej. Bo wtedy ten pokrzywdzony 'nie wisi' na nich i nie od nich domaga się informacji. Policjant, jeśli ma informacje o organizacjach, które mogą przyjąć takie osoby, to informuje pokrzywdzonych".*
>
> *"It serves the police's interest to refer a person to a non-governmental organization. If they do so, then a victim is 'off their back' and doesn't demand information from the police. If a police officer has information about support organizations, they'll give this information to victims." (PL/S/3)*

It is important to note that, unlike all the rest of the interviewee, respondents from **group P** were talking about the practices of their own profession. Three of them referred to the letter of right as a tool of informing victims (PL/P/2, PL/P/3, PL/P/4). Interviewee PL/P/3, however, expressed criticism of the letter calling it formalistic and not fully transparent for an average person. She also noticed that it does not, in fact, contain information on particular support services. It seems that police officers also perceive leaflets and poster as a useful informational materials, as three interviewees expressly referred to such materials. Two police officers also noted that they try to explain

information to victims: *"Staramy się tłumaczyć, żeby ta osoba wiedziała, gdzie się zwrócić o pomoc, o ile takiej pomocy potrzebuje." / "We try to explain, so that this person knew where to go for help, as long as they need such help." (PL/P/1)* However, as the following quote suggests, this practice does require victim's initiative.

> *"Jeżeli osoba sobie życzy jakiejś tam szczególnej pomocy, jakiegoś udzielenia wsparcia, to też ją odpowiednio kierujemy."*
>
> *„If a person requests some sort of particular help, some provision of support, then we also direct them appropriately." (PL/P/1)*

3.1.3. How do practitioners assess the availability of specialist victim support services to victims of sexual or gender-based (including domestic) violence (Question Pr 3.3)?

At the outset, it is important to note that during interviews respondent often blurred the distinction between generic and specialised services. Five interviewees either did not make a distinction between types of support at all (PL/L/4) or stated that the **problems in both groups are similar** (PL/J/2, PL/L/2, PL/P/3, PL/S/2). Two interviewees seemed not to understand the concept of specialized victim support services and as examples listed institutions of social assistance (PL/J/7, PL/P/4).

In general, inteviewed professionals seemed to have **less knowledge about specialist victim suport services to victims of sexual or gender based-violence** than in the case of generic victim support services. In the case of 10 respondents, their knowledge seemed superficial – they either had difficulties to indicate organisations or made general statements concerning their existence, where not able to assess their resources and capacity, or only speculated about them, based on their general intuitions.

> *"Wychodzę z takiego założenia, że nie mogłoby być lepiej. Stąd zakładam, że te organizacje nie mają odpowiednich zasobów finansowych"*

*"I assume it is as good as can be expected. That's why I think these organisations do not have proper funding. (PL/L/3)*Specifically in reference to organisations offering specialised victim support services, five interviewees – including almost all from group S – noted that their **number is not sufficient** (PL/J/6, PL/L/1, PL/S/1, PL/S/3/, PL/S/4, PL/S/5). This was particularly the case with services for victims of sexual violence. Interviewee PL/J/6 stated that of all the organisations which provide general support to victims of crimes, only a miniscule number provides support to victims of sexual violence. According to her, singular such organisations exist in Poland and they are hard to reach. Interviewee PL/S/3, in turn, stated that, as opposed to the area of domestic violence in which specialised victim support organisations operate, there is no system of support designed to specifically address the needs of victims of sexual violence and there are no professional staff working in this area. While interviewee PL/P/3 in her answer to another question started doubting that there exist specialised support centres for victims of sexual violence in her region.

Interviewees from group S noted that the **climate surrounding organisations** providing support services to victims has deteriorated in the recent years. This is reflected both in difficulties in communication with the Ministry of Justice and in obtaining funding from this institution. For example, interviewee PL/S/4 noted that support organizations had better access to the Ministry of Justice in the past. They used to have meetings in the Ministry where they could discuss various initiatives, but the practice was abandoned without reasonable explanation. Interviewee PL/S/3 stated, in turn, that the situation has deteriorated recently, especially for organizations helping victims of domestic violence. As she stated, these organizations never received any substantial support from the government, but at least the government presented a generally favourable approach. This approach has changed, and organisations have to constantly justify their operations and explain the methods of their work. Finally, respondent PL/S/2 stated that during the last two years, the proposal presented by her organisation was turned down in the call for proposals for grants from the Post-penitentiary and Victim Support Fund operated by the

Ministry of Justice. The organisation did not receive any grant, even though during the last call their offer was ranked the highest in the region.

3.1.4. In the view of the interviewed practitioners, how effectively and timely are victims of sexual or gender-based violence provided information about the specialist support services available to them (Question Pr 3.4)?

At the outset, it is worth noting that in their answers to this question, some interviewees referred only to victims of sexual violence, while others to both victims of sexual or gender-based violence including domestic violence.

Almost a half of the interviewed professionals expressed a **negative assessment concerning police practice of informing victims about specialist support services** (10 out of 21). Only four gave it a positive evaluation (PL/J/7, PL/P/1, PL/P/4, PL/S/2). However, it must be noted that three of those respondents in fact repeated their answer to the previous question concerning information about generic vicitim support services. Two respondents did not have the knowledge concerning this issue (PL/J/2, PL/J/5).

The rest of the interviewees could be placed somewhere in the middle. For example, interviewee PL/J/3 stated that she was unable to say whether the police inform victims of sexual or gender-based violence about support organisations in a systemic way. However, in certain cases of domestic violence, she has learnt that the police directed a victim to a support organisation. Interviewees PL/P/2 and PL/S/1 noted that the process is dependent on the attitude of an individual police officer. While, interviewee PL/S/5 stated that the police inform victims, but she was not sure how effectively.

While answering this question, interviewee PL/L/4 made a stricking comment suggesting that there might be a particular reason for the fact that law enforcement officers do not inform victims about victim support organizations. According to him, if a prosecutors informed a victim about support organisation, then they would face an accusation of being biased and it would constitute a solid ground for requesting their exclusion from proceedings. It is, however, hard to accept such reasoning and it could be criticised on a number of grounds.

> *„Gdyby potem na etapie postępowania wyszło na jaw, że prokurator sugerował danej osobie zwrócenie się do danej organizacji, to można byłoby mu zarzucić nieobiektywizm. Bo on powinien jednak zachować obiektywizm […] gdyby wyszło na jaw, że prokurator sugerował pokrzywdzonemu zwrócenie się do takiej fundacji, wykazał się większą aktywnością niż ta związana z realizacją obowiązków procesowych to mogłoby to skutkować tym, że ktoś mógłby podnieść zarzut stronniczości prokuratora i żądać jego wyłączenia z postępowania."*
>
> *„If a prosecutor suggested to a victim contacting a specific victim support organization, then at the later stage of the proceeding he could have faced the accusation of being biased. They should be objective […] if it turns out that the prosecutor suggest to a victim contacting a some foundation, the prosecutor shows bigger engagement in preforming his procedural duties then it could result in a situation in which someone could raise the accusation on the prosecutor's biased and demand excluding the prosecutor from the proceeding" (PL/L/4)*

3.1.5. How do practitioners assess victims' possibilities of being accompanied by a support person of their trust when they are interviewed by the police (Question Pr 3.5)?

The anwers to this question suggest that there is a certain confusion about the participation of trusted persons in interviews, both when it comes to the actual law on the matter and informing about this law. And even if the provisions allowing for participation of a trusted person do exist such a practice in rather not common.

The answers to this question were visibly divided between groups and difficult to strictly classify into clear-cut groups, especially since some respondents referred solely to the practice (all from group S apart from PL/S/1). Eight out of 21 interviewees explicitely stated that victims can be accompanied by a support person of their trust or that there are no obstacles to that participation (PL/S/1, PL/P/1, PL/P/2, PL/J/6, PL/J/7, PL/L/1, PL/L/2, PL/L/3).

Four expressed a directly opposite view in general (PL/P/3, PL/P/4, PL/J/4, PL/L/4), while two explicitely in relation to family members (PL/J/1, PL/J/3). The answers of seven interviewees suggest that this is not, in fact, common in partice (PL/S/1, PL/S/2, PL/S/3, PL/S/4, PL/P/1, PL/J/7, PL/L/3). Two responses suggest that this possibility depends on the law enforcement offials (PL/S/2, PL/P/2). What seems interesting is that two professional referred to the letter of right for victims as a source of information about this possibility (PL/P/1, PL/L/2). However, the official letter adopted by the Ministry of Justice does not contain such information.

In **group S** only one interviewee referred to the law, saying that it "provides incentives" for allowing accompanying persons during police interviews (PL/S/1). The rest of the interviewees spoke about practice. According to the respondents, such interviews with an accompanying trusted person are definitely not frequent. They either stated that they have seen few or some cases (PL/S/2, PL/S/3, PL/S/5) or none at all (PL/S/4). Interviewee PL/S/3 noted that it does happen more frequently than before and that the police sometimes inform victims about such a possibility, while interviewee PL/S/1 observed that the police rather discourage victims from requesting a trusted person. Interviewee PL/S/4 provided insight on how she believes this matter is resolved at police stations:

> *"Myślę, że to tak funkcjonuje: 'Proszę wejść, Pani tu poczeka' i wszyscy się do tego dostosowują."*
>
> *„I think that it is like that: 'Please, come in. And you Ms., please wait here.' And everyone complies." (PL/S/4)*

In **group P and J** answers were split more or less in half. Both police officers and legal professionals who stated that it was not possible for a trusted person (in group J respondents concentrated on family members) to accompany a victim concentrated in fact on the interests of the proceedings (PL/P/3, PL/P/4, PL/J/1, PL/J/3, PL/J/4). Such a focus in answers does not come as much of a surprise, as these two groups of professionals are simply responsible for conducting the proceedings. They noted a possible influence of a trusted person on the testifying victim and the possibility that a trusted person could participate in the proceedings at later stages, as a witness or even as a perpetrator:

> *„A: Żeby nikt nie miał wpływu na nie. Bo tak naprawdę, to policjanci nie są w stanie stwierdzić podczas przesłuchaniem, czy to jest osoba, która dobrze życzy, czy tylko udaje taką osobę i może wpływać na osobę przesłuchiwaną."*
>
> *"A: So that nobody can influence them. Because in fact, police officers cannot verify during the interview whether this is a well-wishing person, whether they do not just pretend to be in order to exert influence on the interviewed person." (PL/P/3)*
>
> ***
>
> *"Q: Nie zdażyło się Pani uczestniczyć w takim przesłuchaniu [gdzie byłaby osoba towarzysząca]? A: […] Raczej nie. Jest to osoba pełnoletnia. […] A tutaj jakby odpowiadać na pytania musi sama, żeby też nie wystąpiło, że ktoś jej coś podpowiada."*
>
> *„Q: You have never taken part in such a hearing [where there was a trusted person]? A: […] But rather not. This is an adult. […] And when it comes to answering questions, they need to do it themselves, so that the person was not prompted by anyone." (PL/P/4)*
>
> ***
>
> *"Psycholog tak, bo kpk na to pozwala, natomiast jeśli chodzi o członka rodziny, to procedura jako taka nie przewiduje udziału osób trzecich jeżeli jest to np. przesłuchanie w charakterze świadka. Bywają jednak różne i wyjątkowe sytuacje. Na pewno, każda sprawa jest rozpatrywana indywidualnie, jeżeli taka osoba zaufana miałaby być przesłuchiwana w charakterze świadka, to nie ma takiej możliwości."*
>
> *„I'd say a psychologist can participate because the Code of Criminal Procedure allows it. However, when it comes to family members, rules of the procedure don't allow third parties to participate in, say, a hearing of a witness. But there are different, exceptional situations. For sure, each case is considered individually, but if a trusted person is to be heard as a witness, there it's impossible [for them to accompany a victim]." (PL/J/3)*

It seems that not allowing a trusted person "by default" could be seen by those professionals as a security policy supposed to eliminate the risk of mistakes in verifying the trustworthiness of a trusted person. The solution to the possibility of making a mistake would then be to eliminate the trusted person altogether.

On the other end of the spectrum, there were interviewees PL/P/1, PL/P/2, PL/J/6 and PL/J/7 who stated that victims do have a right to be accompanied by a trusted person or that there are no obstacles to such participation. For example:

> *"Ja w żaden sposób nigdy nie odmawiam. Odmowa może być zasadna w sytuacji, gdy dzieje się coś później […] ale jeżeli ktoś składa pierwsze zeznania to trudno odmawiać komuś udziału, bo nie wiemy z czym mamy do czynienia"*
>
> *„I never oppose such a possibility. The refusal might be justifies in a case, when something happens later […] but if someone testifies for the first time it's hard to refuse someone to participate in the hearing, because we don't know what kind of a case we're dealing with" (PL/J/7)*

It should, however, be noted that PL/P/1 observed that this does not happen in practice, while PL/P/5 talked about a negative influence of accompanying persons on the interview. PL/P/5 noted that these persons disturb, interrupt the victim and comment on their statements.

> *Q: Czy ofiarom mogą towarzyszyć zaufane osoby podczas przesłuchania na policji?*
>
> *A: Nie ma przeszkód do tego, żeby taka osoba uczestniczyła, jeżli to jest osoba, która sprawuje pieczę; jest opiekunem prawnym […] to nie ma przeszkód.*
>
> *Q: A jeżeli nie chodzi o opiekuna prawnego, bo osoba jest pełnoletnie i nieubezwłasnowolniona? Czy może towarzyszyć takiej osobie zaufana, inna osoba?*
>
> *A: Nie ma przeszkód prawnych, żeby uczestniczyła.*
>
> *Q: A czy w praktyce to się zdarza?*
>
> *A: Nie zdarza się w praktyce, przynajmniej mi się nie zdarzyło.*
>
> *Q: Can victims be accompanied by a trusted person during a police interview?*
>
> *A: There are no obstacles for such a person to participate, if they have custody [over a person] or are a legal guardian […] there are no obstacles.*
>
> *Q: And what if they are not a legal guardian, since the person is an adult and not incapacitated? Can they be accompanied by a trusted, different person?*
>
> *A: There are no legal barriers for their participation.*
>
> *Q: And does it happen in practice?*
>
> *A: It does not happen in practice, at least not in my practice. (PL/P/1)*
>
> ***
>
> *[…] Ale bywa to różnie. Nie raz ta osoba przybrana jest tylko problemem, bo włącza się w czynności; próbuje ze swojej strony komentować. I już jest ten taki – jakby to nazwać – szum, który nie zawsze prowadzi do prawdy, tylko gdzieś tam. Natomiast ta pierwsza czynność przesłuchania jest najważniejsza, bo jak za pierwszym razem dobrze to zrobimy, to nie trzeba będzie powtarzać.*
>
> *[…] But it can vary. Not once this person is only a problem because they interfere with the course of procedural acts, try to provide their own commentary. And then there is this – how to call it – buzz which does not always lead to truth but elsewhere. While this first interview is the most important, and if we do it right, we will not have to repeat it. (PL/P/5)*

Interviewee PL/J/6 stated that victims can be accompanied by a trusted person during the interview at the police station, as CCP does not prohibit this, but police officers are not aware of this right and therefore do not inform victims about it. As a result victims are unaware of their right:

Mam wrażenie, że policjanci nie wiedzą o tym, że ofiarom mogą towarzyszyć zaufane osoby, nie potrafią o tym informować Najpierw musza wiedzieć policjanci, żeby potem mogli powiedzieć o tym pokrzywdzonym.

I have an impression that police officers don't know that victims can be accompanied by a trusted person, they don't know how to inform about this. Police officers have to know first, so that they could tell victims. (PL/J/6)

In **group L**, all but one interviewee stated that a victim can be accompanied by a trusted person. Interviewee PL/L/3 stated that he has recently learnt about the new provision in the CCP allowing for the presence of a "trusted person". Interestingly, the provision entered into force in 2015. However, he also observed:

"Zdarzało się, że policjanci i bez tego przepisu dopuszczali osoby zaufane, po to by zapewnić osobie pokrzywdzonej pewien komfort psychiczny"

"It happened that police officers allowed [the presence of] trusted persons in order to give a victim some psychological comfort." (PL/L/3)

Only interviewee PL/L/4 stated the law does not allow such a practice. Perhaps, he has not yet acquainted himself with this provision. While, interviewee PL/L/1 did not see any problems with the implementation of this right in practice and noted that it often happens, interviewee PL/L/2 stated that victims are often unaware of this right, as they do not receive proper information. According to him the police do not bring it up and victims themselves do not read the letter of rights which they receive.

3.1.6. How do practitioners assess victims' possibilities of being accompanied by a support person of their trust during court trial (Question Pr 3.6)

The answers to this question fall into two groups – the first composed of representatives of groups J and L and he second of representatives of group S. While the former seemed to have concentrated almost exclusively on the law, the latter rather spoke of the practice. Representatives of group P were not to be asked this question.

All legal professionals from **groups J and L** stated that a support person of trust to the victim can participate in the trial because, as a rule, the criminal trial is open in Poland. Similarly, almost all those who noted the possibility of conducting a closed hearing stated that victims can also appoint trusted persons to accompany them. Only interviewee PL/J/6 noted that in fact in case of a closed trial only a victim who is an auxiliary prosecutor (pl. *oskarżyciel posiłkowy*) can choose trusted persons. However, she has never heard that victims would be informed of this right. It seems that the lack of precision in interviewees' answers with respect to the closed trial should be rather seen as their attempt to indicate the best case scenario for the victim, although one cannot exclude lack of awareness. Only interviewee PL/J/5 stated that when the trial is closed only a lawyer can accompany the victim. Interviewee PL/J/7 noted that it is the court who decides. Interviewee PL/L/2 was not sure about the practice and suggested that victims are not properly informed.

In **group S**, three interviews had enough experience to answer. As noted above, in their answers interviewees referred mostly to the practice. The answers suggest that despite the principle of openness in relation to the criminal trial, participation of a trusted person may be hindered by the courts. They also show that a lot, in fact, depends on the judge who presides over the case, while victims and their trusted persons have limited power to dispute judges' decisions. The stories recounted by two interviewees are particularly illustrative.

Despite some positive experiences, interviewee PL/S/1 noted that participation of a trusted person may be hindered. She said that when persons from their organisation accompany women to the trial, judges meticulously inquire about their identity. Her organisation's research revealed that when NGO members decided not to disclose their affiliation during trial, they were often asked to leave the court room. At the same time, many of the organisation's clients say that, especially in criminal cases where openness is not excluded, the courts treat them better when the representatives of the organization present in the audience disclose their affiliation. What is more, the interviewee observed that there had been situations when courts excluded openness of proceedings for the

benefit of the accused and with objection from the victim. Sometimes, this excluded also representatives from the interviewee's organization from participating in the proceedings.

Interviewee PL/S/4 recounted a situation which shows that judges may use certain "informal" or "soft" techniques to exclude participation of trusted persons. Once, when the interviewee wanted to participate in a trial as audience, the judge asked her to leave the court room for a while. She added that openness of proceedings was not excluded in this case. She noted that such a situation was not in line with the law. When I inquired more, she added:

> *"On zrobił to w taki sposób, bym powiedziała, manipulacyjny: 'Proszę na chwilę wyjść. Za chwilę Panią zawołam'. No i już więcej nie zawołał."*
>
> *„He did this in such a, I would say, manipulative manner: 'Please leave [the room] for a while. I will call for you soon' And he did not call for me at all." (PL/S/4)*

3.1.7. How do practitioners assess victims' possibilities of being legally advised when they are interviewed by the police (Question Pr 3.7)?

Interviewees agreed, or their answers so implied, that victims have a right to legal advice during an interview at a police station.

However, it also seems that **victims can benefit from legal advice while testifying before the police only when they are accompanied by an appointed lawyer** (PL/P/3, PL/J/6, PL/J/6, PL/J/7, PL/L/1, PL/L/3, PL/S/5). As visible in interviewees' answers, especially in group L, such a situation may be related to the **problems with obtaining a legal aid lawyer**, stemming from attitudes in the police, e.g. that police officers are not willing to act upon a motion for a legal aid lawyer (PL/L/1). But, those attittudes could, in turn, be shaped by the need for expedition in criminal proceedings (PL/J/4, PL/L/3, PL/L/4, PL/P/5). For example, PL/L/1 stated that he had not seen:

> "*a police officer take any action as a result of such a request aimed at providing an attorney. If one is engaged, then it may be that he would take part and will provide such advice, but not ex officio."*
>
> *("jeszcze się nie spotkałem szczerze powiedziawszy, żeby policjant na skutek takiego żądania podjął jakieś czynności mające na celu ustanowienie jakiegoś pełnomocnika. Jeżeli zostanie ustanowiony z wyboru, to może tak być że weźmie udział i będzie takiej porady udzielał, ale z urzędu nie."). (PL/L/1)*

Interviewee PL/L/4 also confirmed he had never encounter a situation in which a victim notified the police that he wanted to be accompanied by a lawyer, and the police postponed the hearing until appointing the representative. The interviewee did not exclude a possibility of doing that in practice; however, as he stated, in cases concerning violent crimes an immediate reaction of the law enforcement is required, and neither the victim nor the police can wait until the lawyer is appointed:

> *"To są rzeczy [zdarzenie i zawiadomienie organów ściagania – red.], które się dzieją błyskawicznie. Jeśli chodzi o sekwencję zdarzeń i kwestię ustanowienia pełnomocnika, to się odbywa w ten sposób, że co do zasady jest zgłoszenie zawiadomienia, a dopiero potem ustanawia się pełnomocnika".*
>
> *„These things [committing a crime and notification of law enforcement – ed.], happen immediately. When it comes to the chain of events and the matter of appointing the legal representative, it usually goes like this: the victim notifies the police about the crime, and then seeks for the legal representation" (PL/L/4)*

In light of the need for expedition in criminal proceedings, an efficient system for appointing a legal aid lawyers would prove particularly helpful; however, as noted by interviewee PL/L/3, at the moment there is no systemic solution of legal aid before the first hearing at a police station. In fact, creating such a system would be a challenge, considering that the first hearing is conducted, as noted by interview PL/L/3, automatically after notification of a crime. Interviewees PL/P/5 and PL/J/4 provided further insight:

„Nie ma szans na prawnika w trakcie pierwszego przesłuchania. Nie wyobrażam sobie takiej sytuacji. To przede wszystkim kwestia gotowości takich osób do uczestnictwa w czynności. Nie ma takich, które byłyby ciągle w gotowości."

"There is no chance for a [legal aid – author's note] lawyer during the first interview. I can't imagine such a situation. It is primarily a matter of such a person being ready to participate in the procedural act. There aren't any who would be constantly on stand-by." (PL/P/5)

***

„Q: Czy system jest w stanie udzielić pomocy na pierwszym przesłuchaniu?

A: Musimy zebrać szybko dowody i ustalić sprawcę. Cała ta procedura wyznaczania pełnomocnika trwałaby długo. Taki wniosek trzeba skierować do sądu. Czyli w praktyce nie jest to możliwe."

"Q: Is the system able to help [a victim] *during the first interview?*

A: We need to take evidence and find the perpetrator quickly. The whole procedure of appointing an attorney would take a lot of time. The motion must be filed with the court. So, in practice, it's impossible." (PL/J/4)

Interviewees' answers further reveal, however, that **in practice it is not common for any lawyer – be it appointed or legal aid – to participate in an interview** carried out by the police (PL/P/1, PL/L/1, PL/L/2, PL/L/3, PL/S/2, PL/S/3, PL/S/4). This has been confirmed in interviews with victims. It, therefore, seems that victims do not appoint lawyers for the first hearing at a police station. Even if certain interviewees claimed that victims were not provided with information about this right, more respondents from all groups noted that victims are informed before the hearing, e.g. through the official letter of rights (PL/P/1, PL/J/3, PL/J/4, PL/J/7, PL/L/1, PL/L/4, PL/S/5). While interviewee PL/L/4 criticised the letters form, interviewee PL/J/7 stated:

"Na pewno są pouczani poprzez wręczenie pouczenia. Natomiast, czy werbalnie? To trudno mi to określić, bo nie ma takiego obligu. Natomiast to jest kwestia przeczytania i tyle"

„Definitely they are informed by handling them the information on victims' rights and duties. However, are they informed orally? It's hard to say, because there is no such an obligation. However, this is just a matter of reading [the information – ed.]" (PL/J/7)

However, in light of the discussions concerning legal aid, information about this right provided just before the hearing would not really be actionable for victims before the police proceeds with the hearing. For once, just as in the case of legal aid lawyers, time constrains apply. Victims may simply lack time to appoint a lawyer, especially if they had no knowledge about this right prior to the hearing. And even when the victim has a certain level of awareness, it may also be the case that he or she will not be able to afford a lawyer (PL/S/4, PL/L/2).

In view of lacking solutions for quick appointement of legal aid lawyers, the need for expedition in criminal proceedings and costs of legal representation, the right to legal advice during the first police hearing seems to only be effective for people with a certain level of legal awareness and sufficient financial resources. There is a need for a more systemic approach to the matter of effective legal advice for victims, in order to reconcile their interests with those of the justice system, especially considering that these may often be aligned.

Interestingly, interviewee PL/S/4 stated that while she had not seen lawyers accompany victims at police stations, she had in fact seens them in the prosecutor's offices. She did not, however, provide an answer why this was more common:

She said that: *"A: [...] Wiem, że w prokuraturze, w czasie zeznań, rzeczywiście tak. Ale to kiedy osoby pokrzywdzone wynajmowały sobie po prostu pełnomocników prawnych, to tak uczestniczyli w czasie zeznań na prokuraturze. [...] Przy prokuraturze tak, przy policji nigdy nie słyszałam o takiej sytuacji. Q: I wtedy Państwa podopieczne, one wynajmowały sobie same pełnomocnika? A: Niestety tak."*

„A: I know that in the prosecutor's office during an interview, then yes. But this is when victims simply hired lawyers. Then they participated in interviews conducted in the prosecutor's office. […] With the prosecution – yes, but when it comes to the police – I have never heard about such a situation. Q: So then your clients, they hired lawyers on their own? A: Unfortunately, yes." (PL/S/4)

3.1.8. How do practitioners assess victims' possibilities of being legally advised during court trial (Question Pr 3.8)?

In an answer to this question, nine interviewees out of 14 who provided responses stated that victims had the possibility of being legally advised during court trial (PL/S/1, PL/J/1, PL/J/2, PL/J/3, PL/J/6, PL/J/7, PL/L/1, PL/L/3, PL/L/4). Victims seem to exercise this possibility more often at the trial stage than at the pre-trial stage, and they have their own legal representative (PL/S/3, PL/S/4, PL/J/2). Interviewee PL/J/2 even stated that most victims are represented by a privately-retained or court-appointed professional counsel. In her experience, in almost 50% of cases, victims submit motions for the appointment of a legal aid lawyer. In her opinion, only in rare cases do victims appear without professional representation. Interviews with victims confirm that at the trial stage they are more often representated by a professional than at the pre-trial stage.

Two interviewees seemed to have understood the question to mean whether victims can receive legal advice from courts (PL/J/4 – prosecutor, PL/J/5 – judge); their answers reveal the vision they have of the responsibilities and obligations of their own profession. Interviewee PL/J/4 stated that victims could ask the court to provide them with certain information. However, in her opinion, the court has no legal duty to do so. Although, she indicated that in certain situations a judge is legally obligated to send a written notice of rights to the victim. Interviewee PL/J/5, in turn, stated that victims cannot benefit from legal advice during the court trial. In her opinion, judges are taught not to help any party to the proceedings, as it would violate the principle of impartiality. In her opinion, a court's duty is to assess the event that will be subject to the ruling, not to provide any of the parties with legal information. For some reason, the interviewee considered informing a victim about their rights as a violation of impartiality. Interestingly, while answering the next questions, she observed that victims were entitled to legal advice without having to bear the costs.

Only four interviewees referred to the manner in which victims are informed about this right. Two interviewees stated that this happens in the letter of rights (PL/J/3, PL/J/4). Interviewee PL/J/2 stated that this information is contained in the notice for auxiliary prosecutors. While interviewee PL/L/4 said that the victim is informed about this before the act of indictment is filed, together with information on the possibility to act as an auxiliary prosecutor.

3.1.9. How do practitioners assess victims' possibilities of being legally advised free of charge (Question Pr 3.9)?

Professionals are aware of the victims right to be legally advised free of charge. This was confirmed by 20 out of 21 interviewees. When it comes to the forms in which such a right can be enforced, interviewees mostly noted a court-appointed lawyer and – less frequently – advice from the state-funded system of legal aid.

With respect to the **court-appointed legal aid lawyers**, interviewees indicated that their appointment is subject to conditions, and most mentioned the means test (PL/L/4, PL/J/3, PL/J/4, PL/S/1, PL/S/2). Interviewee PL/S/1 noted, however, that there is **no clear legal criteria** detailing when courts should grant legal aid. She suggested that even the mean's test is not strictly determined. This seems to be confirmed by interviewee PL/J/6 who noted that one cannot obtain representation in large cities like Y. unless one proves they have a monthly income less than 1000 PLN. However, in small cities like X. nearly all victims who motion for a state-funded lawyer are granted representation.

When it comes to **succees rates for motions to appoint such a lawyers**, interviewee P/J/1 asserted that it rarely happens when a court denies such a motion. However, interviewee PL/L/1 provided statistics which suggest that

the practice is not that pro-victim. During his research, among 420 analysed cases related to rape, only in one was legal aid granted. Interviewee PL/S/3 also noted that victims faced significant problems in obtaining free legal representation. Interviewee PL/S/1 speculated that refusals to grant legal aid to women victims of violence may be based on the court's conviction that the victim will manage on her own, that her submissions were good or that it is simply not necessary without clear reason. But, this interviewee also noted that there had been situations when the courts granted legal aid without questioning the need.

Interviewees also referred to the **quality of legal assistance.** Interviewee PL/J/1 observed that there is no difference in the quality of legal assistance between a court-appointed and a privately-appointed lawyer. The interviewee observed that unlike the latter, the former did not pretend that they are working only on this client's case. In his view, court-appointed lawyers take only such actions which are really important and necessary. He added that victims' negative opinions on the quality of such assistance are often caused by the lack of understanding of the case's complexity and by expectations of the impossible from the lawyer. Interviewee PL/J/5 also had positive experiences with court-appointed professionals. She addtionaly pointed out that the market of legal assistance had been changing, as there is less work for lawyers in general. For this reason, lawyers providing state-funded legal assistance have to be more diligent.

A few interviewees also refered to the problem of **timing in appointing legal aid lawyers** and an impossibility to appoint one for the time of the first hearing at the police station. For a more thorough discussion on this subject, see other parts of the report.

Finally, in reference to the process of appointing a legal aid lawyer, interviewee PL/J/6 indicated certain **groups particularly disadvantaged in accessing this service**. She highlighted that elderly persons, uneducated persons, and those with disabilities often have the greatest difficulty in accessing state-funded representation. She used a resident of a social welfare home existing in a persistent vegetative state as an example. Unless such an individual does have family or a guardian, he or she would not only be unable to act in the proceedings, but also could not issue a motion for a legal representation. In her view, social welfare homes cannot be considered a guardian in such contexts. There are no legal provisions in CCP enabling victims' with disabilities access to state-funded representation.

Three interviewees made more elaborate comments on the **state funded system of legal aid**. Interviewee PL/S/3 stated that considerable progress has been made thanks to this system:

> *"Ja mam wrażenie, że to w ciągu ostatnich lat bardzo się poprawiło. Po pierwsze, duża część osób korzysta z tego systemu bezpłatnej pomocy prawnej wynikającego z ustawy o bezpłatnej pomocy prawnej. W prawdzie są to określone osoby, które z tej pomocy mogą korzystać, ale ten system wessał już sporą część osób, które potrzebowały tej pomocy".*
>
> *"My impression is that things have considerable improved over recent years. First of all, a vast majority of persons have access to the system of free legal aid regulated by a law on free legal aid. Although, only specific categories of persons have access to free legal aid, this system has already 'embraced' a significant number of persons who needed this aid." (PL/S/3)*

While interviewee PL/S/5 noted that generally the system of state-funded legal support worked in practice. However, as she stated, some victims complained to her organisation that due to great public interest they had to wait a couple of days for an appointment with a lawyer. As a result, it is not possible to obtain legal advice in urgent matters from this system.

3.2. Views of victims

3.2.1. Were the interviewees in contact with an organisation providing victim support services (Question V 3.1)?

The recruitment of victims for research was conducted, to a great extent, through gatekeepers from organizations (NGOs) providing victim support services. This is particularly the case with respect to recruited female victims. In considering the answer to this question, it is, therefore, important to bear in mind a possible bias resulting from the recruitment strategy.

The majority of interviewed victims were in contact with a non-governmental organization either secialised in offering victim support services or providing services important for victims (e.g. offering legal advice) (PL/V/1, PL/V/2, PL/V/3, PL/V/4, PLV/5, PL/V/6, PL/V/7, PL/V/8, PL/V/12).

Some interviewed victims, in addition to being in contact with NGOs providing victim support, were also using the services of public institutions belonging to the system of social assistance, such as municipal social care centres (pl. *miejski ośrodek pomocy społecznej*) or crisis intervention centres (pl. *ośrodek interwencji kryzysowej*) (PL/V/1, PL/V/2), or the system of victim support, such as specialised support centres for victims of domestic violence (pl. *secjalistyczny ośrodek wsparcia*) (PL/V/5, PL/V/6).

In two instances, interviewed victims were also in touch with the Commissioner for Human Rights (PL/V/3, PL/V/4), a Polish equivalent of an ombudsperson with a fairly wide array of competences. For example, the Polish Commissioner can present available remedies to the person who contacts the Commissioner's office or take up a case brought by an individual. When the Commissioner takes up a given case, it can conduct explanatory proceedings or ask another organ, e.g. a prosecutor, to review the case. In the course of explanatory proceedings, the Commissioner can, among others, review the case on the ground or request information about the case's status from courts, prosecutors, other law enforcement bodies etc. If the case has been concluded, the Commissioner can also request direct access to case files. After review of a submitted case, the Commissioner can e.g. request that the prosecution initiate pre-trial proceedings in a publicly-prosecuted case or take other steps.

Only three interviewed victims did not use the support of any NGO or institution (PL/V/9, PL/V/10, PL/V/11). In two cases, PL/V/9 and PL/V/11, the decision not to use support services was intentional. Interviewee PL/V/9 had deliberately limited his participation in proceedings, as he wanted to see how the justice system "functions on its own." Despite his declarations of limited participation, he did use the assistance of a lawyer. Respondent PL/V/11 did not use the services of NGOs, despite receiving such offers through Facebook. He resigned because he had already cooperated with his lawyer-friend. In both cases, the interviewees were not, however, left completely unsupported. Unlike in the case of PL/V/10 who only received medical assistance, but whose proceedings were ultimately discontinued at a very early stage.

3.2.2. Those who were, how did they know about the service (Question V 3.2)?

Interviewed victims learnt about the particular victim support service in various ways. In general, when an interviewee would find a contact point/gateway to the support system, they were then further directed to more relevant services. The main gateways included:

- **Friends**: Three interviewees received their first information about support from friends (PL/V/6, PL/V/7, PL/V/12). For example, PL/V/6 learned about a shelter from a friend who found such information online, later on in the shelter the interviewee received a leaflet of a particular NGO. Another interviewee, PL/V/7, received information concerning a support organization from a friend who had professional contacts there.

- **Public institution or professionals**: Four interviewees learned about a particular organization through a state institution (PL/V/2, PL/V/3, PL/V/5, PL/V/6). In three cases, an institution or professionals where the first point of contact. For example, PL/V/2 received information about an NGO in the shelter, while PL/V/3 from the Commissioner for Human Rights. In case of PL/V/5, public officials engaged in the Blue Cards procedure were the ones who directed an interviewee to the special support centre. In one case, the shelter was the

second-tier source of information about support services (PL/V/6), as it distributed leaflets of an NGO offering support in the area.

- **Own research:** Two interviewee stated that they found a support service through their own research (PL/V/5, PL/V/8). In case of interviewee PL/V/5, she had at first benefited from services offered by a special support centre for victims of domestic violence and later on, while searching for financial assistance learnt about an NGO providing other services.

Other sources of information about support services were less common. One interviewee learnt about a service from a leaflet, another from the organization which at its own initiative contacted the interviewee, etc.

What is striking, however, is that only in one case did the interviewee learn something about support services from a standard letter of rights received at a police station (PL/V/7). Even in that case, however, the police and this letter were not the primary sources of information. Interviews with victims, thus, show that the police is not seen by interviewed victims as a primary source of information about victim support services, despite the fact that it is the only institution that all or almost all victims come across when going through criminal proceedings. It is even more surprising in light of the legal obligation that lies on the police to inform victims of their rights, including available support services, before the first hearing.

In this context, it is also interesting to note that another interviewee PL/V/3 saw a leaflet of a support organization at the police station, but at that time was not aware of what the organization was, and consequently was not able to use its services. In light of this example, the police should not assume that leaving leaflets concerning victim support services at the police station will automatically ensure that victims are informed about such services. This is even more visible when juxtaposed with opinions presented by various interviewed professionals, in particular from group S, who specifically noted the influence of the victims' psychological state on their ability to understand received information, especially information in written form. At the same time, leaflets and posters seem to be very important as consise source of information that victims can keep with themselves and refer to at a later point.

3.2.3. Those interviewees who were in contact with an organisation providing support services, how did they assess the services provided (Question V 3.3)?

The interviewees who were in contact with a victim support organisation received various types of support:

- **Psychological** (PLV/1, PL/V/2, PL/V/3, PL/V/5, PL/V/6, PL/V/7, PL/V/8).

- **Legal** (PL/V/2, PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/7, PL/V/12) – Such support took the form of legal advice, provision of legal representation and accompaniment during trial. But at times, it extended beyond criminal proceedings and included applying for child maintenance; having the interviewee's husband officially evicted from the family home and ensuring that the perpetrator was deprived of parental rights and banned from contacting the child victim.

- **Shelter** (PL/V/1, PL/V/2, P/V/5, PL/V/6) – Such shelter was offered to interviewed victims either by crisis intervention centres (pl. *ośrodek interewencji kryzysowej*), accessible to all people in crisis situations, or by special support centres for victims of domestic violence (pl. *specjalny ośrodek wsparcia*).

- **Financial** and employent counselling (PL/V/2, PL/V/5, PL/V/6) – Such support took the form of food vouchers, cash to buy clothes and food, help in organizing training to requalify. It has a more immediate character than other forms of support noted by the interviewed victims and was of a temporary character. However, none of the victimis criticized the nature of this assistance. Interviewee PL/V/6 was positively surprised when she received cash for food and clothes. This was particularly relevant, since when the interviewee's partner threw the interviewee and her child from the apartment, she was suddenly deprived of both.

- **Medical** (PL/V/1).

Victims either did not express a clear assessment of or generally had a positive attitude towards the support received from NGOs offering victim support services. Some particularly appreciated psychological aid, while others legal advice. When it comes to particular qualities of support, they appreciated: engagement in the case (PL/V/1); comprehensive and long-term nature of support and cooperation between NGO employees (PL/V/3); relevance of assistance to personal situation, flexibility, including thoughtful financial assistance (PL/V/6, PL/V/7).

Only one interviewee (PL/V/8) explicitely expressed dissatisfaction with a legal consultation received from an NGO. However, this experience does not prevent the interviewee from using psychological services offered by the same organisation. In this case, dissatisfaction stemmed from the fact that a legal professional employed by the NGO promised to prepare a document for the interviewee, but failed to fulfil the promise.

In terms of a more implicit criticism related rather to the criteria of granting support than to support itself, interviewee PL/V/2 recalled that when she first approached an NGO, the organization could not provide help unless she presented a written confirmation of her husband's arrest issued by the prosecutor's office. According to the interviewee, the process of obtaining the document was time-consuming and she could not benefit from assistance at that early stage. However, when she returned with the confirmation, the organization immediately provided her with support. It is important to observe that such conditionality in offering support is an additional obstacle for the victim and may deepen their victimisation. And yet, as noted by professionals from support services, such conditionality is a requirement of the Ministry of Justice (PL/S/1, PL/S/4).

Of the six interviewees who were provided with private (NGO) and public services, two made reference to those received publicly in their assessments (PL/V/1, PL/V/5). Interviewee PL/V/1 used the services of the municipal social care centre and crisis intervention centre twice. And while during the first time, she was satisfied, at the second occasion, she was extremely disappointed with their poor quality. She also noted that people at the municipal care centre who deal with domestic violence are not properly qualified. This does not come as a surprise considering that the scope of activities of this particular institution of the system of social assistance is very wide. Both interviewees appreciated more the services received from private NGOs which offered them true empowerment, either by actively engaging an interviewee in the NGO's work or providing an interviewee with a real sense of understanding of legal procedures (see also 3.2.4.).

The attitudes of particular professionals encountered "on the way" seems to have played an important part in the interviewed victims' perception of support as sufficient, good or empowering (see also 3.2.4.). Interviewee PL/V/4 expressed appreciation of the understanding and empathy he encountered from the Commissioner for Human Rights:

> *P: Jak ocenia Pan wsparcie otrzymane od różnych organizacji?*
>
> *O: Ze strony Rzecznika Praw Obywatelskich ważne było wsparcie przez sam fakt zainteresowania, pokazania że jestem członkiem grupy ludzi podobnie myślących i uświadomienie mi, że taki przypadek jak mój, jest na tyle częsty, ze trzeba wyciągnąć daleko idące wnioski.*
>
> *Q: How do you assess support received from different organisations?*
>
> *A: As for the Commissioner for Human Rights [the Ombudsman], his support was important, because he showed concern, made me realise I was a part of a group of similarly thinking people and that what happened to me happens frequently enough so that we should draw far-reaching conclusions. (PL/V/4)*

Interviewee PL/V/1, in turn, provided an example of a conversation with a director of a crisis intervention centre which had an extremely negative, disempowering effect:

"Gdy byłam w ośrodku interwencji kryzysowej i w luźnej rozmowach z panią kierownik przyznałam, że karmiłam swoją córkę do momentu, aż ta skończyła 2,5 lat, to pani kierownik powiedziała, że na miejscu mojego męża <<też by mnie waliła po pysku, gdybym zajmowała się tylko dziećmi>>. To zburzyło cały system, jaki znałam wcześniej. Bo ta osoba w 2012 r. mówiła zupełnie, co innego. Bo wtedy mówiła, że jak jest się matką to trzeba zająć się dziećmi przede wszystkim"

„When I was in the Centre of Crisis Intervention, once during the small talk with the Director of the Centre I said that I breastfed my daughter until she was 2,5 year old. Then, the Director told me that if she had been my partner "she would have also punched me in the face if I had only been taking care of the children". That ruined my perception of the entire system which I had known before. The very same person told me something completely different back in 2012. Back then she used to say that if you were a mother, first you needed to take care of your children". (PL/V/1)

At another occasion, she also commented:

"Mogę stwierdzić, że większość osób, które zajmują się przemocą domową w MOPSie nie są do tego wykwalifikowane. Ja po prostu teraz trafiłam na takie osoby. Bo MOPS sam w sobie pomagał, ale zabrakło takich ludzkich osób".

„I can state that majority of people dealing with domestic violence in the Municipal Centre of Social Aid aren't qualified to deal with this subject. Simply this time, I met such pepole. The Municipal Centre of Social Aid itself can help, but the more human approach was missing there". (PL/V/1)

3.2.4. Those interviewees who were in contact with an organisation providing support services, did they feel that the services provided encouraged and helped them to participate in the proceedings (V 3.4)?

The interviews with victims who received victim support suggest that such support played an important role for their recovery, reconciliation and engagement in criminal proceedings.

In interviews, victims – in particular those of domestic violence – noted that their primary interest was not to punish the perpetrator, get revenge or restitution, but to find protection for their children (the child's best interest) and themselves (PL/V/1, PL/V/2, PL/V/3, PL/V/5, PL/V/6). In those cases interviewees received shelter from public institutions, such as a crisis intervention centre or special support centre. This was important as it offered immediate separation from offenders.

As visible in an interview with PL/V/1, support received from private NGOs has a potential to offer a different type of protection, a sense of being surrounded by a "protective shell." Interviewee PL/V/1 engaged in the work of a support NGO as a volunteer, and she appreciated this opportunity immensely. In the interview, she noted that the possibility to help other victims and share her knowledge and experience with them played a crucial role in the process of reconciliation. She was convinced that the more she is engaged in the works of this victim support organisation, the clearer signal she sends to her partner that she is well taken care of:

"To też była taka otoczka dla mnie, że mój partner będzie wiedział, że ja mam osoby które mogą mi pomóc i to go może zatrzymać"

„It was a sort of safety net for me. I thought that if my partner had known that I had some people behind me who try to help me, it would have stopped him" (PL/V/1)

First and foremore, however, support from NGOs played a visible role in empowering victims to assume a more active role in the proceedings or, in fact, in enabling their participation in general. Such was the conclusion of seven interviewed victims (PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/7, PL/V/12).

The intensity of support varied. For once, victims noted that legal professionals explained the procedures and their rights to the victims (PL/V/5, PL/V/6, PL/V/12). Even though very basic, such contact with an NGO was appreciated as the first moment when victims were really able to understand the proceedings and their own rights. By way of example, for interviewee PL/V/6, it was the knowledge that she can be exempted from court costs that proved crucial. As she noted, this information was very useful, since she became the only breadwinner and could not afford paying 30 PLN for the submission of each court motion.

Through raising victims' legal awareness, NGOs also played, or could play, an important role in equipping interviewed victims with the right vocabulary, a proper language to communicate with law enforcement and justice system professionals. This lack of the right vocabulary was exemplified in the interview with PL/V/7 who did not know who "a counsel" or "a trusted person" was. She, however, did report that support from an NGO translated onto her knowledge of how to talk to the police. Interviewee PL/V/6, in turn, no longer doubts her ability to describe the case in a manner understandable for legal professionals at court. These two interviews, apart from being an example of effective victim support, could also show a worrying trend whereby there is a certain "manner" or "way" of talking to public officials engaged in the justice system which should be mastered in order to be listened to and, ultimately, understood. Such a situation turns the usual logic up-side-down. It is after all the responsibility of professionals to effectively, i.e. in an understandable manner, communicate with victims, and not the obligation of victims to become experts in criminal law in order to achieve justice. The problems pertaining to language, for example contained in the letter of rights, are also discussed in other parts of the report.

Apart from that, legal professionals helped draft motions or encouraged interviewees to get involved or file a particular complaint/appeal (PL/V/3, PL/V/5, PL/V/6, PL/V/12). In some cases, NGOs organized pro bono legal representation. Victims reported feeling more relaxed or self-confident, or less self-doubting thanks to the support.

Only two victims (PL/V/2, PL/V/8) noted that they did not need an NGO to assist them in getting more envolved with the proceedings.

3.2.5. In cases of domestic violence ('D'), were the interviewees supported in overcoming the risk of repeat victimisation (Question V 3.5)?

Cases related to domestic violence were discussed in interviews with six female victims (PL/V/1, PL/V/2, PL/V/3, PL/V/5, PL/V/6, PL/V/7). In some interviews, victims noted that support did help in copying with the risk of repeat victimisation (PL/V/3, PL/V/6), but in others it did not substantially reduce the sense of being at risk (PL/V/2, PL/V/5).

When describing the support, four victims (PL/V/1, PL/V/2, P/V/5, PL/V/6) noted that they received temporary shelter from public institutions. Thus, these victims were able to immediately separate themselves from offenders thanks to the support. It may therefore be suggested that they were, at least temporarily, supported in overcoming the risk of repeat victimisation. However, only interviewee PL/V/1 directly assessed this kind of support. In 2012, during the first time she spent in the crisis intervention centre she felt supported and protected. While during her second stay, she felt insecure and guilty that she notified the authorities about her situation. Her experience during the second stay was shaped by a very negative attitude of the centre's director (see the quote in part 3.2.3.).

Victims of domestic violcence who received psychological support noted the importance of this support for their capacity to face offenders' presence in their lives. In the case of PL/V/3 the interviewee was a victim of stalking perpetrated by her husband. She did feel at risk of more abuse because the stalking did not end with her contacting the organization. However, the psychological support she received made her more self-confident when confronting the perpetrator in public. PL/V/6 stated that she was at risk of more abuse. This was because her ex-partner would insult her and beat her up whenever he turned up to collect their child from preschool. The support services helped her with coping with the risk of being abused.

In one case the interviewee (PL/V/2) explicitely stated that despite the psychological support, the interviewee is still afraid because the perpetrator will soon leave prison. The interviewee fears that the perpetrator will hurt her child and tries to prepare herself and her daughter for his return. For example, she put her daughter in contact with a police officer and with a priest so that the child would know where to escape if something happens. Interviewee PL/V/5, in turn, did not give a clear answer, but stated that she is still being stalked.

Interviewee PL/V/7 differed in her opinion from others, as she believed that people who work at the NGO providing her with support are not there to comfort victims. She perceived her family and friends as primary sources of consolation. It seems, therefore, that a "safety net" of supportive family members and friends would be of particular importance in the absence of professional support services.

In general, one may have an impression that interviewees were only temporarily, during their stay in shelters, supported in overcoming the risk of repeat victimisation. Other than that, they were at best helped in copying with this risk through psychological support. The problems described by interviewees, for example the extent of stalking and violence, seem to far exceed the capacity of victim support organizations to provide support in overcoming the risk of repeat victimisation. Therefore, in the absence of relevant police actions, victims are largely left to their own ingenuity and must rely on networks of supportive individuals.

3.2.6. When being interviewed by the police, were the interviewed victims accompanied by a support person of their trust? Were the interviewees informed beforehand that they would be entitled to such assistance (Question V 3.6)?

Victims' answers to these questions should be seen in the light of the Polish legal context. According to Article 299a § 1 of the Code of criminal procedure:[5]

> *In pre-trial proceedings, a person singled out by the victim can be present in procedural acts which are conducted with victim's participation, as long as it does not hinder the act or interfere with it to a significant degree.*

Article 300 § 2 of the Code of criminal procedure specifies the extent of information that the victim has to receive before the first hearing. It does not specifically relate to Article 299a § 1 or the presence of a person singled out by the victim. Such information is not contained in the official letter of rights adopted by the Minister of Justice in a regulation of 13 April 2016.[6]

Out of six interviewed victims of domestic violence, five were not informed about the possibility of being accompanied by a trusted person. Of those, one said that she did not know who the "trusted person" was (PL-V-7). As she recalled, she could have taken her sister to the police station, but nobody told her about such a possibility.

> *Q: Podczas przesłuchania przez policję, czy została Pani poinformowana o prawie do obecności osoby zaufanej?*
>
> *A: Kto to w ogóle jest osoba zaufana? Nie, nikt mnie o to nie pytał. Mogłam zabrać siostrę (…) gdyby ktoś mi coś takiego zaproponował.*
>
> *Q: Were you informed about the right to be accompanied by a trusted support person during a police interview?*
>
> *A: Who is this trusted person? Nobody asked me this. I could have taken my sister (...) if anyone had suggested doing something like this. (PL/V/7)*

[5] Poland, Code of criminal procedure (Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego),
[6] Poland, Regulation of the Ministry of Justice of 13 April 2016 on the template of the letter of rights and obligations of the victim in criminal proceedings (Rozporządzenie Ministra Sprawiedliwości z 13 kwietnia 2016 roku w sprawie określenia wzoru pouczenia o uprawnieniach i obowiązkach pokrzywdzonego w postępowaniu karnym), 13 April 2016.

So, after she called the police asking them to intervene, officers came and arrested her partner immediately. The interviewee took care of her animals and secured the house, then she took some of her private belongings and arrived at a police station where she was heard by a female police officer. The remaining interviewee did not remember whether she was informed or not.

When it comes to the presence of a trusted person during a police hearing, only in one case was it eventually "granted" by the police (PL/V/2). According to the interviewee, she could not stop crying, so she was finally allowed to be assisted by a female friend. However, the officers did not appreciate the friend's presence. It was the interviewee herself who called the support person who had been waiting for one hour before she was finally allowed to enter the interview room.

Interviews with victims do not allow for a conclusion that victims' entitlement to be accompanied by a trusted person during police interview, expressed explicitely in the Polish law, is respected in practice. Perhaps the lack of such information in the official letter of rights and obligations handed out to victims can be seen as one of the reasons. Interviews with professionals shed more light as to why this is the case.

3.2.7. At the court trial, were the interviewees accompanied by a support person of their trust? Were the interviewees informed beforehand that they would be entitled to such assistance (Question V 3.7)?

Victims' answers to these questions should be seen in the light of Polish legal context. According to Article 355 of the Code of criminal procedure,[7] the trial is open to the public and any limitations concerning openness of the trial are set forth in law. According to Article 356 of the Code of criminal procedure, apart from persons taking part in proceedings, the trial can be attended, as audience, by people who have attained the age of majority and who are not carrying a weapon. The court can make an exception for representatives of both groups. The trial cannot, however, be attended by a person whose state does not correspond to the solemnity of the court. In practice, this means that almost everyone can participate in a trial in criminal proceedings, unless openness is excluded.

Pursuant to the Code of criminal procedure, openness of the trial can be excluded ex lege (Article 359 of CCP) and ex officio or upon the request of the party (Article 360). According to Article 360:

§ The court can exclude openness in full or in part:
(1) if openness could:
a) Cause disturbance of public peace,
b) Insult good customs,
c) Reveal circumstances which, due to an importat state interest, should be kept in secret,
d) Violate an important private interest;
(2) if at least one of the accused is juvenile or while hearing a witness who has not reached 15 years of age;
(3) at the request of a person who filed a motion to investigate. (…)

In case when openness is excluded parties are allowed to single out up to two persons to accompany them during the trial (Article 361 § 1 CCP). The presiding judge can also allow other persons to take part in the trial (Article 361 § 3 CCP).

Despite the principle of openness of criminal proceedings, out of 10 victims who responded to this question, only one received information about this possibility in a letter from the court (PL/V/12). Two interviewees said that they were accompanied at least by their lawyer during the trial (PL/V/4, PL/V/12). Two interviewees did not attend the trial at all.

[7] Poland, Code of criminal procedurę (Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego),

3.2.8. When being interviewed by the police, were the victims accompanied or advised beforehand by a lawyer? Were the interviewees informed beforehand that they would be entitled to such assistance or advice (Question V 3.8)?

In general, victims who are parties to proceeding can appoint a legal counsel (pl. *pełnomocnik*), in a way similar to the accused. According to Article 87 of the Code of criminal procedure:

> *§ 1. A party other than the accused can appoint a legal counsel.*
> *§ 2. A person who is not a party can appoint a legal counsel if their interests in the ongoing proceedings so demand.*
> *§ 3. The court, and in pre-trial proceedings – the prosecutor, can refuse to allow the legal cousel referred to in § 2 to participate in proceedings, if they conclude that the interests of the person who is not a party do not demand it.*

According to Article 300 § 2 of the Code of criminal procedure, information about the right to use the support of a legal cousel has to be provided to the victim before the first hearing. This information is included in the official letter of rights and obligations handed out to victims adopted by the Minister of Justice in a regulation of 13 April 2016.[8]

The interviews show that information on **the right to be assisted by a legal counsel is not effectively presented to the victims**. The majority of interviewees stated that they were not informed about the right to consult a legal counsel (PL/V/1, PL/V/5, PL/V/6, PL/V/9, PL/V/10) or could not remember whether they were informed (PL/V/2, PL/V/7).

In four interviews, victims were not sure whether they were informed about the right to be assisted by a legal counsel (PL/V/4, PLV/8, PL/V/11, PL/V/12). In fact, two of those interviews show that **handing out of an official letter of rights and obligations does not constitute an effective manner of informing victims about their rights, regardless of their education level.** Interviewee PL/V/4, a very well-educated person, was handed out a standard letter of rights and obligations. He supposed that it might have contained information on the right to be assisted by a lawyer. However, in his opinion, the written letter of rights and obligations provided by the police was difficult to understand. Therefore, provided that such information was in fact included in the letter, the interviewee concluded that it was not passed clearly enough. Importantly, the interviewee noted that none of the police officers conducting the hearing informed the interviewee verbally about that right.

> *P: Czy podczas pierwszego przesłuchania, na policji, otrzymał pan informację o prawie do pełnomocnika?*
> *O: Jestem stuprocentowo pewien, że w przekazie werbalnym to [przekazanie informacji o prawie do pełnomocnika] się nie odbyło. Bardzo możliwe, że to było w papierach, które mi przedstawiono do podpisania.*

> *Q: Did you obtain information on your right to an attorney during the first hearing?*
> *A: I'm one hundred per cent certain that it [the provision of information about the right to an attorney] did not happen verbally. It is possible that this information was included in documents I was asked to sign. (PL/V/4)*

Similarly, interviewee PL/V/8 also noted that he did not hear the police say anything about this right, but suggested that perhaps the standard letter of rights and obligations he had received contained this information. Both responses may also suggest that **hearing about this right could have been a more effective form of passing information** than receiving it in writing.

The interviews have also revealed that **the presence of a victim's legal counsel during the hearing by the police is not in any way common**. In fact none of the interviewees mentioned the fact that they were accompanied by a legal counsel in the course of a police interview.

[8] Poland, Regulation of the Ministry of Justice of 13 April 2016 on the template of the letter of rights and obligations of the victim in criminal proceedings (Rozporządzenie Ministra Sprawiedliwości z 13 kwietnia 2016 roku w sprawie określenia wzoru pouczenia o uprawnieniach i obowiązkach pokrzywdzonego w postępowaniu karnym), 13 April 2016.

From victims' responses, it is **not clear to what extent lack of information influenced lack of legal assistance**. There are many more factors that could have come into play. In three cases (PL/V/8, PL/V/10, PL/V/12), interviewees stated that the **police officers were trying to collect their statements in a hospital**. Apart from the fact that these circumstances do not seem conducive to full understanding of information about anyone's rights, they may also suggest haste on the part of law enforcement bodies. Resultant **shortage of time** could have made it impossible for victims to organise legal counsel, even if they had been aware of the right beforehand. Further still, two interviewees (PL/V/9, PL/V/11) explicitely stated that as victims they d**id not feel the need** to be assisted by a counsel.

3.2.9. During the court trial, were the interviewees accompanied or advised by a lawyer? Were the interviewees informed beforehand that they would be entitled to such assistance or advice (Question V 3.9)?

As stated above, victims who are parties to proceeding can appoint a legal counsel (pl. *pełnomocnik*), in a way similar to the accused. Such information is contained in the official letter of rights and obligations for victims. It is important, however, to bear in mind the difference in victim's status at the stage of pre-trial proceedings and court proceedings. During the former victims are automatically treated as parties, while during the latter – they can be parties only when they join proceedings as auxiliary prosecutors.

Interviews with victims do not show a unified practice of informing victims about their entitlement to be assisted or advices by a lawyer. Information, when it is received, seems not to come from the police or prosecution, but from courts or NGOs. At the same time, the number of victims assisted by a lawyer increased in comparison to the police interview in the course of pre-trial proceedings.

Three victims directly stated that they were not informed of the entitlement to be assisted or advised by a lawyer (PL/V/1, PL/V/6, PL/V/7). A similar number of interviewees did not remember exactly being informed about this entitlement (PL/V/4, PL/V/5, PL/V/11). Two of them supposed that such information could have been included in the official notification of a court hearig that they received, but were not sure. Similarly as in part 3.2.8., even while acknowledging the passage of time and limitations it imposes on memory, may testify to the diminished efficacy of a written letter of write/notification unaccompanied by any oral explanation.

Three interviewees directly stated that they in fact received such information, however, the information was provided at different stages of proceedings and by different means (PL/V/6, PL/V/9, PL/V/12). PL/V/9 received it in a written notification from the court regarding the date and place of the court trial. PL/V/12 supposed that it may have been contained in the notification we he also received, but he had actually been informed about this entitlement before by an NGO. Interviewee PL/V/6, in turn, learned about this possibility later on in the proceedings from an NGO and even submitted a relevant motion.

Unlike in the case of police interviews when none of the victims was accompanied by a lawyer, **during court procedings a half of the interviewed victims either were accompanied by a lawyer or represented** by one (PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/11, PL/V/12). Interviewee PL/V/9 resigned from receiving lawyer support at the judicial stage of the proceedings. As he explained, this was a deliberate decision motivated by the will to test the efficacy of the justice system.

b) Information

3.3. Views of practitioners

3.3.1. In the view of the interviewed practitioners, how reliably, comprehensively and effectively are victims provided information about their potential role and their rights in proceedings, when

they are first in contact with an authority, such as, in particular, the police (Question Pr 3.10)?

All professionals noted that victims receive a written letter of rights. However, most of the interviewees were critical of its languge and content. Professionals noted that the letter was written in a formal and difficult language; it contained a lot of information and discouraged victims from reading. As a result, victims are not informed in a comprehensive and effective manner. Only four interviewees believed that the police comprehensively and effectively informs victims of their rights (PL/P/1, PL/P/2, PL/P/4, PL/J/3). The results of interviews in group P clearly stood out against the background of other groups, although even in this group two out of five respondents were critical of the letter's language. This strongly suggests, and some interviewees explicitely mentioned such a necessity (PL/L/4), that letters of rights demand simplification.

The majority of the interviewees either exlicitely noted that it is the **language** of the letter that is a problem or simply stated that the letter is hard to understand (PL/S/1/, PL/S/3, PL/S/4, PL/S/5, PL/P/3, PL/P/5, PL/J/2, PL/J/4, PL/J/5, PL/J/6, PL/L/1, PL/L/3, PL/L/4). Professionals used such terms as archaic, hermetic, intransparent, complicated, (overly) formal, incomprehensible to describe its nature. They stated that it is full of legalese and contains exerpts from the law. Interviewees had, in fact, quite a lot to say about this problem.

> *„Język i forma pouczeń jest mało zrozumiała. (…) Dominują w nich sformułowania kodeksowe, których przeciętny obywatel nie rozumie. Samo ich czytanie zniechęca. Powinny być bardziej bezpośrednie i konkretne."*
>
> *"The language and form of letters of rights are hardly understandable. (…) Formulas from the code dominate them, and an average citizen won't understand it. Their reading alone is demotivating. It should be more direct and concrete." (PL/P/5)*
>
> ***
>
> *"Jesteśmy chyba ostatnim krajem w Europie, który nie doprowadził tych pouczeń do takiego etapu, kiedy człowiek rozumie, co w nich jest napisane"*
>
> *"I think we are probably the last country in Europe that hasn't managed to prepare these notices in a way understandable for an ordinary person". (PL/S/3)*

Interviewees also made comments about the extent of its content, noting that it contained **too much information** (PL/P/5, PL/S/3, P/J/2, PL/J/4, PL/J/5, PL/J/6), which in conjunction with the language discouraged victims from reading. Interviewee PL/J/2 noted that information could be chunked dependent on the stage of proceedings:

> *"Na pewno mnogość pouczeń nie zachęca do ich wnikliwego przeczytania. Osobiście uważam, że niepotrzebnie ustawodawca przewiduje wielokrotne pouczenia o tym samym tych samych osób. Ponieważ część z tych pouczeń byłaby aktualna na innym etapie postępowania".*
>
> *"The multitude of notices does not encourage people to read them carefully, that's for sure. In my opinion, the legislator unnecessarily provides that one person must be notified about the same thing on many different occasions. Some of these notices would be more relevant at another stage of the proceedings." (PL/J/2)*
>
> ***
>
> *„Pouczeń ludzie dostają mnóstwo. (…) Gdybym sama dostała taki papier to bym się zagubiła."*
>
> *"There are so many instructions provided to people. (...) If I was given such notice of rights, I'd get lost myself." (PL/J/5)*

It prompted one interviewee to quite rightly note that perhaps the letter of rights was **comprehensive, but in no way effective** (PL/J/6). And it would seem that these two qualities – comprehensiveness and effectiveness, given

the circumstances of criminal proceedings at their initial stage, are in a certain tension. As noted by interviewee PL/L/2, the letter **does not give a victim a sense of their role and a full perspective** of criminal proceedings:

> *"Przekazuje się im to pouczenie o prawach i obowiązkach, ono jest trochę szersze, bo informuje też o tym, co się dzieje jak zostanie wniesiony akt oskarżenia. Brakuje mi w tym pouczeniu przekazania takiej informacji, która powie pokrzywdzonemu, co się będzie z nim działo w toku postępowania. Przekazanie tej informacji w taki sposób, że ten człowiek widzi całą perspektywę postępowania. Ta osoba nie wie, jak dalej będzie wyglądało postępowanie i jakiej pomocy może szukać".*
>
> *"Victims are provided with the notice of their rights and obligations. There's a bit more into it, as the notice also informs on what happens if the indictment is submitted to the court. I think what's missing there is broader information for victims about what happens with them during the entire proceedings, presented in a way that would show the proceedings in a broad perspective. A victim doesn't know how the proceedings look and what kind of help they should look for." (PL/L/2)*

Six interviewees also observed that **stress** experienced by victims at the initial stage of proceedings was a factor adding to the victims' difficulties in understanding the letter of rights (PL/P/5, PL/S/1, PL/S/3, PL/S/4, PL/J/4, PL/J/6). It would, thus, seem that it is all the more important to offer victims the right conditions during the first interview by the police. However, as visible from interviews with professionals and victims, there is for example a lot of confusion when it comes to the participation of a trusted person in the victim's interview.

In light of professionals' observation concerning the formalistic language and overwhelming content of letters, as well as the stress experienced by victims, a field opens for police active engagement in the information process. However, some interviewees pointed out that police officers **do not explain** the letters' content to victims, or the time devoted for this process is insufficient, or that the police limit themselves to gathering signatures on forms (PL/L/1, PL/L3, PL/S/2, PL/S/5, PL/J/6). This results from the lack of time in general, but may also be related to the attitude of police officers who expect the vicim's initiative to ask questions, etc.

> *" Na przesłuchaniu nie ma nigdy czasu na spokojne przeanalizowanie tych wszystkich praw, więc to jest fikcja. To jest tylko złożenie oświadczenia, że się otrzymało ten formularz pouczenia. Ale żeby on jeszcze był napisany jakimś dostępnym językiem, to jest rzecz inna. Bo bardzo często jest tak, że te obowiązujące formularze to jest wycinek przypisu, plus odesłanie ze wskazaniem, że to jest artykuł taki i taki z Kodeksu." (PL/L/1)*
>
> *"There is never time during an interview to calmly analyse all of these rights, so that is fiction. It is only a declaration to the effect that the letter of rights has been received. If only it had been written in an accessible language… but that is another issue. It is often the case that the appropriate letter is an extract from the regulation, with a notation that it is from Article such and such from the Code."*
>
> ***
>
> *"Skuteczne to jest pojęcie względne. Skuteczność oznacza dla policjantów to, że wręczą kartkę z informacją i to już wypełnia wymóg skuteczności."*
>
> *"Effectiveness is a relative term. For the police, effectiveness means giving a piece of paper with information about victims' rights. The pure fact of giving this piece of paper will fulfil the requirement of effectiveness." (PL/S/2)*
>
> ***
>
> *„Wszystkiego czego nie musza mówić to nie mówią. Dopóki ktoś nie zapyta (…).Jest sztywne myślenie, tylko to co w procedurze, klapki na oczach."*
>
> *"All they don't have to say they don't say. Unless someone asks (…) There is narrow thinking, the procedure only, eyes shut." (PL/J/6)*

However, as noted above, there were also four interviewees who believed that the police comprehensively and effectively inform victims of their rights (PL/P/1, PL/P/2, PL/4, PL/J/3). For example, interviewee PL/J/3 observed:

> *"Ludzie czasem pytają, czasami nie. Raczej te prawa napisane są dość zrozumiale, bo nie są wskazane tylko artykuły kodeksu postępowania karnego, tylko jest napisane jakie uprawnienia przysługują"*
>
> *"Sometimes people ask for an explanation, sometimes they don't. These rights are explained quite clearly because it isn't just a list of Articles from the Code of criminal procedure, but information on the rights they have." (PL/J/3)*

3.3.2. Are victims later informed about any significant progress of the proceedings and their potential role in various phases of the proceedings? If yes, on which occasions (Question Pr 3.11)?

None of the professionals responded that they inform or try to inform victims about all significant changes throughout the proceedings. Those interviewees who inform victims about the progress usually limit themselves to key stages or to information that is required. In many cases, however victims would not be informed unless they were proactive and asked. It would, therefore, be justified to say that victims do not receive comprehensive updates in the course of proceedings and in order to receive some they often have to show interest in proceedings.

About a half of the interviewees stated that victims receive some updates or are somehow informed about the proceedings at further stages. However, they often made reservations that victims are not informed about everything, but about "key stages" or "what is required" (PL/J/4, PL/J/5, PL/J/7, PL/P/2, PL/P/5, PL/L/1, PL/S/4). When interviewees listed these stages or requirements, they most often referred to initiation and the final outcome of proceedings. It seems that information about these two stages should reach victims. When it comes to other key developments, e.g. apprehension, evidentiary activities, preventive measures, there is no obligation to inform and provision of information depends on victims' initiative (PL/L/1), but sometime may also be impossible (PL/J/4).

> *"Ja myślę, że to co na piśmie to się w ogóle dzieje. Natomiast to, co miałoby się odbywać ustnie czy telefonicznie, w jakimś takim kontakcie mówionym, no to bardzo różnie z tym chyba bywa."*
>
> *„I think that what requires writing generally happens. But, that which is supposed to be done orally or over the phone, in this conversational context, then it probably varies." (PL/S/4)*
>
> ***
>
> *O czynnościach dowodowych zazwyczaj informuję pokrzywdzonego, o ile ten zadzwoni i o nie zapyta. Często nie mogę o nich jednak mówić, bo wymaga tego strategia prowadzenia śledztwa.*
>
> *I usually inform the victim about evidentiary procedures if they call and ask about them. But often the prosecution strategy prevents me from talking about evidence-taking. (PL/J/4)*

In eight cases, interviewees noted the importance of victim's activity, initiative or victims' showing interest in proceedings as a condition to receive information at all (PL/J/1, PL/J/3, PL/S/4, PL/L/2, PL/L/3) or as a condition to receive information beyond what is stricty required by the law (PL/J/2, PL/J/4, PL/1).

> *„Jeśli ktoś jest aktywny to ma bieżącą wiedzę na temat tego co się dzieje w postępowaniu."*
>
> *"If someone's active, they will know what's happening in the proceedings." (PL/J/1)*

In some cases, interviewees made a remark which would suggest that the extent of information provided to the victim depends on the "good will" or assessment of police officers and prosecutors (PL/J/1, PL/J/3, PL/S/4, PL/P/1).

This is visible in the following fragment from an interview with PL/P/1 when he observes that victims are informed "to the extent it is necessary for respecting their rights":

> *"Powiem tak, zazwyczaj to my bardziej się troszczymy, żeby te osoby poinformować o pewnych sytuacjach niż one się troszczą. To też jest związane z udziałem w różnorodnych czynnościach procesowych. Na bieżąco jak te osoby się stawiają, jest z nimi kontakt, jest prowadzone postępowanie, nie ukrywają się, nie znikają, itd. to są informowane o czynnościach w sprawie w zakresie, w jakim to jest konieczne dla respektowania ich praw."*

> *„I will put it this way, usually we take more care about informing people about various situations than they themselves. This is also connected with participation in various procedural acts. Successively when these people come, there is contact with them, the proceedings are conducted, they are not hiding or disappearing, etc. than they are informed about procedural acts in the case to the extent it is necessary for respecting their rights." (PL/P/1)*

Two judges from group J noted that the amount of information that they provide to victims depends on the latter's status in court proceedings (PL/J/2, PL/J/5). When victims decide to exercise their right to become auxiliary prosecutors, they receive more updates, including beyond what is legally required.

> *"To osoba pokrzywdzona musi wykazywać w tym zakresie inicjatywę. Jeśli nie chce być stroną postępowania, to ona musi dowiadywać się, jak i kiedy zakończyło się postępowanie"*

> *"It is the victim who has to show some initiative. If they don't want to be a party to the proceedings, then they have to find out how and when the proceedings ended." (PL/J/2)*

Interviewees from group S were rather critical of the practice of informing victims about subsequent stages of proceedings. They noted that victims are not always informed (PL/S/5), even when they ask about the development of their case (PL/S/1/, PL/S/4). Interviewees PL/S/1 and PL/S/4 noted that victims complain about this lack of information, while interviewee PL/S/2 observed that victims' assessment of the extent of received information depends on their knowledge and experiences. PL/S/3 stated that victims only receive the letter of rights.

3.3.3. How do the interviewed practitioners assess victims' possibilities of having access to the case file either personally or through a legal representative (Question Pr 3.12)?

Unlike in their other answers, interviewees universally agreed that victims have the right to or have access to case files. In general, despite certain critical remarks, their answers to this question, especially when compared with others, were positive.

When it comes to the success rate of victims' motions for access, eight interviewees (PL/L/2, PL/J/1, P/J/4, PL/J/5, PL/J/7, PL/P/2, PL/P/5, PL/S/5) noted that access is never/rarely denied, denied exceptionally, generally granted or commonly granted, or there are no problems. Interviewee PL/J/7 even stated that victims have unlimited access. In group S respondents were more critical of the practice in this respect, but they also noted improvement (PL/S/2). In particular, interviewee PL/S/1 suggested that victims are refused access at first, and when they finally receive it at the end of pre-trial proceedings, they have little time to acquaint themselves with information and take action. Similarly, interviewee PL/S/5 stated that access may take months to secure.

> *"A: […] nie ma takich powodów, żeby odmawiać, a są te odmowy. Q: Na każdym etapie, czy na przykład w postępowaniu przygotowawczym jest odmowa na początku a potem jest dostęp, czy w ogóle nie ma? A: Nie no, potem na końcu to już praktycznie prawie że nie mogą odmówić przed kierowaniem aktu oskarżenia, ale wtedy jest mało czasu, żeby coś zgłaszać ewentualnie dodatkowego, bo jest już późno i co najwyżej można w zażalenia użyć określonych argumentów. Więc myślę, że informacja o wglądzie i sam wgląd nie jest łatwy dla osób pokrzywdzonych i też rzadko z tego korzystają."*

> *„A: […] there are no reasons to refuse, but there are refusals. Q: At every stage or, for example, at the beginning of pre-trial proceedings there is a refusal and then access, or there is no access at all? A: Well no,*

at the end, before filing an act of indictment with the court, they practically cannot refuse access, but then there is little time to file anything additional because it's late and, at best, certain arguments can be used in an appeal. So I think that information on access and access itself are not easy for victims. And they rarely use it." (PL/S/1)

Two interviewees (PL/J/2, PL/S/3) noted that access depends on victims' status. If they are auxiliary prosecutors, then access is granted. It is evident, however, that these answers only relate to court proceedings.

In relation to victims' exercise of this right, four respondents noted that victims rarely use this right (PL/L/1, PL/S/1, PL/P/1, PL/P/5). One interviewee noted that this was due to the lack of awareness (PL/P/5), while another one that it rather resulted from different interests (PL/P/1). Interviewee PL/S/1 noted that victims have to pay for copies. Interviewee PL/J/3, in turn, stated that victims often request access.

"They do have a statutory right to access, so that if they file a request, the prosecutor should make whatever he has collected in this respect available, but they submit such a motion with extreme rarity."

"Mają dostęp, na zasadach kodeksowych, czyli jeżeli złożą wniosek to prokurator powinien im je udostępnić, co zebrał w ramach tego materiału. Ale niezwykle rzadko występują z taką inicjatywą." (PL/L/1)

***

"Często jeżeli dochodzi do tych przestępstw tzw. domowych, to jest taka sytuacja, że ofiara się zgłasza z takim poczuciem, że chce mieć święty spokój, chce żeby się uspokoiło. Niekoniecznie ją interesuje, jak ten sprawca zostanie ukarany, byleby on się wyprowadził z domu. […] Może dlatego, jeżeli chodzi o wgląd w akta sprawy, to interesują się osoby, które mają jakiś interes. To jest zupełnie inny typ przestępstw. Tak mi się wydaje. Pokrzywdzonego najbardziej interesuje, jeśli chodzi o przestępstwa z użyciem przemocy, żeby sprawca się wyprowadził i kiedy wyjdzie na wolność, czy nie wróci im do domu itd."

„Often in the case of this so-called domestic crime, the situation is such that the victim reports with such a feeling that they want to be left in peace, they want it to calm down. She is not necessarily interested in how this perpetrator will be punished, as long as he leaves the house. […] Perhaps this is why, when it comes to accessing case files, those are interested who have some interest. This is a completely different type of crime. This is what I think. The victim is mostly interested, in those crimes with the use of violence, in the perpetrator moving out and when they are released, whether they won't come back home, etc." (PL/P/1)

3.4. Views of victims

3.4.1. When the interviewees first came into contact with the police, were they informed about

a. their potential role and their rights in proceedings and

b. how they can access an appropriate support service (Question V 3.10)?

The results of interviews with victims show that they have not been comprehensively and effectively informed about their potential role and rights in proceedings. Nor have they received full information on how to access an appropriate support service. It seems that information on the rights and role in proceedings is provided more often than that on available support services.

Directly in response to this question, four interviewees stated that at first contact they were **not informed** on their role, rights and available support at all (PL/V/4, PL/V/5, PL/V/6, PL/V/11). Four more did not receive information on available support services (PL/V/1, PL/V/9, PL/V/10, PL/V/12).

In this context, it is interesting to mention that, unlike to this question, in an answer to a different question **interviewee PL/V/4** actually noted that he received a standard letter of rights before the interview at a police

station. In the interviewee's opinion the letter provided by the police was difficult to understand. And, as he noted, none of the police officers conducting the hearing informed the interviewee verbally about a given right. Perhaps, in an answer to the current question the interviewee had in mind specifically the moment of reporting the crime, and not the first interview. At the same time, it may be that he really considered oral provision of information as the subject of this question; or, finally, he might have disregarded the letter and, consequently, did not treat it as effective information. For example, during the interview he referred to the documents he received as "papers" (pl. *papiery*):

> *P: Czy podczas pierwszego przesłuchania, na policji, otrzymał pan informację o prawie do pełnomocnika?*
>
> *O: Jestem stuprocentowo pewien, że w przekazie werbalnym to [przekazanie informacji o prawie do pełnomocnika] się nie odbyło. Bardzo możliwe, że to było w papierach, które mi przedstawiono do podpisania.*
>
> *Q: Did you obtain information on your right to an attorney during the first hearing?*
>
> *A: I'm one hundred per cent certain that it [the provision of information about the right to an attorney] did not happen verbally. It is possible that this information was included in documents I was asked to sign. (PL/V/4)*

When answering this question directly, five interviewed victims stated that they received a **standard letter** containing information on the role and rights of the victim, as well as support services upon their contact with the police (PL/V/3, PL/V/7, PL/V/8, PL/V/10, PL/V/12). However, one of those victims who is a foreigner additionally noted that the letter of rights was written in Polish and, considering that he does not speak the language, was not understandable from his perspective:

> *Q: During the first contact with police, did they inform you about your rights in the proceedings? What you as a victim can do during proceedings.*
>
> *A: They don't tell me about any lawyer but they give me one paper in Polish language. I don't understand it good. Maybe it was written there. She gave me this paper, she did an interview and told me: "We make investigation" and they took my number and told me: "We will call you". (PL/V/10)*

Interviewee PL/V/12 participated in two proceedings. He stated that in the first police officers were friendly and respectful; however, he was not able to describe in detail what information he had received from the officers. In the second, the interviewee confirmed that police officers had not informed him about the role he might have played in the proceedings. He was not sure if they had informed him about his rights, but he received a standard letter of rights in Polish.

Only interviewee PL/V/9 stated that he received **clear and complete information** about his potential role and his rights in the proceedings. At the same time, he himself observed that he was not informed about legal assistance and victims support organizations. It seems that this did not prevent him from claiming that provided information was clear and complete, since he had already had that knowledge and valued the speed with which the police conducted procedural acts. In this particular case the speed may have been of such importance due to the fact that the defendants were members of the city guard and the interviewee noted that they began interfering with evidence:

> *Czy był pan poinformowany o prawie do adwokata?*
>
> *W zasadzie w żadnym wypadku nie zostałem poinformowany o tym. Ja wiedziałem, że mam takie prawo, natomiast nie byłem o tym pouczony i nie było na to czasu. (…) Cieszę się, że sprawy działy się tak szybko, bo w tym czasie Straż Miejska tuszowała dowody.*
>
> *Where you informed about the right to a lawyer?*

In fact, I was not informed about it at any point. I knew I had such a right, but I was not informed about it, and there was no time for that. (…) I am happy that it all went that fast because in the meantime the city guards were destroying evidence. (PL/V/9)

Answers of interviewee PL/V/1 and PL/V/2 show that victim's pay a lot of attention to how they are treated by police officers and representatives of the justice system. Interviewee PL/V/1 took part in two proceedings. Her perception of the first are much more positive due to the attitudes of particular professionals. The interviewee spoke very highly of the policewoman who collected her notification on domestic violence and informed her about further stages of proceedings. The policewoman also protected the interviewee's privacy by not revealing to the perpetrator who notified the police about the crimes. The interviewee also appreciated the way the judge informed her about the consequences of the judgement and took time to make sure that she understood the reasoning behind such a decision. It suggests that provision of information of a more global character and devoting time to explaining professional's decisions allows victims to understand what and why is happening in the proceedings and, consequently, influences positively their perception of proceedings.

3.4.2. Were interviewees continuously updated on how the case developed and on their potential role and relevant rights over the course of the proceedings (Question V 3.11)?

Interviews with victims show that they are not continuously updated on how the case develops. While victims receive some information, the scope of information varies. In most cases, information is rather basic, only obligatory or received after victim's intervention. More information is available to victims who are auxiliary prosecutors. In this respect, interviews with victims confirm the results of interviews with professionals.

None of the interviewees was continuously informed on how the case developed and on their potential and relevant rights over the course of proceedings, perhaps with exception of interviewee PL/V/11 who was informed by their lawyer. Generally, interviewees received some information on the proceedings (PL/V/2, PL/V/4, PL/V/7, PL/V/8, PL/V/10, PL/V/11, PL/V/12). In three cases, victims emphasised that obtaining relevant updates required their intervention (PL/V/2, PL/V/7, PL/V/8).

In some cases information was rather basic, for example about initiation of proceedings and their discontinuation (PL/V/10). In other, such as interviewee's PL/V/4, information was a bit broader, but still mosty obligatory sent by mail concerning the suspect's arrest and indictment, the case's referral to the court, the suspect's psychiatric evaluation, and the date of the court hearing. Interviewee PL/V/11 said that the police informed the interviewee that they detained the possible offender and asked the interviewee to identify him. The interviewee was informed about the date and place of the trial as well as the sentence through letters from the court. Interviewee PL/V/12 stated that in the first proceedings that he took part in, he had received a written notice to appear in court for a hearing on the offender's motion for temporary release from prison; the interviewee was informed about the motion and asked for an opinion.

Two interviews suggest that the amount of information that the victim receives depends on their status in proceedings (PL/V/5, PL/V/6). In both cases the situation changed when victims became auxiliary prosecutors. In the case of interviewee PL/V/6 before that neither the prosecutor's office nor the police had updated her on how the case developed. They asked her to wait. The situation has changed at later stages of the proceedings, when she learned that she was able to become involved as an auxiliary prosecutor. She received this information from an NGO. Similarly, interviewee PL/V/5 received more information because she acted in the proceedings in the capacity of an auxiliary prosecutor. She stated that she received a summons to appear in court to provide testimony, and she has been informed of the court-appointed expert's opinion.

Only one interviewee PL/V/3 stated that she was uninterested in receiving updates on her stalking case because she was tired of legal proceedings altogether.

3.4.3. Did interviewees, either personally or through a legal representative, have access to the case file? If yes, at which stages of the proceedings (Question V 3.12)?

The interviews show that access to the case file is ensured in the majority of cases and victims themselves sometimes take advantage of this right. The interviews do not clarify when exactly victims obtain access, but some suggest that access is broader at the trial stage.

Eight out of 12 interviewed victims or their attorneys had access to case files (PL/V/3, PL/V/4, PL/V/5, PL/V/6, PL/V/8, PL/V/9, PL/V/11, PL/V/12). In three cases, interviewees stated that they used the opportunity to see case documentation (PL/V/4, PL/V/5, PL/V/8). Interviewee PL/V/4 read the files a day before the hearing. Interviewee PL/V/5 noted that she only reads protocols published on the Internet because of geographic distance, but her attorney has access to all files. While PL/V/8 stated that he not only read, but also photocopied the files.

Not all interviewees felt the need to look into the case file. Interviewee PL/V/9 stated that he himself did not check the case file because he did not see such a need, while PL/V/11 did not ask for access to the case file, but believed his lawyer had access. Perhaps the victims' attitude in this respect was related to the fact that they both did have legal representatives. Interviewee PL/V/3 simply stated that she was uninterested in accessing case files. In her case, this was caused by tiredness with all the proceedings she had to go through.

When it comes to the moment when victims obtain access to case files, the interviewees do not provide much information. They can obtains such access at the stage of pre-trial proceedings, as was the case with interviewee PL/V/12, but the experience of interviewee PL/V/6 may suggest that this is much better ensured at the stage of court proceedings.

c) General assessment

3.5. Views of practitioners

3.5.1. To what extent have the interviewed practitioners, divided by professional groups, agreed with the following statements (Question Pr 3.13)?

3.3.4.1. More needs to be done to ensure that all victims have access to appropriate support services.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	4	1	0	0	0	5/5
P	3	2	0	0	0	5/5
J	1	5	1	0	0	7/7
L	4	0	0	0	0	4/4
3.3.4.2. Considering that victims, in criminal proceedings, mainly perform the role of witnesses, already too much is done to strengthen their position in criminal proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	0	2	3	0	5/5
P	0	1	3	0	1	5/5

J	0	0	6	1	0	7/7
L	0	0	1	2	0	3/3
3.3.4.3. More needs to be done to ensure that victims are informed in an effective manner about the proceedings and their potential role in them.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	3	2	0	0	0	5/5
P	0	5	0	0	0	5/5
J	1	4	2	0	0	7/7
L	2	2	0	0	0	4/4
3.3.4.4. Not much further action needs to be taken to improve the standing of victims in criminal justice proceedings as a lot has already been done in recent years.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	0	4	1	0	5/5
P	0	3	2	0	0	5/5
J	0	3	4	0	0	7/7
L	0	0	2	1	0	3/3

Please provide an analysis and your own interpretation of the results:

In relation to point 3.3.4.1. (more needs to be done to ensure that all victims have access to appropriate support services), almost all interviewees either strongly agreed (e.g. all in group L) or agreed with this statement. Only one interviewee disagreed (PL/J/7), however he did not present any insight as to his reasoning. The results of the research showed that the police is not the main source of information about support services for victim, while it is in many cases the first organ contacted by the victim. It is, therefore, an institution best placed to provide such information.

In relation to point 3.3.4.2. (considering that victims, in criminal proceedings, mainly perform the role of witnesses, already too much is done to strengthen their position in criminal proceedings), the majority of interviewees disagreed with this statement, including six who strongly disagreed. In fact, only one interviewee agreed (PL/P/2). The strongest disagreement was expressed by interviewee from group S. This is understandable as they, as support organisations, usually come into contact with victims who have somehow been mistreated by the justice system.

In relation to 3.3.4.3. (more needs to be done to ensure that victims are informed in an effective manner about the proceedings and their potential role in them), the majority of interviewees agreed with the statement, including six who strongly agreed. While addressing this point, the interviewee PL/J/3 stated that in general a victim should enjoy a privileged status in the criminal proceedings.

"Pozycja osoby pokrzywdzonej powinna być mocna. Ja nie chciałabym być w sytuacji osoby pokrzywdzonej, która nie jest informowana i nie może nic zrobić"

"Victims should have a privileged status. I wouldn't want to be the position of victim who is not informed about their rights and can't do anything" (PL/J/3)

In relation to 3.3.4.4. (not much further action needs to be taken to improve the standing of victims in criminal justice proceedings as a lot has already been done in recent years), while the majority (12) disagreed with this statement, in particular in groups S and J, six professionals agreed that much more is not needed (three in groups P and three in group J). Interviewee PL/J/6 when referring to this point observed that the state should focus more on victims support services and upgrading communications between the judicial system and the victims.

3.6. Views of victims

3.6.1. To what extent did the interviewed victims agree with the following statements (Question V 3.13)?

	Strongly agree	Rather agree	Rather disagree	Strongly disagree	Don't know	TOTAL
3.6.1.1 Throughout the proceedings I had the **support** I needed.	2	4	4	2	0	12/12
3.6.1.2 Overall, I wish I had more **legal advice**.	7	4	1	0	0	12/12
3.6.1.3 Throughout the proceedings I received sufficient **information** about the **progress of the case**.	1	2	7	1	1	12/12
3.6.1.4 At times, I would have wished for more **information** about my potential **role** in the proceedings.	2	8	1	0	1	12/12

Please provide an analysis and your own interpretation of the results:

In relation to point 3.6.1.1 (throughout the proceedings I had the support I needed), the answers of victims were literally divided in half. Some of the responses that were negative were, however, only directed at the support or lack thereof provided by representatives of the law enforcement. However, when analysed from the perspective of the type of crime, the majority of victims of domestic violence either disagreed (2) or strongly disagreed (2) that they had the support they needed.

In relation to point 3.6.1.2 (overall, I wish I had more legal advice), the majority of victims strongly agreed with this statement. In this case, the answers of victims of domestic violence show a similar tendency, as four strongly agreed and two agreed that they overall wished they had more legal advice.

In relation to point 3.6.1.3 (throughout the proceedings I received sufficient information about the progress of the case), the majority of interviewees (8) disagreed with the statement, including one strongly. A similar tendency was visible among victims of domestic violence taken separately. They mostly disagreed (4) that throughout the proceedings they received sufficient information about the progress of the case. The remaining two agreed and strongly agreed.

In relation to point 3.6.1.4 (at times, I would have wished for more **information** about my potential **role** in the proceedings), the majority of interviewees (10) agreed with the statement, including two who agreed strongly.

Among victims of domestic violence the tendency was parallel, with four agreeing with this statement, one strongly agreeing and one disagreeing.

The answers of victims who played the role of auxiliary prosecutors (PL/V/3, PL/V/4, PL/V/5, PL/V/6) did not differ much from answers of domestic violence victims, as three of them were – in fact – victims of domestic violence (PL/V/3, PL/V/5, PL/V/6).

4. Effective remedy

4.1. Views of practitioners

4.1.1. According to the interviewed practitioners, do the police view themselves as obliged to investigate whenever there is substantive suspicion that a crime has been committed or do they see themselves as enjoying a margin of discretion whether to investigate or not (Question Pr 4.1)?

This question revealed significant discrepancies in answers between each of the interviewed groups. Respondents from two groups, S and L, firmly stated that the police enjoys a wide margin of appreciation while deciding whether to investigate or not. By contrast, the representatives of group P did not agree with it at all, while respondents from group J presented more mixed answers.

In general, in the light of the Polish criminal procedure, law enforcement bodies have to initiate an investigation whenever there is a substantial possibility that a crime has been committed (the principle of legality). In practice, however, the decision on whether to investigate or not is based on the assessment of the notification and the probability that the crime has in fact been committed. From the perspective of a victim, it means that in some situations simple reporting about the facts might not be sufficient and should be supported by substantial pieces of evidence.

All respondents from **groups S and L** agreed that the police give themselves a wide margin of discretion while deciding whether to investigate or not. According to the interviewees, the margin of discretion includes several aspects, such as an analysis of whether the suspicion of committing a crime is substantive enough, interpretation of the aspects of an alleged crime and verification of the credibility and strength of evidence. When it comes to the first two elements, the interviewees underlined that the police do not always investigate whenever there is a substantive suspicion of a crime (PL/S/1) or misinterpret the elements of the notification in a way that makes the crime highly doubtful or even diminish the impact and gravity of the crime (PL/L/2). In particular, this is the case with domestic violence.

> *„Mam często takie dyskusje z policją o tym, jakie są przejawy przemocy w rodzinie? Policjanci często mówią, że np. no chyba pani żartuje, że to jest przemoc? Pan kipiuje pani w talerzu, sika do pralki albo zostawia śmierdzące skarpetki w lodówce. Policjanci wtedy odpowiadają: ale to by trzeba było w każdej rodzinie zakładać Niebieską Kartę! Ale to pokazuje jak rozbieżne mamy oceny tego, co jest dla człowieka dotkliwe i gdzie oczekuje ochrony państwa"*
>
> *"Quite often, I have discussions with the police about the signs of domestic violence. The police usually say 'You must be joking! This is supposed to be domestic violence?!' When a man puts out a ciggy in a woman's plate, pees to a washing machine or leaves stinking socks in a refrigerator, the police usually say, 'If this was domestic violence, then we'd need to issue a Blue Card to every family around!' This shows how different our assessments are as to what a person finds vexing and when such a person needs protection from the state." (PL/S/3)*

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"Czują się zniechęcane przez policję do tego, żeby składać zawiadomienie. Właśnie tym, że może nie ma wystarczających dowodów. Straszone są, co je czeka, jak się zdecydują. Może niech się zastanowią. Z takimi sytuacjami dość często miałyśmy do czynienia."

"They feel discouraged by the police to report a crime. Precisely on the grounds that there is insufficient evidence. They are scared with the image of what awaits them. Perhaps they should think it over. We come across such situations quite often." (PL/S/1)

Furthermore, the margin of discretion also embraces verification of the credibility and strength of evidence. Especially when it comes to sexual crimes, the police assess the credibility of a victim and check whether the crime has been committed with the use of violence (PL/S/2). The interviewees (PL/S/1, PL/S/3 and PL/S/5) also admitted that there is an expectation that victims will present strong pieces of evidence proving the crime and as a result make the entire proceedings easier to carry out.

"To chodzi o tzw. twarde dowody – będziemy mieć świadka, który potwierdzi albo będziemy mieć nagranie albo będziemy mieć zdjęcie. Czyli chodzi o jakieś materialne dowody, które na sali sądowej pokażemy i będziemy mieć sprawę".

"It all narrows down to what's called 'hard evidence'. We need to have a witness who confirms it or a recording or a photo. This means we need some tangible evidence which can be presented in court and then we have a case."(PL/S/3)

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"Policja posługuje się taką logiką statystyk, które muszą się zgadzać i muszą być odpowiednie. Nie można sobie pozwolić na to, żeby ujawniać postępowania, kończą się brakiem wykrycia sprawcy. To też powoduje, że Policja stara się, by informacja o postępowaniach, w których nie będzie można wykryć sprawcy, nie pojawiła się w systemie"

"The police follow the logic of statistics, numbers must check out and be appropriate. One can't afford documenting that an investigation ended without finding a perpetrator. Because of this, the police try to leave the cases with unidentifiable perpetrators out of the system."(PL/L/2)

The more measurable, reliable and detailed the evidence is, the higher the chance for winning the case in court and the more possible it is that the police will initiate an investigation. However, not in all cases victims can provide law enforcement bodies with detailed information. For example, one of the respondents (PL/L/2) stated that in many cases victims of homophobic crimes are very reluctant to reveals details concerning their sexual orientation while notifying the police about the crime, since they are afraid that such information may put them at risk of secondary victimisation.

The respondents in those two groups also pointed out that the problem with initiating the proceedings is sometimes preceded by an even greater obstacle which is discouraging victims from notifying the crimes. The interviewees pointed at two ways in which the police discourage victims from reporting the crime. For example, three interviewees (PL/S/1, PL/L/1 and PL/L/4) noted that in some cases the police require the victim's motion to prosecute in relation to crimes which should be prosecuted publicly, such as e.g. rape, or informs victims that they should submit a private act of indictment in cases such as e.g. slight health damage.

"Policja zawsze daje sobie margines do decydowania o tym, czy wszcząć postępowanie. I to na kilku poziomach. Najpierw ten dyżurny, który stoi na pierwszej linii, potem ten funkcjonariusz, do którego udaje się pokrzywdzony, jeżeli dyżurnemu nie uda mu się zniechęcić […] poza tym jest takie dążenie, żeby nie przyjmować spraw, które nie dają wielkich szans na wykrycie sprawcy, bo to wpływa na statystyki"

"The police always have this leeway to decide whether to commence proceedings or not. And it happens on a few levels. First, a duty officer who is in the frontline, then a police officer to whom a victim is referred if a duty

officer fails to discourage [them] [...] besides, there is this policy not to take cases, if there is little chance of identifying a perpetrator, because it affects statistics." (PL/L/3)

Similar observation was made by one of the prosecutors:

„Nie wiem, jak dużo jest przypadków że pokrzywdzony nie dochodzi do przyjmującego zawiadomienie. Pierwszy etap to zawsze ten policjant na dyżurce, który mówi nieprzyjemnym głosem: a czego? a cos się stało? A pokrzyczy pani na tego męża ze jest niedobry. Często ta rozmowa na dyżurce załatwia sprawę."

"I can't say how often victims don't reach an officer taking the notification. The first step is always this officer at the front desk, the guy barking "You want something? What is it? Why don't you yell at your hubby if he can't behave?" A conversation like this at the front desk and you're done before you even started." (PL/J/4)

Also, two respondents (PL/L/2 and PL/L/3) noted that in some cases police inform victims that finding a perpetrator will not be possible, so there is no point in notifying the law enforcement about a possible crime.

Although the respondents from **group S and L** indicated numerous aspects related to the police's margin of discretion, they did not provide any specific reasons explaining this situation. Such an explanation was provided by some of the respondents from **group J,** who noted that the opportunistic approach of the police may be a result of systemic problems and some sort of an internal pressure to keep a decreasing trend of crime rates, insufficient resources combined with work overload and omnipresent bureaucracy (PL/P/2, PL/J/4 and PL/J/1). Furthermore, one respondent (PL/J/6) stated that in cases concerning domestic violence victims may withdraw their motions at any moment which will halt the proceedings. In statistics, such cases must be reported as "undetected" which police officers try to avoid.

When it comes to the police's margin of discretion, the respondents from group J were not so unanimous as respondents from group S and L. In this regard, the answers of the judges and prosecutors strongly varied. Some respondents (PL/J/5, PL/J/6 and PL/J/4) stated that the police enjoy a margin of discretion in deciding whether to investigate or not. One of the respondents (PL/J/5) stated that it is not such an undesired situation, since some cases have to be rejected.

„Jakiś oportunizm nie jest zły. Przesiew na tym pierwszym etapie jest konieczny. […] Odmowa wszczęcia typu „nie, bo nie" raczej się nie zdarza. Nie ma spraw, w których nic nie zrobiono."

„Some form of opportunism is not bad. Early selection at this first stage is necessary. […] It doesn't happen that they just refuse to initiate proceedings, they simply say no. There are no cases, in which nothing has been done." (PL/J/5)

On the other hand, some of the respondents (PL/J/2, PL/J/3 and PL/J/7) stated that the police is obliged to initiate an investigation whenever there are reasonable grounds to believe that a crime has been committed. One of the respondents (PL/J/7) also stated that the police are aware that failing to take actions after notification may result in disciplinary proceedings.

"Ja myślę, że zawsze [wszczyna postępowanie - red.]. Obecnie każdy policjant wie, że odesłanie z kwitkiem łączy się z tym, że ta osoba może złożyć zarzut niedopełnienia obowiązków i to może się skończyć nie tylko postępowaniem dyscyplinarnym, ale i karnym"

„I think that the police always [initiates the investigation –ed.]. Now, every police officer knows that sending somebody away empty handed may result in the accusation of a failure to fulfill obligations and may result in disciplinary or criminal proceedings" (PL/J/7)

This approach is very close to the information provided by the respondents from **group P**. The majority of the interviewees in this group stated that the police always investigate when there is a suspicion that a crime has been committed (PL/P/1) and should not enjoy a margin of discretion while deciding whether to investigate or not (PL/P/5). One interviewee (PL/P/3) admitted that the police have a certain "buffer" in decision making, however

this space should be dedicated only to conducting verifying procedures. The answers of respondents from group P also revealed interesting discrepancies in perceiving the extent to which the victim has to prove a possible crime. While the respondents from groups S and L stated that the victim has to present solid and credible evidence, for the representatives of the police this requirement was limited only to presenting "some basic details of the case" (PL/P/2 and PL/P/5). On the basis of this information, the police can carry out further proceedings. One of the interviewees (PL/P/5) admitted that the cases which cause the greatest doubts in deciding whether to investigate or not are related to domestic violence. In particular, given the fact that victims may use their right to refuse giving testimony, which may lead to a discontinuation of the proceedings.

4.1.2. According to the interviewed practitioners, do public prosecutors view themselves as obliged to prosecute in any case where there are significant indications that a crime has been committed or do they see themselves as enjoying a margin of discretion in this regard (Question 4.2)?

In general, the answers to this question concentrated on four aspects: assessment of the prosecutors work in initiating the proceedings, enjoying the margin of discretion, verification procedure and the cooperation between prosecutors and the police.

While answering this question, some of the respondents (PL/J/2, PL/J/3 PL/J/7, PL/P/1 and PL/L/1) referred to the provisions of the Code of Criminal Procedure in the light of which the prosecution is bound by the principle of legality and has to investigate a crime when there is a suspicion that said crime has been committed.

> *"To tutaj jest tak samo, my musimy sprawdzić wszelkie okoliczności, jeżeli z samego zawiadomienia nie wynika do końca prawdopodobieństwo, że zostało popełnione przestępstwo. Zawsze możemy przeprowadzić postępowanie sprawdzające i zażądać dodatkowych danych"*
>
> *"This is the same thing. We have to check all the circumstances if a notification of a crime doesn't show a prima facie case that a crime has been committed. We always can carry out preliminary inquiry and request additional data" (PL/J/3)*

Some respondents (PL/J/1 and PL/S/5) assessed the prosecutors' practice in this regard better than that of the police. In the opinion of respondent PL/S/5, prosecutors always initiate an investigation when there are significant indications that a crime has been committed.

On the other hand, other respondents, especially in **groups S and J** (e.g. PL/S/2, PL/S/3, PL/S/4, PL/P/5, PL/J/4, PL/J/5 and PL/J/6), stated that the prosecutors similarly to the police enjoy a margin of appreciation. It may emerge in the form of reluctance to initiate the investigation or in a less meticulous conduct of the investigation, e.g. without hearing the persons who may have important input or without collecting evidence. Such an approach may leave a false impression on a victim that there is no point in challenging the decision on the discontinuation (see PL/S/4).

> *„Spotykamy się z sytuacjami, gdzie my oceniamy, że wpływ na odmowę wszczęcia postępowania mają jakby koneksje międzyludzkie - są wtedy takie sytuacje, że nie są osoby przesłuchane, które mogłyby wnieść istotne informacje, nie ma zebranych materiałów dowodowych. A sygnał dla ofiary przemocy jest wtedy taki, że rezygnują z wniesienia zażalenia na umorzenie postępowania, bo to jest sygnał od systemu, że nie ma co walczyć."*
>
> *„We have such cases in which we can observe that some sort of relationships between people have influence on the decision refusing the initiation of the investigation. In such cases the witnesses who may bring something to the proceedings are not heard and the pieces of proper evidence are not collected. Then, the signal for the victims is such that they resign from filing an appeal against discountinuation, since they receive a signal from the system that there is no point in fighting" (PL/S/4)*

Some respondents, especially from group S (PL/S/1, PL/S/2 and PL/S/3), described in general their experience of the cooperation with the prosecutors as "not very good". One of the most striking observations regarding the practice of initiating the investigation by the prosecutors was made by respondent PL/S/3:

> *„Jednak są też prokuratury, do nich należy prokuratura w W.-O., które nie przyjmują żadnych spraw w zakresie przemocy domowej. W ciągu ostatnich pięciu lat żadne zawiadomienie wysłane przez nasz zespół interdyscyplinarny nie zostało przyjęte do prowadzenia. Żadne! Słyniemy z tego, że zanim wyślemy zawiadomienie to przygotowujemy także zażalenie na odmowę wszczęcia śledztwa"*
>
> *"However, there are prosecutors' offices, including the prosecutor's office in W-O, which don't accept any cases concerning domestic violence. Over the last five years, not a single investigation has been initiated in cases submitted to the prosecutor's office by our interdisciplinary team. None! We're famous for preparing complaints against a refusal to initiate an investigation even before we officially notify the prosecutor's office of the crime" (PL/S/3)*

However, another respondent from this group (PL/S/4) presented an isolated, yet positive example of the prosecutors' work:

> *"Działamy w różnych miejscowościach na Dolnym Śląsku. Żyjemy w tym samym systemie prawnym, a mam takie poczucie, że w różnych miejscach to bardzo różnie wygląda; że czasem ta prokuratura jest kompletnie gdzieś jakoś ukryta […], a mamy też takie doświadczenia, że naprawdę działa tak bardzo solidnie"*
>
> *„We work in various locations in Lower Silesia. We live in the same legal system, and I have a feeling that in varies between places; that sometimes, the prosecution is completely hidden […] but we also have experiences when it really diligently." (PL/S/4)*

The interesting aspect of these answers was the postulate to withdraw from the Polish legal provisions the principle of legality. In the opinion of one of the respondents (PL/J/6), abolition of the principle of legality would allow prosecutors the ability to deny cases which have no possibility of ending with an indictment. Furthermore, one of the respondents (PL/J/5) notated that the Code of Criminal Procedure allows prosecutors to enjoy a margin of discretion whether to prosecute or not. The interviewee stated that it is necessary to trust the prosecutor that they are making the right decisions. Interestingly, a good intuition of prosecutors in deciding to investigate or not was noted by another respondent from **group L**. Respondent PL/L/2 stated that it had never occurred that a case would be effectively re-opened by a victim and in which the perpetrator was convicted. In the light of the Code of Criminal Procedure, if the victim notifies the police or another law enforcement body about the crime and the proceedings are discontinued, then the victim can appeal such a decision to the court. If the court obliges the prosecutor to investigate and if the proceedings are discontinued again, then a victim has the right to submit a subsidiary act of indictment.

> *"Przyznam się szczerze, i może to jest jakaś głęboko ukryta mądrość prokuratury, że nie zdarzyło nam się, żeby sprawa została umorzona przez prokuraturę, my to skutecznie zażaliliśmy i finalnie doprowadzilibyśmy do skazania sprawców. Ta intuicja prokuratury jest zazwyczaj prawidłowa w tych naszych sprawach"*
>
> *"In all honesty, I must admit that we have never had a case that was first discontinued by the prosecutor and later re-opened because of our effective appeal in which the perpetrator was convicted. That might be deeply hidden wisdom of the prosecution service, an intuition that usually is correct in cases we work on." (PL/L/2)*

Between these two ends of the spectrum – a legalistic and opportunistic approach – there lies also a question of verifying crime notifications. According to the Code of Criminal Procedure (Article 307 § 1), prosecutors have 30 days before making a decision on whether to investigate or not. According to one of the respondents (PL/J/1), the prosecutors actually used that time to check whether there is a possibility to take some further steps.

> *„Prokuratura ma więcej empatii, bardziej występują pro pokrzywdzonym. Jeśli odmówi wszczęcia to po dokonaniu czynności, gdy nic się nie da zrobić."*

"The prosecution service has more empathy, prosecutors are more victim-friendly. If [a prosecutor] denies initiating [the proceedings] after an act is conducted, nothing can be done about it." (PL/J/1)

However, this eagerness was to some extent critically perceived by one of the respondents from **group P** (PL/P/3) who stated that "prosecutors are determined to carry out more actions than are really needed. A vast majority of such actions is conducted by the police". It is worth noting that this question of prosecutors initiating the procedures also open a ground for the police to present some information on the model of cooperation with the prosecutors' offices. The answers of the respondents from group P revealed some complaints about this model lacking cooperation and treating police as an equal partner. In the opinions of the respondents from group P the police and prosecutor should rather cooperate, as the police do not need another supervision (PL/P/3). Such an opinion was not shared by some of the interviewed prosecutors, e.g. interviewee PL/J/7 stated that prosecutor's supervision over the investigation is required.

4.1.3. As assessed by the interviewed practitioners, divided by professional groups, how often does it happen in cases concerning violent crimes that prosecution becomes time-barred because of a statute of limitation?

This occurs	S	P	J	L
Often or very often	1	0	0	0
Occasionally	0	0	0	0
Only in exceptional cases or not at all	2	4	7	4
Don't know	2	1	0	0
TOTAL	5/5	5/5	7/7	4/4

Please provide an analysis and your own interpretation of the results:

The vast majority of respondents (18) stated that it does not happen very often that the prosecution becomes time-barred. It seems that the risk of prosecution becoming time-barred was higher several years ago, when the courts dealt with very complex and complicated cases. Furthermore, the risk that the proceedings may become time-barred is quite high in the proceedings concerning petty offenses. As one of the respondents (PL/L/2) stated, the length of the statute of limitation for petty offenses is shorter than in the case of regular crimes. The experience of the interviewee shows that in some cases concerning petty offences the proceedings came close to the expiry of the statute of limitations.

4.1.4. According to the interviewed practitioners, if the police fail to carry out a thorough and effective investigation, does the victim have an effective means of challenging this failure (Question Pr 4.4)?

The question in the questionnaire was slightly different when it comes to its scope and originally focused on the possibility of a victim to challenge police's inaction. All the respondents stated that victims have a right to challenge both inaction of the police as well as the situation when the actions are too slow.

The Code of Criminal Procedure provides three possible remedies: an appeal against the decision on discontinuation of proceedings, an appeal against the decision refusing to initiate the proceedings and an appeal on the lack of information concerning the decision on investigating or not. Apart of that, victims have a possibility

to complain at a failure to perform police's duties (regulated by the Code of Administrative Procedure) and a possibility to lodge a complaint on the excessive length of proceedings (regulated by the Act on the party's complaint on the violation of the right to recognise a case in the investigation or in the trial procedure without unjustified delay). Each of the remedies were mentioned by different respondents. However, in general the assessment of the effectiveness of all the remedies was very low.

For example, in case of police's inaction (understood also by some respondents as an excessive length of proceedings), a victim has a right to challenge such a situation by submitting an appeal to the prosecutor's office. However, in practice inaction may be very difficult to prove.

> *"Patrząc na to pragmatycznie, jeżeli funkcjonariusz sporządzi jedną czy drugą notatkę urzędową lub kogoś przepytał, to tak naprawdę pokrzywdzony ma trudną sytuację, by dowodzić bezczynności. Myślę, że może dochodzić do takich sytuacji […] gdzie mam takie wrażenie, że organowi prowadzącemu postępowanie przygotowawcze łatwiej jest umorzyć postępowanie, mimo że jeszcze coś mogłoby być zrobione"*
>
> *"Practically speaking, if a police officer or prosecutor writes a memo or two, or interviews a witness, then it's problematic for a victim to prove the law enforcement's inaction. I think that there might be situations in which a law enforcement body chooses an easy way out and drops the case instead of putting some more effort into it." (PL/J/2)*

Yet, some of the respondents (e.g. PL/J/4 and PL/J/7) assessed this complaint as very effective, but not adequately used by victims, since they do not have enough information about this possibility (as it was stated by PL/J/4) or there is no need for it (as it was stated by PL/J/7).

Furthermore, some of the respondents (PL/P/2 and PL/J/5) pointed at victims' possibility to submit a complaint at a failure to perform police duties. Such an complaint is directed to the supervisors who, in practice, monitor the proceedings. As one of the respondents admitted "from that moment on, such proceedings are carried out more carefully."

In this context, the information provided by the respondents from **group S** seemed to be very interesting. The respondents in this group did not focus on the effectiveness of these remedies, but analysed them from the perspective of a victim. In the opinion of these interviewees, victims usually are overwhelmed or exhausted by the proceeding and that is why they do no challenged police inaction or reluctance to investigate. This aspect is strongly connected with part 2.1, concerning the victim's approach towards the investigation – the more determined the victim is, the bigger the chances for completing the proceedings. Also, one of the representatives of the police stated that such an active approach in the field of challenging police inaction pays back since "persons who complained more than others had in practice more rights than those who were humbly waiting for the result of the proceedings" (PL/P/2).

4.1.5. According to the interviewed practitioners, if the public prosecutor decides to discontinue prosecution, does the victim have an effective means of challenging this decision (Question Pr 4 5)?

All respondents admitted that there is a possibility for a victim to challenge prosecutor's decision on discontinuation of proceedings and, as the respondents' answers showed, the victims use this possibility.

Some interviewees made a difference between a decision on discontinuation of proceedings and a refusal to initiate the investigation. In practice, this difference may have a great importance, as one of the judges admitted (PL/J/2) complaints against a decision refusing to initiate an investigation are usually groundless. However, complaints against decisions ordering discontinuation of proceedings are, in the vast majority of cases, justified and courts admit them (PL/J/2). The lawyers representing victims in proceedings had more diverse opiniosn regarding the

effectiveness of this appeal. To three of them (PL/L/1, PL/L/2 and PL/L/3) this remedy seemed to be ineffective, or at least the courts' decisions were hard to understand.

> *"Mało tego miałem tez takie sytuacje, że szedłem na posiedzenie w przedmiocie wniesionego przez nas zażalenia i prokurator był przekonany, że sąd mu to postanowienie uchyli, a sąd to utrzymywał w mocy. Więc tak kontrola nie jest skuteczna"*
>
> *"What's more, I've had such situations that during a hearing regarding a complaint that we had filed, a prosecutor was positive that the court would reverse his decision but it was sustained. So yes, the review procedure is ineffective." (PL/L/3)*

On the other hand, the fourth of the interviewed lawyers (PL/L/4) estimated that 60-70% of the appeals are granted by the courts. Similar assessment was shared by one of the prosecutors (PL/J/4) and one of the policeman (PL/P/2). The latter one presented an example of a judge in his city who always quashed decisions on discontinuation no matter what had been done by the police.

Similarly to the previous question, also in this regard respondents from **group S** paid attention to the determination of victims. In the opinion of one of the respondents (PL/S/5) those victims who are stubborn have a better chance to get a favourable ruling in the court.

4.1.6. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statement (Question Pr 4.6)?

When people fall victim to violent crime they can legitimately expect that the police conduct a thorough investigation with a view to identifying offenders.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	1	2	0	1	1	5/5
P	3	2	0	0	0	5/5
J	4	3	0	0	0	7/7
L	4	0	0	0	0	4/4

Please provide an analysis and your own interpretation of the results:

The vast majority of the interviewees (19) agreed or strongly agreed with the statement. However, given a wide range of answers provided in this chapter it can be assumed that each of the groups interpreted this statement in a slightly different way. For the respondents from **groups P and J (especially prosecutors),** the statement seemed to be a question about assessing the practice, while for respondents from **groups S and L** the statement was rather a description of a desired practice implemented by law enforcement.

4.2. Views of victims

4.2.1. According to the interviewed victims, what was the outcome of criminal proceedings in terms of offenders being convicted, of sanctions imposed and of compensation being awarded (Question V 4.1)?

This question provided very little comprehensive information due to numerous reasons. First of all, several proceedings were still on-going at the time of the interviews, and the respondents could not assess the proceedings in the light of the given criteria. Secondly, several interviewees did not fully grasp the core of the question and their

answers overlapped with their general assessment of the proceedings. Thirdly, some of the respondents had several simultaneous proceedings and their assessments overlap between each other. Last but not least, some of the proceedings were solved within other procedures, such as e.g. the "Blue Cards" procedure.

These respondents whose proceedings ended with a decision of the first instance court could recall the court's verdict when it comes to the conviction of perpetrators. None of the perpetrators in the interviewees' cases was found innocent. Nevertheless, in general, the vast majority of the respondents were not satisfied with the outcome of proceedings. Some of them did not agree with the legal classification of the crime (e.g. PL/V/4, PL/V/8) and stated that the sanctions were not harsh enough (PL/V/3, PL/V/12) or had a form which was surprising to the victim. In case of respondent PL/V/4, the proceedings ended with the sentence of 10 months of imprisonment. Such a sentence surprised the interviewee who applied for six months of social work while the prosecution applied for six months of imprisonment. It seems, however, that for this particular respondent the key issue was not the sentence, but the legal qualification of the crime – the respondent's intention was to classify the crime as a hate crime and not as a hooliganic incident, as it was classified by the prosecutor.

Furthermore, respondent PL/V/9 who also provided comprehensive information concerning the general outcome of his proceedings. In his case both offenders were convicted and sentenced to six months of imprisonment. Despite sustained, severe bodily harm, the interviewee was not granted compensation.

> *„Pół roku bezwzględnego więzienia i rok ograniczenia wolności przez wykonywanie robót publicznych w wymiarze 40 godzin miesięcznie. (…) Obaj sprawcy dostali takie same wyroki."*
>
> *"Half a year of unconditional imprisonment and one year of limitation of liberty through doing public works in the amount of 40 hours a month. (…) Both perpetrators received such sentences." (PL/V/9)*

Few proceedings ended with an award of compensation by the court. One of such proceedings was the case of PL/V/4. In this case, the court ordered a compulsory compensation of 1000 PLN (about 250 EUR). Nevertheless, the interviewee doubts that he will ever receive the money because the convict is a homeless person. The respondent declares that if he receives the money, he will give it to a charity. The second proceedings which ended with compensation concerned the case of respondent PL/V/12. The interviewee did not expect compensation – from his perspective it was more important to address the problem of hate-motivated crimes than to fight for any compensation.

> *„Q: Dostał Pan jakieś odszkodowanie?*
> *A: Tak, dostałem jakieś pieniądze.*
> *Q: Jak Pan je ocenia?*
> *A: W sumie to nie spodziewałem się żadnego odszkodowania pieniężnego. Po prostu chciałem pokazać, co ci goście mi zrobili. Nie spodziewałem się pieniędzy."*
>
> *"Q: Did you received some compensation?*
> *A: Yes, I received some money.*
> *Q: How do you assess it?*
> *A: Actually I did not even expect any financial compensation. I just wanted that they know what those guys did to me. I did not expect the money." (PL/V/12)*

4.2.2. Do interviewees assess the outcome of the proceedings as appropriate and satisfactory? What were their observations and the reasons they gave to support their assessments (Question V 4.2)?

The interviewees' assessment of the outcome of proceedings can be divided into four different categories. First of all, only one respondent clearly stated that the outcome of the proceedings was fair(PL/V/9). In his opinion, the

sentence and sanctions were just. He, however, made a disclaimer that such an outcome was or could have been a result of media pressure.

> *„Q: Jak pan ocenia wynik postępowania?*
> *A: Uważam, że sędzia pracowała pod presją mediów, więc wynik był ustalony tylko ze względu na zainteresowanie mediów. Niemniej uważam, że wynik jest sprawiedliwy."*
>
> *"Q: How do you assess the result of the proceedings?*
> *A: I think that the judge worked under media pressure, so the result was set only because of media attention. However, I think that the result was just." (PL/V/9)*

Secondly, two respondents (PL/V/3 and PL/V/12) had mixed experiences regarding the final outcome. In the case of respondent PL/V/3, her biggest concern was the fact that the court did not take into consideration the entire scope of the case, while in the example of respondent PL/V/12 he had completely opposite experiences in two different proceedings. He was satisfied with the result of one of the first, and completely dissatisfied with the result of the second proceedings in which the police was not engaged at all.

Thirdly, several interviewees expressed their doubts and regrets regarding the sentence and the sanctions (PL/V/2, PL/V/4, PL/V/7 and PL/V/11). Three of the respondents stated that the final sentence was not harsh enough, while one respondent (PL/V/4) did not agree with the legal classification of the crime.

Last but not least, four respondents (PL/V/1, PL/V/5, PL/V/6 and PL/V/10) were disssatisfied or completely disssatisfied with the results of the proceedings. Their impressions were related to the lack of effective proceeding carried out in their cases or lack of proper information and support.

4.2.3. As concerns interviewees who found the outcome of proceedings at the court of first instance not satisfactory, were they informed of any means to challenge the decision taken by the court of first instance (Question V 4.3)?

Eight out of 12 proceedings in which the interviewees participated ended at least with the decision of the first instance court. Four of the interviewees (PL/V/2, PL/V/4, PL/V/11 and PL/V/12) stated that they were informed of the possibility to challenged the decision of the court of the first instance. The interviewee PL/V/11 was not quite sure whether he received such an information, but he recalled that it could have been included into the letter he received from the court. The fifth interviewee (PL/V/9) stated that he could not be informed about this possibility, hence he was not a party to the proceedings before the court (he was only a witness). One of the interviewees was not sure whether he was informed.

> *„Q: Czy na końcu posiedzenia sądu pierwszej instancji został pan poinformowany o tym, że może pan złożyć apelację, odwołać się od wyroku?*
> *A: W tym liście, który dostałem chyba było napisane coś takiego, że mogę, ale nie pamiętam dokładnie. Te teksty prawne są takie trudne, że…*
> *Q: Trzeba być prawnikiem, żeby je zrozumieć?*
> *A: Czasami tak…"*
>
> *"Q: At the end of the trial in the first instance, were you informed that you can file an appeal, challenge the judgement?*
> *A: In this letter which I received, I think something was written about it that I can, but I don't remember exactly. These legal texts are so difficult that…*
> *Q: One needs to be a lawyer to understand them?*
> *A: Sometimes, yes." (PL/V/11)*

4.2.4. How did the interviewees assess their own influence on the outcome of the proceedings (Question V 4.4)?

Only three interviewees (PL/V/2, PL/V/3 and PL/V/12) stated that their engagement had significant impact or any impact on the entire proceedings. Two interviewees (PL/V/2 and PL/V/3) participated in the proceedins as auxiliary prosecutors, while the third one (PL/V/12) was assisted by a lawyer provided to him. In this context, it is important to make a distinction when it comes to the part of the proceedings which the interviwees had in mind while assessing their impact. It seems that interviewees PL/V/2 and PL/V/3 assesed their impact on the entire proceedings, while for interviewee PL/V/12 the crucial element was his testimonies and engagement at the early stage. One of the interviewees (PL/V/2) assessed the importance of her participation very highly, both in terms of influencing the proceedings as well as protecting her child. Two other interviewees (PL/V/3 and PL/V/12) stated that their testimonies were important for the proceedings, since without them the perpetrators would not be punished at all.

„A: Mój udział miał znaczenie.
Q: Jakie?
A: Chcieli więcej się ode mnie dowiedzieć, wiedzieć dokładnie, co się stało.
Q: Więc został Pan przesłuchany?
A: Tak."

"A: My participation made a difference.
Q: How?
A: They wanted to hear more from me, to know exactly what's happened.
Q: So you were heard?
A: Yes, I was." (PL/V/12)

In general, however, the interviewees did not declare any sort of influence on the proceedings at all. To eight interviewees (PL/V/1, PL/V/4, PL/V/5, PL/V/7, PL/V/8, PL/V/9, PL/V/10 and PL/V/11), their participation in the proceedings seemed to be irrelevant in terms of the influence on proceedings' course. Five of these respondents (PL/V/1, PL/V/4, PL/V/5, PL/V/8 and PL/V/10) declared that they wanted to be more engaged in the proceedings or felt that their engagement was required in the face of the law enforcement's passiveness. Among the reasons behind their lack of impact on the proceedings, the interviewees mentioned several issues such as for example their lack of motivation (PL/V/1) or the fact that their case might have seemed less important from the perspective of law enforcement bodies.

„Powiem pani tak: jeżeli nie ma krwi, gwałtu, takich hardkorowych rzeczy, nikt nic nie zrobi. Bo się nikomu nie chce. Bo wiadomo, że się przeciągnie, że dużo czasu się na to poświęca, a nie ma gwarancji wygranej – ja bym to tak powiedziała od strony prokuratury bardziej."

„I will tell you this: when there is no blood, rape, such hardcore things, nobody will do anything. Because nobody feels like it. It is clear that it will be longer, a lot of time is devoted to it, and there is no guarantee of winning – I would describe it like this from the prosecution's perspective." (PL/V/5)

***

„A: Zachowanie, w ogóle, policjantów tam na miejscu było strasznie dziwne i w dniu zdarzenia bardzo dziwne dla mnie było. (…) Oni… moje odczucie, moja subiektywa ocena taka jest, że ja się czułem jakbym przeszkadzał komuś w pracy, tak? (…)"

"A: The behavior of the police officers there on the spot was very weird and on the day of the event it was also very strange. (…) They … my impression, my subjective assessment is such that I felt I was disturbing someone in their work, right? (…)" (PL/V/8)

One of the interviewees (PL/V/4) who was engaged in the proceedings more than he initially intended stated that the media reporting on his case had greater impact than his engagement. In his opinion, the fact that the case attracted public attention was crucial from the perspective of the final outcome.

Two interviewees (PL/V/9 and PL/V/11) did not feel that they had any impact on the proceedings either. However, in case of respondent PL/V/9 it was understood, since as he declared, he did not have any intention to influence the proceedings and would rather leave it to the justice system itself. The second interviewee stated that it should be up to the victim to decide whether they want to participate in the proceedings or not, but at the same time he regretted that he put too much trust in his lawyer and did not follow the proceedings on his own.

4.2.5. How did the interviewees assess the manner in which the police investigation was carried out; was it

a) thorough and effective?

b) timely and efficient?

c) Any other observations (Question V 4.5)?

The opinions of the interviewees regarding the manner in which the police carried out the investigation was strongly polarised. Five interviewees (PL/V/3, PL/V/4, PL/V/9, PL/V/11 and PL/V/12 – who assessed two investigations) stated that they were quite happy or satisfied with the way the police carried out the proceedings. To these interviewees, the most important factors influencing their assessment were: the way the police gathered evidence and the timely manner in which the investigation was carried out.

„Q: Jak ocenia pan przeprowadzenie śledztwa przez policję w aspekcie jego dokładności , efektywności, skuteczności?
A: Oceniam pozytywnie.
Q: Co wpływa na taką ocenę?
A: Zebranie materiału dowodowego, dotarcie do świadków, bardzo rzeczowe oględziny miejsca zdarzenia, dotarcie do takich materiałów dowodowych jak na przykład rejestrator GPS, który znajdował się w samochodzie [patrolu] straży miejskiej, dotarcie do śladów, które ja celowo zostawiłem, to była moja wizytówka, którą ja zostawiłem w miejscu znanym później tylko policji. Generalnie bardzo aktywne i rzeczowe dokumentowanie sprawy, zbieranie dowodów, docieranie do świadków."

„Q: How do you assess the investigation conducted by the police as to its accuracy, effectiveness, results?
A: In a positive way.
Q: What shapes your assessment?
A: Gathered evidentiary material, reaching the witnesses, very careful search of the place of the crime, getting to such evidentiary material as a GPS recorder which was placed in the city guard's car, finding evidence which I purposefully left. It was my business card which I left in the place later known only to the police. Generally, a very active and diligent documentation of the case, gathering evidence, getting to witnesses." (PL/V/9)

On the other hand, a similar number of interviewees (PL/V/1, PL/V6, PL/V/7, PL/V10 and PL/V/12 – who assessed two investigations) assessed the investigation carried out by the police negatively or as unsatisfactory. Among the reasons which influenced such an assessment, there were in general lack of proper information provided by the police, excessive length of proceedings and the approach towards victims.

„Tę sprawę prowadziło trzech policjantów (...). Najpierw był jeden pan, potem on poszedł na urlop, przyszła taka pani, ona przesłuchiwała mnie, przesłuchiwała innych świadków, no i sobie sporządzała taki raport i przez dwa miesiące to trzymała. Potem wzywała mnie, wzywała innych świadków na uzupełnienie jakichś danych, czy zaświadczeń lekarskich odnośnie obrażeń tego wszystkiego i dalej to trwało w punkcie wyjścia. Ja dzwoniłam i co tydzień pytałam – „no jeszcze nie wysłaliśmy do prokuratury, jeszcze nie, jeszcze nie". Dopiero

po około czterech miesiącach zostało to przesłane z powrotem do pani prokurator, która podjęła stanowisko o odmowie [postawienia zarzutu] o znęcanie się fizyczne i psychiczne, a że tylko z urzędu o naruszenie nietykalności cielesnej."

„Three officers handled the case (...). First, there was this man, he went on holiday so the woman came, she interviewed me and other witnesses, she made a report for herself and kept it for two months. Then she would call me and other witnesses to take more evidence, medical certificates of the injuries or something, and the case was left untouched again. I called every week to ask and I heard "No, we haven't sent the case to the prosecutor's office yet, not yet, not yet". It wasn't until about four months passed when the case was sent to the prosecutor lady, who decided to press assault charges ex officio rather than the charges of physical and psychological abuse." (PL/V/6)

One of the most striking comments was provided by respondent PL/V/10 who is a migrant living in Poland. The interviewee was a victim of hate crime. In the interview, the respondent on several occasions expressed his dissatisfaction with the course of the proceedings. In the opinion of the interviewee, one of the reasons why the Police was not engaged enough in the proceedings was the fact that he was a migrant. The interviewee stated that the proceedings would have been carried out differently, if he had had a Polish wife or girlfriend who could follow the proceedings and the police would have contacted her.

4.2.6. To what extent did the interviewed victims agree to the following statements (Question V 4.6)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
4.2.6.1 Overall, I would have expected to be given a more important role in the proceedings.	3	4	3	0	2	12
4.2.6.2 The police appeared to be committed to an effective investigation.	3	3	4	1	1	12

Please provide an analysis and your own interpretation of the results:

When it comes to victims' engagement, the majority of the interviewees expected much more engagement in the course of the proceedings. The activity of the majority of them was limited only to providing testimonies to law enforcement bodies and they did not e.g. provide any further pieces of evidence. Interestingly, the interviewees shared very little information on what their further engagement should look like. Some of them expressed their regret that, for example, law enforcement bodies did not hear the witnesses they suggested or not even asked them whether they can suggest any witness. The interviewees did not mention any other ways in which they could have been more engaged in the proceedings. Even the interviewees who participated in the proceedings in the capacity of auxiliary prosecutors expected to be given a more important role. For example, interviewees PL/V/4, PL/V/5 and PL/V/6 agreed with the statement that they expected to have a more important role in the proceedings. Interviewee PL/V/2 who also participated in the proceedings as an auxiliary prosecutor provided a contradictory answer – on the one hand she disagreed with the statement, but then she expressed her wish to be more engaged in the proceeding by e.g. participating in hearings of her daughter (however, it has to be stated that in the light of the Code of Criminal Procedure provisions the participation of a parent in hearings of a child in a child-friendly procedure is not allowed if this could influence the testimony of the child). Furthermore, the respondent PL/V/4 agreed that he expected his role in the proceedings to be more important while another respondent who also

participated in the proceedings in the capacity of an auxiliary prosecutor (PL/V/3) could not assess this statement. In this context, also interviewee PL/V/12 provided some interesting observations. The interviewee assessed his participation in two proceedings – one which ended with a conviction and the second one which was discontinuated. In reference to the first proceedings, the interviewee disagreed with the statement, however when it comes to the second statement he indeed agree with it.

Interviewees' opinions were similarly polarised when it comes to the assessment of the police's commitment. Six of them assessed the way the police carried out their actions positively. As it was stated above, the most important factors in this assessment were the police's activity and timely manner of carrying out the proceedings. On the other hand, five interviewees stated that the police were very little engaged in the proceedings or not engaged at all. The most important factors in this regard seemed to be the way the police collected evidence, but also lack of proper information and approach towards victims which could be perceived as negative.

5. Victims' active participation

5.1. Views of practitioners

5.1.1. According to the interviewed practitioners, are victims heard during the proceedings at important stages or before decisions are taken (Question Pr 5.1)?

It seems that in their answers to this question interviewees concentrated on victims' hearing in the capacity of a witness rather than on hearing and learning about victims' opinions as to procedural developments. In general, victims would be heard more than once during the proceedings, if there was a need to supplement evidence and obtain more factual data.

Seven professionals stated that victims are generally not additionally heard (PL/L/4, PL/J/6, PL/S/3), but when it happens this does not happen before taking crucial decisions (PL/J/1), but rather to gather additional evidence or complement previously obtained information (PL/L/3, PL/J/2, PL/J/7). Interviewee PL/S/2 stated that it sometimes happens, while interviewee PL/S/5 said that this is not always the case, and victims are not asked, for example, about preventive measures.

> *"[…] but with respect to the interview itself, it does not happen that before taking a decision in the proceedings the person will be interviewed, questioned once again."*
>
> *„Natomiast jeżeli chodzi o samo wysłuchanie, to nie ma czegoś takiego, że przed podjęciem decyzji procesowej dojdzie do tego, że osoba zostanie jeszcze raz przesłuchana, dopytana itd." (PL/L/4)*

Only four interviewees, almost all from group P, stated that victims' stance is taken into account (PL/P/1) or that they are heard at important stages (PL/P/2, PL/P/4, PL/J/3). Interviewee PL/J/4 noted that she asks victims what else can be done before discontinuing the case, while interviewee PL/J/5 who is a judge stated that this matter depended on the victim's status. If they are subsidiary prosecutors, then they need to be consulted, but otherwise contacts are limited to the hearing.

Some interviewees noted in this context that there is a tendency to limit victims' hearings in certain cases and described special procedures for child victims or victims of sexual violence (PL/L/1, PL/L/4, PL/J/2). In general, such provisions are aimed at limiting secondary victimization.

> *"Generalnie pokrzywdzony ma swój udział w procesie raz. Te przestępstwa z użyciem przemocy, to są bardzo szczególne rodzaje przestępstw. Jest zdecydowana tendencja do tego, by ograniczać wielokrotne*

przesłuchanie pokrzywdzonych w takim postępowaniu. I ona jakoś się mocno utrwaliła. Ona też jest wygodna dla prokuratora, ale ona ma też swoje uzasadnienie i ma swoje racje […] nawet jeśli sprawa idzie w kierunku umorzenia, to ta regulacja [co do zasady przesłuchania ofiary brutalnego przestępstwa tylko raz – red.- jest dla organów procesowych wiążąca"

„In general, victims participate in the proceeding only once. The violent crimes are a very specific type of crimes. There is a visible tendency to limit hearing victims in the proceedings several times. This tendency has become fixed. It's very convenient for the prosecutor, but this practice may be justified […] even if the proceeding heads in the direction to discontinuation, the legal provision [single hearing of a victim – ed.] is binding for law enforcement" (PL/L/1)

5.1.2. During the investigation, are victims entitled to ask that relevant evidence is secured (Question Pr 5.2)?

Similarly to the question concerning access to case files, interviewees were in agreement that victims have the right or can ask that relevant evidence is secured during investigation. Only one interviewee (PL/J/5) was not sure whether such a situation was possible.

When it comes to the frequenency with which victims file such motions, four interviewees (PL/P/1, PL/P/3, PL/J/6, PL/S/4) stated that victims ask or often ask for relevant evidence to be secured. Three more interviewees who referred to that issue stated that victims do it sometimes (PL/J/3) or rarely (PL/S/3), or that they have never come across such a motion (PL/J/2).

When it comes to the success rate of such motions, three interviewees – all from group L – noted that it depended on the decision of the police or prosecution (PL/L/1, PL/L/3, PL/L/4). Four interviewees stated that motions are denied – with varying frequency from often to sometimes (PL/L/1, PL/L/2, PL/S/1, PL/S/2). Interviewee PL/S/1 stated that this may be related to the poor quality of those documents, which in turn could be caused by the lack of access to legal aid. She also pointed to the formalism in treating victim's motions.

In contrast to the above, interviewee PL/L/3 made a comment that if motions are relevant, they are rarely denied:

"Z perspektywy pełnomocnika to wygląda to tak, że jeśli już się składa wniosek i on jest zasadny, to rzadko się zdarza, żeby ten wniosek został oddalony. Jeśli się tak na siłę składa tylko po to, żeby przeciągnąć postępowanie to wtedy można się spotkać z różną reakcją ze stroną policji. Ale oni cały czas zachowują prawo do tego, by ocenić wniosek i ewentualnie go oddalić"

"From the point of view of a counsel, it is so that if someone files a motion and this motion is reasonable, then it is very rarely dismissed. If it is filed for the filing's sake, only to keep the proceedings alive for little longer, then the police may respond to it differently. But they always have the right to assess the motion and dismiss it accordingly." (PL/L/3)

And only interviewee PL/J/7 stated that when victims do that, it is helpful.

5.1.3. Are victims entitled, during court trial, to call for any evidence they view as relevant (Question Pr 5.3)?

Interviewees answers to this question were in fact almost identical, at least when it comes to the theory. The victim's right to call for any evidence during court trial depends on their status in proceedings. When victims act as auxiliary prosecutors they can call for such evidence.

As noted by three interviewees from group J (PL/J/1, PL/J/4, PL/J/5), when victims do not act as auxiliary prosecutors, they can suggest that a certain piece of evidence should be taken. Such a suggestion might then be endorsed by a prosecutor in a formal motion (PL/J/4) or the court can decide to take such evidence into account *ex officio* (PL/J/1, PL/J/5).

Interestingly, none of the professionals from groups L and S noted that courts may take or take suggestions into account *ex officio*. One may speculate about the reasons for this omission. Perhaps the practice is so rare that they do not perceive it as a valid option or, as noted by PL/L/4, the victim's activity is discouraged (see quote below). However, the interviews do not offer more insight on this matter.

Some interviewees also sporadically referred to practice. In view of two respondents from group L (PL/L/2, PL/L/4), victims could be unaware of the right or use it to a lesser degree when they are not represented.

> *"W przypadku gdy taki pokrzywdzony działa sam, to moim zdaniem przypadku jest on bierny. Rzadko zdarza się aktywizuje, a jeśli to robi, to szybko jest jego aktywność ograniczana. Natomiast jeżeli występuje z udziałem pełnomocnika to wszystko zależy od sprawy. Są sprawy, które są ewidentne i oczywiste, w których rola oskarżyciela posiłkowego sprowadza się do takiego czujnego oka, które będzie weryfikowało prawidłowość postępowania. Są sprawy np. poszlakowe […] i w nich rola pełnomocnika jest bardziej istotna. I jeżeli działa, to sąd docenia ten wkład".*
>
> *„In cases in which a victim acts on his own, in my opinion he doesn't show much initiative. Very rarely, such a victim is active and even if he shows some initiative it is limited quite quickly. However, if a victim is represented by a professional lawyer, then everything depends on a case. There are cases which are obvious, so in such proceedings the role of a subsidiary prosecutor is limited only to a watchful eye which verifies the regularity of the proceedings. There are cases e.g. circumstantial […] and in these cases the role of the legal representative is more significant. If he shows an initiative, then the judge appreciates this contribution". (PL/L/4)*

However, for example, interviewee PL/J/7 specifically noted in his answer that the activity of the victim who decides to be an auxiliary prosecutor is not, in fact, dependent on their representation by a professional lawyer.

> *"Q: Czy na potencjalną aktywność ma wpływ to, że występuje sam, czy jest reprezentowany przez profesjonalnego pełnomocnika?*
>
> *A: No myślę, że wiadomo, ona coś konsultuje […] Tutaj nie przeceniałbym roli pełnomocnika, bo wiadomo, że te ustalenia, które są między pełnomocnikiem a pokrzywdzonym, one dzieją się przed, w trakcie i tak dalej, natomiast to chyba indywidualna sprawa, ale zazwyczaj jak osoba uczestniczy w roli oskarżyciela posiłkowego, z udziałem pełnomocnika czy bez, to raczej jest to aktywny udział."*
>
> *„Q: Does the fact that the victim is represented by a professional have influence on their activity?*
>
> *A: Well, it is obvious that they consult […] Here, I would not overestimate the role of a laywer. Obviously, the arrangements between the lawyer and the victim, they happen before, throughout [the proceedings] and so on, but this is an individual matter, and usually when a person participates as an auxiliary prosecutor, with or without a lawyer, this is rather active participation." (PL/J/7)*

Interviewee PL/S/2 noted that the attitude of the courts and prosecution is important for victim's activity in this respect:

> *"Jeżeli osoba, która jest oskarżycielką posiłkową widzi pozytywny stosunek prokuratora i sądu do tego, by ona się też włączała, to się włącza. Jeżeli widzi negatywny, to przychodzi się do nas poskarżyć […] uczymy ja wtedy jak wygląda wszystko, co się dzieje wokół niej na sali sądowej i żeby wiedziała, kiedy może sama wyjść z inicjatywą".*
>
> *"If a victim acting as an auxiliary prosecutor sees a positive approach of the prosecutor and court towards their participation in the proceedings, then the victim actively participates in the trial. If they see a negative approach, then they come to us to complain about it […] we instruct them what a trial looks like and what's going on in a courtroom so that they know when they can show initiative" (PL/S/2).*

5.1.4. According to the interviewed practitioners, are victims entitled, during court trial, to ask questions or have questions being put to witnesses (Question Pr 5.4)?

Similarly to the previous question, interviewees were in agreement, at least with respect to the theory. Victims are entitled to ask questions during court trial when they participate in the proceedings as auxiliary prosecutors. Their other observations were also similar.

As in the previous question, interviewees PL/J/1 and PL/J/5 stated that questions coming from victims who are not parties to proceedings as auxiliary prosecutors can be taken into account by the court *ex officio*. Interviewee PL/J/5 in her answer offered a glimpse of the practice. She said that those victims who do not declare their will to act as an auxiliary prosecutor often leave the court building right after their interview. However, some decide to stay and watch the rest of the hearing. Of those who stay, some have a tendency to interrupt other witnesses, ask questions or make statements. If this is the case, the interviewee tries to explain to them that they cannot behave in this manner. Others send letters indicating information that might be important. As the interviewee noted, whenever their questions or statements reflect an important issue the interviewee uses them to ask particular questions to witnesses. This could offer an opportunity for those victims who have not managed to join the proceedings as auxiliary prosecutors in time.

Similarly to the previous question, interviewees PL/L/1 and PL/L/4 repeated their doubts whether vicitms exercise this right when they act without a legal representative. While three interviewee (PL/J/2, PL/S/3, PL/S/4) stated that victims do ask questions, they even do it generally or commonly in their view. The description of the situation provided by interviewee PL/S/3 may, however, suggest that this is to some extent thanks to her organisation's engagement:

> *"Najczęściej jest tak, że te osoby z którymi współpracujemy na bieżąco przygotowują się do kolejnych spotkań. Jeżeli wiadomo, że na następnej rozprawie będzie przesłuchiwany kolejny świadek, to zastanawiamy się, co ten świadek może wnieść do sprawy i jakie pytanie zadać".*
>
> *"Most often, the persons we are trying to help prepare to each session separately. If another witness is going to be heard during the next hearing, then we try to predict what the witness can bring to the case and what kind of questions they should be asked." (PL/S/3)*

Unlike interviewees PL/S/3 and PL/S/4, interviewees PL/S/1, PL/S/2 and PL/S/5 were not so positive as to the assessment of practice. Interviewee PL/S/1 stated that in practice victims are initimidated. For example, when they do not immediately ask a question, but talk too much, they are cut off with sharp demands to ask the question. While the victims are often nervous and have difficulties formulating inquiries. According to interviewee PL/S/5, the authorities try to reduce victim's activity to a minimum level or even not allow questions to be asked. It mostly depends on a particular judge in charge of the case.

> *„Q: A jeżeli chodzi o zadawanie pytań, jak rozumiem na etapie sądowym, to jak jest oskarżycielem posiłkowym…*
>
> *A: No to może zadawać te pytanie, ale też się spotkałam oczywiście z takimi sytuacjami, że panie są onieśmielane, żeby zadawać te pytania.*
>
> *Q: I jak to wygląda?*
>
> *A: To wygląda tak, że na przykład nie wszystkie panie mają, pewnie panowie też, taką umiejętność formułowania pytań, więc czasami zaczynają od jakiejś takiej małej opowieści. Więc oczywiście natychmiast są wycinane, że 'Proszę pytanie!'. To jest od razu stresuje, denerwuje i nie potrafią zadać pytania."*
>
> *„Q: And when it comes to asking questions, in court proceedings when they are auxiliary prosecutors…*

A: Then they can ask these question, but of course I have come across situations when these women were intimidated not to ask questions.

Q: And what does it look like?

A: Well, it looks like this that not all women, men probably as well, have this skill of formulating questions and they sometimes begin with some small story. So they are immediately cut off with 'Question please!' And this causes stress and nervousness and they then cannot ask questions." (PL/S/1)

***

„Są sędziowie którzy się fajnie obchodzą z ofiarami, którzy słuchają i wsłuchują się w słowa ofiary. Są też tacy aroganccy, nie bardzo ich to, co związane z pokrzywdzonym, interesuje. Brakuje im empatii w stosunku do ludzi."

"Some judges are great with victims, they listen to them, to what they say. There are also haughty one, not interested in a victim's situation. They lack empathy towards people." (PL/S/5)

5.1.5. Which safeguards are implemented, if any, ensuring that victims' participation in proceedings is not impeded or rendered impossible by the victim's irregular status of residence (Question Pr 5.5)?

Data gathered in respose to this question consists to an extent of the interviewees' convictions or suspicions rather than experiences and knowledge. Many interviewees from groups J, L and P, had difficulties answering this question or provided no answer. Some noted that they have not had any such cases (PL/J/1, PL/J/3, PL/PL/J/5) or really few (PL/L/2, PL/L/4). Only interviewees from group S noted relevant experiences and had migrant clients, some even a lot (PL/S/1). In general, it seems that the situation of migrants in an irregular situation is more difficult than that of other interviewees.

The received answers, or lack thereof, may suggest that cases of migrants are somehow eliminated at lower levels of proceedings without reaching the courts. Indeed, none of the three judges reported relevant experience. Answers in group S illustrate some of the potential difficulties. For once, according to interviewee PL/S/1 migrant victims experience difficulties in reporting victimisation to the police because they fear expulsion (are threatened by perpetrators). And while interviewee PL/S/1 explicitely stated that the support they offer is not conditioned on victims nationality and legal status, PL/S/2 noted that such victims have no access to legal and psychological aid and problems with finding shelters. Both interviewees observed problems with interpretation. Two more interviewees noted that migrants in irregular situations have more difficulties contacting authorities (PL/L/3) or that there are problems in their accessing justice (PL/S/4).

"Wydaje mi się, że z perspektywy organów ścigania łatwiej jest zbagatelizować taką osobę, bo może się okazać, że ona nagle znika i nie ma z nią kontaktu. I może dojść do takiego założenia, że ta osoba może być mniej aktywna w realizowaniu swoich uprawnień jako pokrzywdzonego"

"It seems to me that from the point of view of the law enforcement it is easier to ignore such a person, because it may happen that he or she disappears with no contact whatsoever. And it may be assumed that such a person is less active in exercising their rights as a victim." (PL/L/3)

Only two interviewees stated that migrants in an irregular status of residence are treated the same way as other victims (PL/P/1, PL/J/7).

5.1.6. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statement (Question Pr 5.6)?

Victims should be offered more opportunities to actively participate in the proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	1	3	0	0	1	5/5
P	0	2	2	0	1	5/5
J	0	0	6	0	1	7/7
L	1	1	1	0	0	3/4

Please provide an analysis and your own interpretation of the results:

Even though slight majority of interviewees who provided an answer to this question (nine out of 17) disagreed that victims should be offered more opportunities to actively participate in the proceedings, there were very clear differences between the groups.

A unanimity was particularly visible in **group J** where all six interviewees who responded to this question disagreed with that statement. Perhaps this may be explained by the fact that they tended to think in terms of the available laws (legal opportunities) and not the practice.

> *"Uważam, że przepisy stwarzają możliwość aktywnego uczestniczenia. Nie ma tutaj potrzeby, żeby rozbudować te procedury"*
>
> *"In my opinion, the law enables the victim to actively participate in the proceedings. There is no need to further develop these procedures". (PL/J/2)*

In general, those who disagreed with the statement believe that enough legal possibilities have been provided for the victim to actively participate in proceedings (PL/J/2, PL/J/3, PL/J/6, PL/P/1, PL/P/2, PL/L/3). For example, PL/J/6 stated that it is important to motivate victims to use the rights that they currently have. Interviewee PL/P/1 when addressing this issue actually listed various relevant legal institutions when the victim has influence on proceedings (e.g. evidentiary motions), when the victim is consulted or his/her consent is required (e.g. plea bargaining). He also at this point noted changes in the regulation concerning victims which he considered very important, i.e. concealing the victim's address in special attachments to case files. The interviewee seemed convinced that Polish law offers many possibilities for victims, but they are not fully employed. The reasons for this state of affairs he located both on the side of professionals and victims:

> *"Ja uważam, że my bardzo dużo mamy tych przepisów, tylko czasami może po prostu brakuje odwagi osób, które wydają decyzje. Ja nie mówię tylko o policji, ale na przykład z kręgu prokuratury. Albo po prostu wychodzi sytuacja taka, że sam pokrzywdzony nie ufa na tyle, żeby wierzyć, że postępowanie będzie zmierzać do osiągnięcia jego celów. "*
>
> *"I think that we have many such provisions, but sometimes perhaps the people who make such decisions do not have enough courage. I don't talk only about the police, but also about the prosecution circles. Or simply there is such a situation that the victim does not have enough trust to believe that the proceedings will lead to his goals." (PL/P/1)*

In contrast to other groups, in group S all those who answered either strongly agred or agreed that this was the case. When it comes to concrete examples of changes in legislation, interviewee PL/S/1 agreed that victims should either be a party to proceedings at all stages or be able to join as a party at any stage.

> *"Q: Ofiarom należy zapewnić większe możliwości aktywnego uczestnictwa w postępowaniu.*

A: Zdecydowanie tak, i to powinno być na każdym etapie a nie tylko do momentu wszczęcia postępowania [niewyraźne].

Q: Przepraszam, jeszcze tylko [pytanie], żeby dobrze zrozumieć. Czyli powinny być stroną przez cały czas?

A: Tak. To znaczy nie wiem, czy to zgłaszać, czy właściwie powinny być stroną, albo móc zgłosić chęć bycia stroną na każdym etapie. A może w ogóle nie powinno być tego przepisu, tylko każdy powinien być stroną we własnej sprawie.

Q: Albo inaczej – opt out, czyli mówi, że nie chce być [stroną].

A: No tak. No właśnie. A tak, to jednak jest to jakaś tam bariera, że trzeba wiedzieć. A, tak jak powiedziałam, różnie panie tę informację przyjmują, no bo właśnie nie zgłoszą, bo zapomną. A potem już nie można być tą aktywną stroną. No plus powinny być też jakoś przygotowywane."

"Q: Victims should have more opportunities for active participation in proceedings.

A: Definitely yes, and this should be the case at each stage and not only until the initiation of proceedings [inaudible]

Q: Just so I understand correctly, so they should be a party at all stages?

A: Yes. I mean I don't know whether they should be able to declare, or whether they should be a party by default, or whether they should be able to declare their will at any stage. Or maybe there should be no such provision and everyone should simply be a party to their case.

Q: Or still different – an opt out, so they would declare that they don't want to be [a party].

A: Yes. Exactly. And for now, this is some sort of a barrier. One has to know [about this]. And, like I said, the perception of this information among women varies, and they don't declare, or they forget. And later on it is no longer possible to be an active party. Plus, they should be somehow prepared." (PL/S/1)

A similar observation was made by interviewee PL/L/4 who noted that the victim should be a party to court proceedings, but instead of using the opt in mechanisms the law should introduce on an opt out option:

"Ja uważam, że to powinno być zmienione. To jest strasznie archaiczny model. Ja rozumiem, że państwo jest oskarżycielem i to w gestii państwa znajduje się ściganie sprawców przestępstw, ale doszliśmy do takiego etapu, gdzie dostrzega się i szanuje się sytuację procesową pokrzywdzonego. Ja bym to w ogóle zmienił – ja bym wprowadził zasadę, że pokrzywdzony staje się stroną postępowania karnego w stadium jurysdykcyjnym w roli oskarżyciela posiłkowego, natomiast jeśli nie chce, to niech złoży oficjalne oświadczenie, że nie chce występować w tej roli"

„I think this should be changed. This is a terribly archaic model. I do understand that the state is a public prosecutor and it's up to the state to pursue criminals, but we've reached a stage at which the victim's rights are recognized and respected. I would change that – I would introduce a rule in light of which victims would be a party of the court proceedings, but if they don't want to they can present an official statement refusing to participate". (PL/L/4)

Interviewee PL/L/1 had problems to comment on this question and eventually did not answer clearly stating: *"That is absolutely obvious, but what do we have in mind?" ("To jest absolutna oczywistość, tylko co mamy na myśli?").* He noted that the Polish code aims to treat the victim as a subject. On the other hand, the victim is not necessary for the proceedings to continue. So the accused is always a party to proceedings, but the victim only when they so decide. *("Nasz kodeks dąży do upodmiotowienia osoby pokrzywdzonej, ale z drugiej strony osoba pokrzywdzona nie jest niebędna do tego – jako strona – żeby proces się toczył."* / *„Our code aims at a subjective treatment of the victim, but on the other hand the victim is not indispensable – as a party – for the proceedings to continue."*) When prompted by the interviewee, he noted that it would be possible to introduce a change whereby a victim is a party to the proceedings, but can use an opt out mechanism:

„Q: A jakby tę opcję troche odwrócić. Bo teraz jest taka opcja opt in, czyli możesz przystąpić do postępowania. A jakby ją odwrócić i powiedzieć, że co do zasady pokrzywdzony jest stroną postępowania sądowego, ale może nie być aktywana albo zrezygnować z tej roli. Czy to jest w ogóle możliwe?

A: To znaczy tak, każdy pokrzywdzony po tym, jak wpłynie akt oskarżenia do sądu jest zawiadamiany o pierwszym terminie rozprawy i do tego momentu, do otwarcia przewodu sądowego powinien podjąć decyzję, czy będzie występował jako strona czy też nie. Więc to podejście jakie prezentujesz niewiele może się różnić z takiego formalnego punktu widzenia, bo należałoby na przykład przyjąć, że osoba miałaby oświadczyć, że nie chce z tego prawa korzystać. Ale rozumiem, że to pytanie ma też pewne drugie dno. Innymi słowy, że ta osoba nie musi w ogóle oświadczać, czy chce czy nie i może w zasadzie występować i może przychodzić na jakiś termin rozprawy, kiedy uważa, że wymagają tego jej interesy.

Q: Tak.

A: No jest to przemyślenia. Myślę, że to byłaby już kwestia trochę techniczna. Techniczna w tym sensie, że tak naprawdę trzeba by po prostu objąć tą całą obsługę administracyjną. […] Ja tu nie widzę wielkiego problemu."

"Q: And what if we turned this around. Now we have an opt in option, so [the victim] can join proceedings. And if we turned it around and said that as a rule the victim is a party to court proceedings, but can be less active or can resign from this role? Is this even possible?

A: Well, each victim, after the act of indictment is filed with the court, is informed about the first hearing at a trial and until this moment, until the beginning of the trial, should make a decision whether they join as a party or not. So this option that you present does not differ much from this, from a formal perspective, because the victim would have to declare that they do not want to use this right. But, I understand that this question has a deeper level. In other words, this person would not have to declare whether they want or not, and would be able to come to a hearing whenever they thought that their interest so required.

Q: Yes.

A: Well, this could be considered. I think that this would be a bit of a technical matter. Technical in the sense that this would have to be covered by administrative services. […] I don't see a big problem here." (PL/L/1)

Interviewee PL/S/1 also noted that victims should be prepared to play an active role in the proceedings, e.g. through workshops, while judges and prosecutors require more sensitization to be able to better cooperate with victims of domestic violence and sexual violence. Interviewee PL/S/2 added that the possibility of actively participating in the proceedings should be supported by a wider access to psychological aid, which will help victims to overcome the difficulties of both post-crime trauma and trial. Interviewee PL/S/3 had difficulties answering this question, since on the one hand she believed victims should be offered more opprotunities to participate, but was also aware that certain persons should be protected from participating in the proceedings.

As stated above, a significant group of interviewed representatives of the law enforcement and justice system believe that there are enough legal opportunities for victims, but these opportunities are not used to the fullest in practice. At the same time, it is not clear that they are fully aware of their own role as key to securing that victims' rights are implemented in reality. They tend to relegate the task of "taking care of te victim" to other professionals involved:

"Częstokroć są takie sytuacje, że osoba, która szuka pomocy ona na pewnym etapie – być może to też jest związane z więzią jaka łączy czasami te osoby ze sprawcą – ona się wycofuje z postępowania. I na początku, chcąc podjąć współpracę, […] zaczyna składać materiał dowodowy, zeznania, a później się z tego wycofuje. To nie jest kwestia policji, tylko kwestia organizacji, instytucji pomocy społecznej…"

„Oftentimes there are situations when a person who seeks help at a certain stage – perhaps due to the relationship with the perpetrator – she withdraws from proceedings. And at the beginning, in a desire to cooperate […] begins to provide evidence, testifies and then withdraws from everything. This is not a matter for the police, but for organizations, institutions of social assistance…" (PL/P/1)

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Przesłuchania w niebieskim pokoju nie są miejscem na zajmowanie się ofiarą i dostarczanie jej opieki. To bardziej zadanie policji. My mamy ustalić pewne faktu.

Hearings in the Blue Room is not the time and place to take care of victims and support them. It's rather the police's job. We are supposed to establish facts. (PL/J//6)

5.2. Views of victims

5.2.1. According to the victims interviewed, were they heard during the proceedings at important stages or before decisions were taken (Question V 5.1)?

Interviews with victim show that victims can be and mostly are heard more than once, however the purpose of such hearings is not to learn the victims' opinions, but for them to testify in the capacity of a witness. In this sense, the treatment of victims in proceedings does prove, to an extent, instrumental.

Half of the victims were heard more than once. Six interviewed victims were heard twice to provide testimony (PL/V/5, PL/V/11), including four who were heard once by the police and once by the court (PL/V/1 - 2012, PL/V/2, PL/V/4, PL/V/6). Interviewee PL/V/9 was heard as a witness three separate times: once by the police, once by the prosecutor and once by the judge during the court trial.

Another half of the victims were heard only once in order to provide testimony (PL/V/1 - 2016, PL/V/3, PL/V/7, PL/V/10, PL/V/12, PL/V/8). In such cases, the hearing was usually conducted at a police station soon after reporting the crime, in two cases the police heard the victim at a hospital (PL/V/10, PL/V/12). However, it is important to note that in some of those cases, the proceedings either were discontinued (PL/V/1 – 2016, PL/V/10) or have not been opened at the trial stage at the time of the interview (PL/V/8). Interestingly, during an interview, interviewee PL/V/8 stated that he has not been heard during important stages of proceedings, nor before some decisions were made.

It is also interesting to describe the situation of interviewee PL/V/5, a victim of domestic violence who testified twice. The second hearing took place recently—two years after the criminal proceedings in her case had been initiated. The accused suggested that the interviewee had mental health issues, which is why she was heard in the presence of a court-appointed psychologist. The hearing did not confirm or deny the offender's insinuation. The whole situation, however, confirms an observation expressed by interviewee PL/S/1 who noted that it is often the case that victims of domestic violence are heard repeated times with participation of court-appointed experts on account that they are not mentally stable etc.

Interviewee PL/V/12, in turn, provided examples from two proceedings which show completely different practices. During the first proceedings, the interviewee testified once (in the hospital). He could attend the trial but, having conferred with his lawyer, he decided not to participate because the proceedings took place in P. and the interviewee would have to travel there from Ł. At one point, he also received a written notice to appear in court for a hearing on the offender's motion for temporary release from prison; the interviewee was informed about the motion and asked for an opinion. This is the only such situation described by the interviewed victim were the purpose of the hearing was to learn the victim's opinion. However, during the second proceedings, the police called the interviewee after his initial interview to show him a CCTV video recording. In the interviewee's opinion, the only purpose of the viewing was to undermine his credibility and persuade him to drop the charges.

5.2.2. During the investigation, were the interviewees informed that they could ask for the evidence they considered relevant to be secured (Question V 5.2)?

The interviews show that victims are not effectively informed about their right to ask for evidence. Despite not having full information, victims try to play an active role in the proceedings by pointing to relevant evidence. In such cases, the success of their request/motion depends on the representative of the law enforcement in charge of proceeings. However, sometimes victims are left with no information as to the effects of their requests.

The majority of interviewees stated that they were not informed (PL/V/1, PL/V2, PL/V/3, PL/V/4, PL/V/6, PL/V/7, PL/V/8, PL/V/9) about the possibility to ask for the evidence they considered relevant to be secured during the investigation. However, in case of some victims (PL/V/3, PL/V/4, PL/V/7, PL/V/8) their answers to other questions suggest that they did receive the standard letter of rights which does contain information on a possibility of submitting evidentiary motions during the investigation. This may suggest either that interviewees do not remember

the content of the notice, did not understand it or did not actually read the letter. This, in turn, adds to the argument that simply handing out a written list of rights does not satisfy the requirement of effective information. And considering that interviewee PL/V/4 is a very well-educated person, the effectiveness is not related that much to the level of education.

Half of the interviewees noted that they provided the police or prosecutor with evidence or requested that it be secured (PL/V/2, PL/V/3, PL/V/4, PL/V/5, PL/V/7, PL/V/9), even despite not receiving relevant information. The experiences described by interviewees PL/V/2, PL/V/4, PL/V/5 show that victims' suggestions or motions in this respect are not always satisfied or that victims do not really know whether their motions brought any effects. Interviewee PL/V/2 who represented her victim daughter was not informed about the right to call for evidence to be secured, but she told the police about certain evidentiary material. At one time, the police secured evidence requested by the interviewee, but at another time, it did not. Interviewee PL/V/4 asked (verbally) for securing a recording from a camera at the entrance to the police station. He wished to document the time and state in which he appeared at the police station immediately after being beaten. According to the interviewee, his request was not mentioned in the case files. Interviewee PL/V/5 stated that in the case concerning the abuse of her youngest child, she asked the prosecutor to secure all evidence she considered relevant, but did not know whether the prosecutor secured the evidence or not, as she did not have an opportunity to talk to the prosecutor.

Two interviewees were not able to provide answers to this question. Only interviewee PL/V/12 stated that, during his first proceedings, he was informed about his right to call witnesses, such as friends who accompanied him when the offence was committed. Interviewee PL/V/7 was eventually provided with information about this issue by an NGO offering legal support to victims.

5.2.3. During court trial, were the interviewees informed that they could call for any evidence that they considered relevant (Question V 5.3)?

In light of the Polish provisions regulating criminal proceedings, the victim can call for evidence that they consider relevant to be secured during court trial, if they sufficiently early join court proceedings as an auxiliary prosecutor. This is because the right to call for evidence is enjoyed by the parties. While the victim by default is a party to pre-trial proceedings, they are not a party to court proceedings without officially joining in the above-named capacity. Therefore, in order to be able to call for evidence during trial, victims need to be informed sufficiently early about the possibility of joining proceedings as an auxiliary prosecutor. Information on this subject is included in the official letter of rights which should be handed out to victims before the first hearing, usually at a police station. In other words, the victim would not be informed about the possibility of calling for evidence if they were not an auxiliary prosecutor, as according to Polish law they would not have such a right.

The answers to this question were divided. Additionally, not all interviewees took part in a trial (PL/V/8, PL/V/11). Three interviewees explicitely stated that they were informed about this right during court proceedings (PL/V/5, PL/V/6, PL/V/12). It is important to note that interviewees PL/V/5 and PL/V/6 did, in fact, join court proceedings as auxiliary prosecutors. It is not clear whether interviewee PL/V/12 enjoyed this status as well. Even though interviewee PL/V/3 did not state clearly that she was informed about the right to call for evidence, she acted as an auxiliary prosecutor and did call for evidence during trial, which suggests that she also had relevant information.

Three interviewees stated that they were not informed about the possibility of calling for evidence to be secured (PL/V/2, PL/V/4, PL/V/7). With an exception of interviewee PL/V/4, they did not act as auxiliary prosecutors in the proceedings either. In this sense, the results of the interviews were not surprising. One interviewee (PL/V/1) stated that she was informed about this possibility by an NGO offering victim support services.

Interviewee PL/V/9 did not provide a clear answer, however he did call for evidence during trial and the evidence was admitted:

Czy podczas rozprawy został pan poinformowany o możliwości zgłoszenia dowodu w sprawie?

Po całej fali kłamstw ze strony oskarżonych poinformowałem sąd, że posiadam jeszcze jedno nagranie, które zaprzeczy ich zeznaniom. Pani sędzia stwierdziła, że mogę dołączyć to nagranie i zostało ono włączone [do materiału dowodowego].

During the trial were you informed about a possibility to file an evidentiary motion in the case?

After a whole series of lies from the defendants I informed the court that I have one more recording which will contradict their testimony. The judge concluded that I can attach this recording and it was included [with the evidentiary material]. (PL/V/9)

5.2.4. During court trial, were the interviewees informed that they could ask questions or have questions being put to witnesses (Question V 5.4)?

When it comes to the legal framework, the remarks made under question 5.2.3. apply to this point as well. It is the party to proceedings who can ask questions or have questions be put to witnesses. The victim, in order to become a party to court proceedings, needs to join them as an auxiliary prosecutor. The interviews also indicate that information on the possibility of asking questions is provided dependent on the victim's status.

The answers to this question were divided equally. Four interviewees were not informed about the possibility of asking questions during trial (PL/V/1, PL/V/2, PL/V/7, PL/V/9). However, another four were informed about that right (PL/V/4, PL/V/5, PL/V/6, PL/V/12). Yet again, the division is connected to the victim's status as an auxiliary prosecutor.

Unlike in the previous question, interviewee PL/V/4 was informed about this right. The interviewee could ask the accused questions, but he did not see such a need. He did use the opportunity to make a statement in which he noted a circumstance that had not been previously taken into account. The statement was heard and addressed by the judge conducting the proceedings. Interviewee PL/V/3 stated that, since she called all witnesses she did not have any questions during the court trial. She acted as an auxiliary prosecutor in the case and had a lawyer. Even though she did not state explicitely that she had been informed, she obviously had information of this possibility.

The case of interviewee PL/V/6 is interesting in showing what the lawyers' attitude may be towards victim's activity when it comes to asking questions. The interviewee confirmed that she was informed of an opportunity to ask questions or have questions put to witnesses during the court trial. However, in her answer to another question, she stated that her lawyer suggested that it would "look better" if she did not ask any questions. The lawyer suggested that he, as the interviewee counsel, should ask questions on her behalf.

Two interviewees did not provide answers to this question, as they did not attend the trial (PL/V/8, PL/V/11).

5.2.5. To what extent did the interviewed victims agree to the following statement (Question V 5.5)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
Overall, I would have liked to have more opportunities to be involved in the proceedings.	3	7	1	0	2	13/12*

* One interviewee provided assessments in relation to two proceedings.

Please provide an analysis and your own interpretation of the results:

Out of 12 interviewed victims, 10 agreed, including 3 who agreed strongly, that they would overall have liked more opportunities to be involved in the proceedings.

Among domestic violence victims, i.e. interviews PL/V/1, PL/V/2, PL/V/3, PL/V/5, PL/V/6, PL/V/7, two strongly agreed (PL/V/2, PL/V/7 – they were not auxiliary prosecutors), three agreed (PL/V/1, PL/V/5, PL/V/6, the latter two were in fact auxiliary prosecutors) and one disagreed (PL/V/3). PL/V/3 disagreed as she was an auxiliary prosecutor and retained a court-appointed attorney, she did not seek more opportunities to get involved. She said she would have skipped those trials had her presence been unnecessary.

The research suggests that victims are denied opportunities to be involved not really because of the law which would somehow refuse them rights, but rather because of a poor practice of informing victims about various avenues of getting involved. Victims are not comprehensively and effectively informed about many opportunities of active engagement. In particular, and this is crucial for ensuring their participation throughout the whole proceedings, victims are not well-informed about the auxiliary prosecutor's status (see PL/V/6, PL/V/7). If they do receive an official letter of rights, they learn about it very early and, considering the letter's language and size, may not really understand the concept, which is not explained by the police either. They may learn about this option from NGOs, sometimes too late.

> *Dzięki informacji, że mogę być oskarżycielem posiłkowym, to jak złożyłam ten wniosek to wtedy miałam wgląd do sprawy. Natomiast przy pierwszym takim kontakcie nikt mi nie powiedział, że mogę coś takiego zrobić, że jest taka możliwość i w jaki sposób też mogę się dowiedzieć. Uzyskałam informację: proszę czekać na pismo, tam będzie wszystko wyjaśnione i się temat zamknął. Próbowałam wielokrotnie umówić się z panią prokurator, by dowiedzieć się na jakim etapie jest postępowanie, bo to się bardzo ciągnęło.*
>
> *Thanks to the information that I may be a subsidiary prosecutor, I got access to the case files after I filed a motion. Nobody told me I could do anything like that during the first contact, though. Or how I can learn about it. I was told: wait for the letter, it will all be explained there, and the subject was closed. I tried, many times, to get an appointment with the prosecutor lady, so I could know about the progress of the case, it really dragged along. (PL/V/6)*

The history of interviewee PL/V/7 is a perfect illustration of many problems that victims experience. The interviewee stated that she expected ("either consciously or subconsciously") that her contribution to the proceedings would be significant. Since she did not know much about the law and criminal proceedings, she thought that the judge would inform her about her possible role in the proceedings and ask her and other witnesses to come and provide their testimonies during the trial. However, the interviewee was never asked by the judge to testify. She did not call her own witnesses during the court trial either, because she did not think of anyone in particular and wanted to avoid the perpetrator's reaction. Nevertheless, as she stated, she would have asked some witnesses if the court had requested her to do so. The interviewee was not informed about the case which she thought was caused by the judge's negligence. The interviewee underlined the fact that she wished to act as an auxiliary prosecutor after she had learned about such a possibility. She waited for the court to inform her when the case was going to be examined. Since she received no information, the interviewee went to the court where she was told that the proceedings concerning her case had already been over. Thanks to the legal assistance provided by an NGO, she requested the court to provide her with a judgment and its rationale. She also put forward a motion in order to bring the case back to court.

Victims are addressees of contradictory demands from professionals. On the one hand, professionals say that victims are important sources of information, even expect that victims will be active, facilitating the proceedings (see e.g. PL/P/1). On the other hand, however, they do not particularly appreciate, especially at later stages, when victims are too active (see e.g. PL/L/4). As noted e.g. by interviewee PL/V/6, her lawyer told her that it would "be better" if he, as the interviewee's counsel, asked questions on her behalf. She, therefore, did not ask the witnesses any questions. However, in her opinion, the lawyer did not have enough time to read the case file properly.

> *"A: […] natomiast od pani prawnik usłyszałam, że lepiej, żebym pytań nie zadawała świadkom, bo ładniej będzie wyglądało, jak to będzie robiła ona i pani prokurator, więc też na to przystałam.*
>
> *Q: Ale prawnik..?*
>
> *A: Z urzędu. […] Pani pełnomocnik tak naprawdę miała tylko jeden dzień, żeby zapoznać się z moją sprawą. Niestety tak to wyglądało. Myślałam, że też będę miała czas tydzień wcześniej z nią się spotkać, porozmawiać, przedstawić. Natomiast nie było takiej możliwości. Myślałam, że to zupełnie inaczej będzie wyglądać."*

„A: […] but from the lady lawyer I heard that it would be better if I did not ask questions to witnesses; it would look nicer if the questions were asked by her and the prosecutor lady, so I agreed.

Q: But a lawyer…?

A: Court-appointed lawyer. […] The lawyer in fact had only one day to read my case. Unfortunately, this is what it looked like. I thought that I would have time, a week earlier to meet with her, talk and present [things]. But, there was no such possibility. I thought that it would look different." (PL/V/6)

Victims' activity in proceedings may also be limited by insufficient insurance of their safety. For example, in an answer to this question, interviewee PL/V/5 – a victim of domestic violence – noted that she wanted to get more involved in the criminal proceedings, but was scared of the offender's possible reaction. The interviewee stressed that she had to rethink her every move as she felt insecure.

6. Protection against secondary victimization

6.1. Views of practitioners

6.1.1. According to the practitioners interviewed, do the police on an individual basis assess whether measures need to be adopted in order to protect a victim of violent crime against secondary victimisation (Question Pr 6.1)?

A vast majority of the respondents stated that the police do not assess on an individual basis the need to adopt measures to protect victims from secondary victimisation. Even though the respondents defined individual needs of victims very broadly (including both application of protective measures and measures preventing secondary victimisation), few of them could present any examples when such an assessment was carried out.

"Generalnie wszystko zależy od takiego ludzkiego wyczucia konkretnego policjanta. Nie ma jakieś kategoryzacji spraw, które wskazywałaby w jaki sposób podchodzić do konkretnych potrzeb pokrzywdzonego"

"Basically, everything depends on the intuition of a given police officer. There is no categorisation of cases that would say how to approach specific needs of a victim." (PL/L/3)

The main problem with assessing the individual needs of victims is related to the fact that the police do not have any specific guidelines in this regard. One respondent (PL/S/3) stated that the Ministry of Justice's Council for the Rights of Crime Victims' prepared two tools that help to assess the individual need of crime victims. However, after the parliamentary elections in 2015, the Council was abolished and the interviewees (PL/S/3 and PL/S/4) could not provide any further details regarding the implementation of this tool. Moreover, all the respondents from **group P** stated that the police do not use any special tools in this field. The respondents from **group P** stated that the police try to adjust to victims' needs (PL/P/1) and expressed some doubts regarding the necessity to provide yet another tool which would help them to properly assess victims' needs.

„Jestem jednak przeciwnikiem takiego formularza. Góra, nasi przełożeni, nie patrzyliby na to racjonalnie, ale pod kątem kolejnego papieru, który musi być. Jeśli można odpuścić biurokracje, to to zróbmy"

„Yet, I'm not a fan of such a form. The brass, our superiors, wouldn't look at it from a rational point of view; they would treat it as another mandatory paper. If you can skip paperwork, do it." (PL/P/2)

One of the interviewees (PL/S/5) stated that the police assess individual needs of victims, however in her opinion it is not done in a satisfactory way. The responses of the interviewees from **group P** revealed a rather narrow array of measures and practices applied in this field. The respondents stated that usually such an assessment is done only in relation to victims of rape or sexual violence and children victims of crimes (PL/L/4). The respondents'

answers show that the police's adjustment to victims' needs is limited to interviewing the victim by a person of the same sex and asking very basic questions, since in the light of the Code of Criminal Procedure a victim of these crimes should be heard by a judge.

Only one respondent indicated different protective measures, such as e.g. keeping victim's address secret, limiting the number of hearings and carrying out a hearing by a judge (PL/J/1). Also, one of the respondents (PL/P/2) stated that every victim of serious crimes is given a private phone number to the police officer who deals with their case. The interviewee stated that whenever there is a risk that a person may be victimised again, they may call the police. This solution, showing a great engagement of the police in the process of victim protection, cannot however be further developed due to the police's overload with cases.

Interestingly, some respondents provided opinions in light of which secondary victimisation is hard to avoid, especially given the fact that, in the opinion of these respondents, the interview itself carries a risk of potential victimisation.

> *„Wtórna wiktymizacja zawsze jest przy przesłuchaniu. Policjanci przy pierwszym przesłuchaniu powinny zebrać jak najwięcej informacji. Żeby nie było dosłuchiwania.(…) Uczulałbym policjantów, aby pisali jak najdokładniej i dopytywali się o jak najwięcej szczegółów."*

> *„There is also secondary victimisation during an interview. At the first interview, police officers should collect as much information as possible. So that another interview isn't necessary (...) I would instruct police officers to take very detailed notes and ask about every possible detail." (PL/P/2)*

6.1.2. According to interviewees, are measures adopted routinely in order to avoid that the victim is confronted with the offender

a) in the court building during the trial or

b) at other occasions (e.g. an identity parade or the recording of the victim's statement; Question Pr 6.2)?

Almost all the respondents from **groups S and L** admitted that there are no routinely adopted measures in order to avoid victims' confrontation with the offender. Respondents admitted that these measures are still missing, and those which might be used are not properly implemented in practice.

> *"Rutynowo to oni tego nie robią, co jest dramatem, bo często naprawdę niewiele trzeba, żeby np. zaplanować przesłuchanie na różne godziny."*

> *"They don't do it* [adopt specific protective measures] *routinely. That's a real shame because it doesn't take much to, say, schedule different timeframes for hearings." (PL/S/3)*

By contrast, all the respondents from **group P** stated that such measures are applied. Respondents' answers mainly concentrated on the aspect of preventing the confrontation between the victim and the perpetrator. Respondent PL/P/1 stated that there are certain regulations in the Code of Criminal Procedure which can be used to avoid confrontation between the victim and the perpetrator during e.g. an identity parade. For example, victims use different court entrances or can be separated at an identity parade. On the other hand, in reference to avoiding the confrontation between the victim and the perpetrator in the court, the respondents from group P were not very certain whether such a possibility is available. Two of the interviewees (PL/P/2 and PL/P/5) even stated that such a confrontation is hard to avoid. Furthemore, none of the respondents from this group stated that these measures are applied routinely – only one respondent (PL/P/1) stated that such measures can be used when the victim informs law enforcement that he or she is afraid of the perpetrator. The respondents from **group P and J** admitted also that it is particularly difficult to separate a victim from the perpetrator during the court trial. However, two of the interviewed judges (PL/J/2 and PL/J/5) described some practices in this field. The respondent PL/J/2 stated

that upon victim's request the court can hold the hearing of a victim in the absence of the offender, who is ordered to leave the courtroom. Yet again, this is not a routine procedure and has to be carried out upon the request of a victim.

> *„Jeśli człowiek napisze, że się boi to robię tak: sekretarz dzwoni do niego i mówi, żeby czekał pod szatnią, a nie pod salą. Wyprowadzam oskarżonego do pokoju narad. Dopiero wtedy sekretarka idzie po człowieka pod szatnie."*
>
> *"If a person writes they're afraid, I do this: a court clerk calls them and tells them to wait next to the cloakroom and not before a courtroom. I lead the accused to the conference room. Only then a secretary goes for a person waiting in the cloakroom." (PL/J/5)*

Another judge (PL/J/1) did not note any routine protection measures used at the trial stage.

> *"Nie stosujemy zabezpieczeń (w sądzie – red.), aby odseparować sprawcę od pokrzywdzonego."*
>
> *"We don't use protective measures* [in court ed.] *to separate the perpetrator from the victim."(PL/J/1)*

Furthermore, the lack of routine practice in applying protection measures was also spotted by two interviewed prosecutors (PL/J/3 and PL/J/4). These respondents stated that if the perpetrator is not detained it is very likely for a victim to meet the offender in the area adjoining the courtroom's entrance. Such an assumption was used by one of the respondents (PL/J/3) to present an opinion that given this risk there is no justification for implementation of protection measures.

> *"Nie wydaje mi się, żeby była taka konieczność, bo pokrzywdzony i sprawca mogą się spotkać na przystanku. Są oczywiście takie środki w stosunku co do np. osób tymczasowo aresztowanych"*
>
> *"I don't think it is necessary. The victim and offender can meet each other at a bus stop. Such measures are implemented against offenders remaining in pre-trial detention." (PL/J/3)*

The lack of any routine in applying protective measures may lead to examples of bad practice in this field. The respondents from **group S** presented a couple of examples of bad practices such as e.g. victim sitting in the same room as the defendant during the identification process (PL/S/4) or informing victims by court administration that it was very possible that she would face her perpetrator in the court building (PL/S/5).

6.1.3. According to interviewees, do victims have a right to ask to be interviewed by or through a professional trained for that purpose (Question Pr 6.3)?

There is no right for the victim to be heard by a law enforcement professional trained for that purpose. The Code of Criminal Procedure provides a special hearing regime only in relation to victims of certain types of crimes (such as sexual crimes or crimes against minors).

The respondents' answers revealed some misunderstanding of this question. Many respondents interpreted "professional training" in the context of law enforcements' specialisation. The respondents from **group P** usually stated that victims do have a right to be heard by a trained professional. The respondents stated that within police units there are law enforcement officers specialising in certain types of crimes. On the basis of this fact, respondents from group P stated that police officers have skills needed to interview victims of e.g. crimes against health or life. One of the respondents even admitted that experience is more important than training (PL/P/3) which might also be connected to the practice described by another interviewee (PL/P/2) who stated that in cases of the most brutal crimes the most experienced law enforcement officer is delegated to interview the victim. Furthermore, in the opinion of respondent PL/J/7, law enforcement officers gain certain specialisation by the sheer fact of dealing with the most common crimes, such as e.g. domestic violence.

> *"Przestępstwo znęcania się jest tak powszechnym przestępstwem […] normą jest, że te osoby przyjmowane są przez funkcjonariuszy z wydziałów dochodzeniowo-śledczych i nie ma problemów"*

„Domestic violence is such a common crime […] it is a rule that these victims are heard by police officers from investigation departments and there are no problems" (PL/J/7)

Similar overlap in the interpretation of the concepts of specialisation and training was repeated by the prosecutors (**group J**). The interviewed prosecutors stated that within their units there are prosecutors specialising in investigating certain crimes. Furthermore, two prosecutors (PL/J/4 and PL/J/6) pointed at some trainings for prosecutors on interviewing victims. The scope of this training covers different subjects such as anti-discrimination law, human rights and the development of soft skills. Despite this training, these two prosecutors still were quite critical when it comes to assessing the practice of interviewing a victim by a professionally trained person. One of the interviewees (PL/P/4) stated that not all prosecutors in her department were able to properly interview a victim of a sexual crime. Therefore, an internal specialisation scheme was developed and certain cases are assigned only to designated prosecutors. Furthermore, one prosecutor (PL/J/6) stated that in their court there is one judge specialising in hearing victims of sexual violence.

„W naszym sądzie mamy jedną sędzię wyspecjalizowaną w słuchaniu ofiar przestępstw seksualnych. W dużych sądach przesłuchują wszyscy sędziowie i nie wszyscy są do tego przystosowani. Płeć i osobowość są istotne. Można być ciepłym facetem wzbudzającym zaufanie i można być też wredną kobietą, której pokrzywdzony się będzie bał."

„In our court we have one judge specialized in hearing victims of sexual violence. In big courts, all judges conduct hearings and not all are prepared to do this. Sex and personality are important. One can be a tender guy evoking trust and a mean woman who will scare the victim." (PL/J/6)

Apart from crimes against minors or sexual violence, the scope of specialisation also embraces hate crimes. Two lawyers from **group L** (PL/L/2 and PL/L/3) pointed at the specialisation within prosecutors' offices to investigate hate crimes. However, the interviewees could not assess the work of these units, since they did not have relevant information on this matter.

"Wiem chyba, że są, tylko nie wiem, czy na poziomie policji czy prokuratury, jeśli chodzi o te przestępstwa z nienawiści, to chyba jest jakieś rozporządzenie, które wskazuje prokuratury, które są odpowiedzialne za prowadzenie takich postępowań"

"I think I know there are departments dealing specifically with hate crimes, within the police force and prosecutor's offices, there's probably a ministerial regulation that designates prosecutor's offices in charge of conducting such proceedings." (PL/L/3)

Despite some positive developments in the field of training law enforcement bodies in interviewing victims, still in the opinion of respondents from **group S** the situation is far from perfect. A vast majority of the interviewees in this group admitted that the right of the victim to be hear by a professionally trained law enforcement official is not properly implemented in practice. The interviewees presented a couple of examples of bad practice in this field, such as e.g. multiple hearings of the victim, police's arrogant approach towards victims or an insufficient number of trained police officers.

6.1.4. Can victims ask to be interviewed before the court trial and to have their statement audio-video recorded and played during the court trial (Question Pr 6.4)?

In general, according to the Code of Criminal Procedure a single hearing which would be audio-video recorded is available only in the special hearing regime for victims of sexual crimes and crimes against minors. Although the awareness of the possibility to record the hearings is high among the interviewees, still it seems that this possibility is not properly used in practice.

This question revealed significant discrepancies in interpreting this possibility. Almost all interviewees from **group S and L** stated that victims do have the right to video-record their interview. By contrast, an opinion of interviewee PL/J/4 seems very interesting. The respondent believes that recording the hearing is not the victim's right, but a

decision of the prosecutor. Similar opinion was presented by respondent PL/L/3 who stated that there is no legal provision that would oblige law enforcement bodies to record victims' hearings whenever the victim so wishes.

Almost all respondents agreed that the law provides a possibility for a victim to have their hearing recorded, however, almost each group pointed at significant problems in implementing this provision in practice. The respondents from **group S** stated that such a possibility is rarely or never used, and they could not recall any case in which the hearing was recorded. Similarly, the interviewed respondents from **group P** admitted that such a possibility is not often used. In their opinions, it involves additional time and efforts (PL/P/2).

> *"[Nagrywanie przesłuchania – ed.] to jest czynność bardzo trudna. Trzeba mieć technika kryminalistyki. Przepis istnieje, ale jest martwy. (…) Nie ma takiej konieczności. To nie są tego rodzaju sprawy."*
>
> *"[Recording an interview – the interviewer's note] is a very difficult thing to do. You need a forensic technician. There is a law but it is defunct. (...) There is no need for this. These are not such cases." (PL/P/2)*

Furthermore, wider development of the practice in this field would result in costs that would be unbearable for the financial and technical capacity of the police (PL/P/1).

The answers to this question also revealed interesting perception of the audio-recording as a factor that would lead to a potential secondary victimisation. Respondent PL/P/2 stated that victims may experience secondary victimisation when they are forced to participate in the hearing during which such a record would be played.

> *„Dla ofiary, odsłuchanie tego wszystkiego, widok płaczu, to (…) byłaby dopiero wtórna wiktymizacja. (…) Inaczej niż odczytanie protokołu. To czasem chroni nawet przed wtórną wiktymizacją"*
>
> *"For a victim, having to listen to all this, seeing the crying, this (...) would be secondary victimisation. (...) It's different when a transcript is simply read out. It sometimes even protects from secondary victimisation." (PL/P/2)*

Secondly, one of the prosecutors (PL/J/4) stated that recording of the hearing, if played at e.g. the stage of court trial would make the victim feel uncomfortable.

> *„Nie zawsze ofiara chce, aby przesłuchanie było rejestrowane. To by je spinało (…). Nie wyobrażam sobie, aby którykolwiek z pokrzywdzonych chciał tego."*
>
> *"Some victims don't want the interview to be recorded. This would make them tense (…) I can't imagine any victim would want that." (PL/J/4)*

Furthermore, the answer of one respondent (PL/J/6) showed that the right to audio-record a hearing is interpreted in a very fragmentary way. The respondent stated that if a person is a victim of rape and robbery then their testimonies will be recorded only in relation to the investigation concerning rape. However, in a case of robbery they could be heard numerous times. As a result, such a person may feel victimized at least two more times.

> *„Fikcją są pojedyncze przesłuchania. Sąd w Ż. jak przesłuchuje ofiarę rozboju i gwałtu to przesłuchują ją tylko na okoliczność gwałtu. Więcej go nie interesuje. Ta osoba musi być przesłuchana raz jeszcze na okoliczność rozboju. […] Widziałam takie przesłuchania, gdy osoba chciała mówić także o drugim elemencie czynu, bo było to sekwencja zachowań sprawcy, a sąd jej nie pozwolił i kazał mówić tylko o tym aspekcie seksualnym"*
>
> *"A single hearing is a fiction. When the court in Ż. hears the victim of battery and rape then it hears her only on account of rape. It is not interested in anything more. This person needs to be heard once again on account of battery. […] I have seen a hearing when a person wanted to talk about the second element of the act because this was a sequence of actions by the perpetrator, and the court did not let her and asked her to talk only about the sexual aspect." (PL/J/6)*

Only a few respondents analysed this issue in a context broader then the regime of special hearings regulated by the Code of Criminal Procedure. Two respondents (PL/L/3 and PL/J/7) noted that in case of certain victims, such

as e.g. elderly or sick persons, the second hearing at further stages of proceedings may not be possible, so given the efficiency of the entire proceedings, it is better to audio-video record their first hearings.

6.1.5. According to the interviewed practitioners, do victims have a right to ask, during the court trial, to be heard without the presence of the public (Question Pr 6.5)

In general, all court sessions in criminal cases are open to the public. However, there is a possibility provided by law that upon a decision of the court, the session can be carried out behind the closed doors. All respondents stated that victims do have a right to be heard without the presence of the public, including the offender. The respondents indicated that it happens in cases concerning sexual violence or sensitive cases.

Although this possibility is used in practice, some respondents, especially from **group S**, stated that it is not used often enough. One of the reasons for it might be a discrepancy which was revealed in the respondents' answers concerning who can request a hearing without the presence of the public. In the opinion of prosecutor PL/J/4 no special motion in this regard is needed, since courts grant this right to victims in the majority of cases of sexual crimes. A similar opinion was presented by one of the judges (PL/J//2) who stated that this measure is primarily used in cases of crimes against sexual liberty. On the other hand, one of the respondents from group S (PL/S/3) stated that such a measure is possible to obtain only upon a firm request of the victim. A similar observation was shared by one of the lawyers (PL/L/4) who formulated an even broader conclusion that a victim cannot apply for such a possibility, if they are not an auxiliary prosecutor. In his opinion, this particular situation shows a disproportion between the position of the victim and the victim acting as an auxiliary prosecutor.

> *"To jest ciekawe z punktu widzenia szkód, jakie mogą zostać wyrządzone takim pokrzywdzonym. Gdybyśmy odwrócili sytuację i gdyby pokrzywdzony mógł być ex lege stroną procesu, to mógłby złożyć wniosek, aby rozprawa toczyła się, w zakresie składanych przez niego zeznań, z wyłączeniem jawności"*
>
> *„It is very interesting from the point of further damages which can be caused to victims. If we turned the situation, and a victim could be a party of the proceeding ex lege, then he could submit a motion to carry out the proceeding in aspect of his hearings behind the closed doors". (PL/L/4)*

6.1.6. According to the interviewees, do victims of sexual or gender-based violence have a right to ask that they are interviewed by a person of their sex (Question Pr 6.6)?

For the purpose of this analysis, it is important to separate victims of sexual crimes form victims of gender-based violence. In general, victims of sexual crimes will be treated differently in terms of hearings than victims of gender-based violence. According to the Code of Criminal Procedure, victims of sexual crimes should be heard by a judge within a special protective regime.

The analysis of respondents' opinions showed that victims (especially victims of sexual or gender-based violence crimes) can be heard by a person of their sex, however they can ask for such a possibility, but such a request does not have to be met . There is no specific provision establishing such a right in the Code of Criminal Procedure. Some respondents, however, said that victism have such a right (e.g. PL/S/5, PL/J/1, PL/J/4). Perhaps for this reason, respondents' answers showed that the implementation of this measure in practice causes many problems. Some respondents (PL/S/3, PL/P/5 and PL/L/3) stated that such a practice is not very common. On the other hand, some of the respondents stated that such a practice is used mainly in the cases concerning sexual crimes (such an opinion was mainly shared by the respondents from groups S and P). These discrepencies show that there is a general awareness of the necessity to implement such a protection measure, however the practice in this regard is not unified. One of the prosecutors stated that there is no such rule in her unit:

> *"Raczej nie ma takiego rozgraniczenia, że przestępstwa na tle seksualnym prowadzi tylko funkcjonariusz kobieta albo prokurator kobieta i jeszcze sądzi kobieta-sędzia. Ewentualnie mogą być takie okoliczności brane pod uwagę, ale raczej się tego tak nie rozgranicza"*

"Generally speaking, there is no requirement that investigations in cases of sexual violence should be led by a female police officer or a female prosecutor, and then [such cases should be] *ruled by a female judge. Sometimes, specific circumstances can be taken into consideration, but such cases are not distinguished like that". (PL/J/3)*

Furthermore, it is important to underline that the hearing in cases concerning sexual crimes are carried out by judges. The answers provided by three interviewed judges (PL/J/1, PL/J/2 and PL/J/5) showed that there is not always possible to organize a hearing in a way in which a victim will be heard by a judge of the same sex. The problems in organizing hearings in such a way may be related to an insufficient number of judges or the method in which cases are assigned to judges.

Furthermore, it seems that while a hearing by a person of the same sex is possible at the pre-trial stage, this measure is not implemented during the trial. The reason behind it may be a limited capacity of courts or the way cases are assigned to judges. For example, respondent PL/J/1 stated that it is not always possible for the victim during the trial to be heard by a judge of the same sex, since in his court there are only two female judges and two male judges.

„Sprawy nie są przydzielane tak, aby sprawę o gwałt kobiety dostała kobieta. Raczej wedle kolejności wpływu i listy sędziów. Całe szczęście."

„Cases are not assigned this way that a rape case goes to a woman. It's done chronologically, in accordance with the list of judges. Thank goodness." (PL/J/5)

The limited capacity of courts, especially in smaller cities, may resonate also in other aspect of this problem. In the light of the Code of Criminal Procedure, victims of sexual crimes have a right to be heard once in the presence of a judge. Given that, sometimes limited number of judges in courts (e.g. as it was indicated by the respondent PL/J/1) guaranteeing the possibility for victim to be heard be a judge of their sex may be problematic.

6.1.7. From their practical experience, did the interviewed practitioners believe that restraint is exercised ensuring that victims are not asked questions about their private or family life unless necessary (Question Pr 6.7)?

This question revealed significant discrepancies between each of the respondent groups. First, the respondents from **group S** stated that the questions concerning the private and sexual life of the victim are asked very often and are used to assess the credibility of the victim. In their opinions, questions concerning details of victims private life usually are completely irrelevant to the entire proceedings.

"Zadają takie pytania, które z naszego punktu widzenia są niepotrzebne, ale oni wiedzą, że taką mamy rzeczywistość, że takie rzeczy wypłyną w sądzie i do tego będzie się odnosił obrońca pokrzywdzonego więc wolą być przygotowani na podważenie wiarygodności tych dowodów. My uczymy nasze klientki, że to nie ma znaczenia, że spały z 50 innymi mężczyznami to nie znaczy, że ten jeden mógł mnie zgwałcić. Jednak zdarzyło się w sądzie, że jeden z sędziów miał pretensje, że uczymy kobiety składania nieprawdziwych zeznań"

„There are questions which are, from our perspective, irrelevant. However, the police ask them because they know the reality and they are aware that such things can occur in a courtroom and a defence lawyer will raise these issues. So, the police want to be prepared for having the credibility of their evidence undermined. We instruct our clients that it doesn't matter that they have slept with 50 men, that still this one man could have raped them. However, in court, we had a situation in which the judge held a grudge that we, as an organisation, instruct clients how to testify falsely." (PL/S/2)

On the other hand, the respondents from **group P** admitted that as long as they try to avoid detailed questions regarding private matters, sometimes such questions have to be asked. Some respondents (e.g. PL/P/2) justified it by the need to examine all elements of the case, especially when it is a case of domestic violence and there is a

need to check "whether or not the accusation is connected with some conflict over divorce". Furthermore, as one of the respondents (PL/P/5) stated these questions are impossible to avoid in cases where the perpetrator is the victim's relative or partner.

The question about the intimate details of private or family life also happen during the trial. As the respondents **from group J** (judges in particular) stated, such questions are usually a domain of defence lawyers. However, in such cases, it is the judge's role to overrule any inappropriate questions.

> *"Rolą sędziego jest hamowanie takich zapędów i uchylanie takich pytań. Osobiście zdarzyło mi się pytanie, które mnie osobiście zbulwersowało. Pokrzywdzona przestępstwem zgwałcenia była pytana z kim jest w ciąży"*
>
> *"'It's the judge's duty to curb such endeavours and overrule these questions. I personally heard the question that shocked me a great deal. A victim of rape was asked with whom she was pregnant." (PL/J/2)*

The majority of the interviewed lawyers (**group L**) did not encounter a situation in which such questions were asked. Only one lawyer (PL/L/4) made a remark that questions concerning private or family life are very important and they should be asked, especially when the victim is a victim of sexual crime and should be heard only once during the course of the trial.

6.1.8. According to interviewees, can victims be subjected to a medical examination without their free consent (Question Pr 6.8)?

A vast majority (more than a half of the respondents from **group J**, **entire group P** and one lawyer) stated that the victim can be subject to medical examination without their free consent. In this regard, the only exception is a medical surgery which cannot be carried out without the victim's consent.

> *"Jeżeli mamy od czynienia ze sprawą, gdy ktoś został pokrzywdzony przestępstwem z użyciem przemocy i istotą tego przestępstwa jest określony uszczerbek na zdrowiu, to ta osoba powinna zostać poddana oględzinom i te oględziny mogą odbyć się bez jej zgody, ale każde inne badanie wymaga zgody pokrzywdzonego"*
>
> *„If we have a case with a victim of violent crime and the core of the crime is bodily harm, then the victim should be subjected to a body inspection and the inspection can be done without their free consent, however any further medical examination requires free consent of the victim" (PL/L/4)*

However, some of the respondents stated that the law enforcement should not force victims to undergo medical examination, if they do not want to. In their opinion it should be the victim's will.

The only thing that the law enforcement can do in the face of victims' reluctance to undergo the medical examination, is to encourage them to participate and inform them that it might be crucial from the perspective of the proceedings. On the other hand, the representatives of the **group S** stated that in some cases victims had an impression that their consent to medical examination was extorted and they did not have a chance to decide freely to undergo the examination (PL/S/2 and PL/S/3). One of the interviewees (PL/S/3) stated that in some cases the consent was forcibly obtained, e.g. when the police informed a victim that if she had refused to undergo medical examination, then they would have not initiate the proceedings in this case.

6.1.9. Did the interviewees agree to the following statements (Question Pr 6.9)?

6.1.9.1 The police attach great importance to treating victims in a respectful and sympathetic manner.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	1	4	0	0	5/5

P	1	4	0	0	0	5/5
J	0	2	3	0	2	7/7
L	0	1	2	0	1	4/4
6.1.9.2. The police perceive the victim primarily as a witness and hence as a means to the end of a successful investigation.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	2	2	1	0	0	5/5
P	1	2	2	0	0	5/5
J	0	5	1	0	1	7/7
L	2	2	0	0	0	4/4
6.1.9.3. Public prosecutors and judges attach great importance to treating victims in a respectful and sympathetic manner.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	1	3	1	0	5/5
P	0	1	0	0	4	5/5
J	0	5	2	0	0	7/7
L	0	2	1	0	0	3/4*
6.1.9.4. Public prosecutors and judges don't see the victim as playing a central role in criminal proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	5	0	0	0	5/5
P	0	0	3	0	2	5/5
J	0	3	4	0	0	7/7
L	1	1	1	0	0	3/4*

* As in earlier questions, interview PL/L/1 was conducted early in the research when the questionnaire did not contain this question

Please provide an analysis and your own interpretation of the results:

When it comes to the assessment of the police's approach towards victims and protection of victims, the polarization of opinions between **groups P and S** is not surprising. In general, nine respondents agreed with the statement while the same number of respondents disagreed with it. The respondents from **group P** underlined that the police do its best to protect victims from secondary victimization, however they could not present specific examples of rules and procedures in this regard. On the other hand, the respondents from **group S** perceived this issue from their daily

work, which is usually concentrated on situations in which victims were treated badly by the police. In this context, the assessment of prosecutors, who supervise the police's work, would be the most telling. Two of the prosecutors disagreed with this sentence, while two others supported this opinion or could not assess it.

On the other hand, the respondents were pretty much unanimous when it comes to their assessment of the second statement. The vast majority of them (17) agreed or strongly agreed with the statement that the police perceives the victim primarily as a witness and the means to carry out a successful investigation. These results are particularly interesting in the context of the information provided in point 1.1. Similarly to point 1.1, also in this aspect the respondents from **group S and J** agreed or strongly agreed that the role of the victim is usually reduced to being a source of information. When it comes to the representatives from **group P**, none of them in point 1.1 declared that victims were just sources of information important for the proceeding. However, in this point a half of the respondents (3) agreed or strongly agreed with a similar statement.

When it comes to assessing the approach of prosecutors towards victims' and their needs, the respondents' opinions were not that polarized, as it was in point 6.1.9.1. The majority of the respondents (nine) agreed with the statement while only six of the respondents did not agree. In this context, the attitudes of interviewees from **group P** are interesting, as they in general refrained from presenting their opinion in this regard. Additionally, only two respondents from **group J** did not agree with the statement - these were the same respondents who did not agree with the statement presented in point 6.1.9.1.

The opinions regarding the last statement were not as polarized either. A half of the respondents (10) agreed with the statement, while eight of them disagreed. In the assessment of this statement, the opinions between groups S stood out against the background of the opinions of group P and J. While all the respondents from group S agreed with the statement that victims are not a central part in the proceeding, then the groups P and J presented much more diversed opinions.

Again, the assessment of this statement presented by the representatives of the **group P,** who to some extent did not provide any opinions, may seem interesting. Although in general group of the respondents the opinions are not that much polarized, still the answers provided within group J are from two different ends of the spectrum. The majority of the prosecutors and judges stated that judges and prosecutors are focused on victims in the proceedings, however three respondents from this group presented different opinions. Each of the respondents who agreed with this statement from group J was a prosecutor (PL/J/3, PL/J/4 and PL/J/6). Two of these respondents (PL/J/4 and PL/J/6) had several critical comments concerning the lack of practice in proper securing the rights of victims in the proceedings. These respondents' strong assessment of the last statement may be an element of this critical approach.

6.2. Views of victims

6.2.1. According to the victims interviewed, did the police assess the need to protect them against secondary victimisation, in particular as concerns the risk of them being confronted with offenders in an unprotected manner or the risk of interviewees having to testify within a setting that is not sufficiently protective and sympathetic (Question V 6.1)?

With an exception of one interviewee, none of 11 interviewees was asked about possible measures protecting their needs during the proceedings. Some interviewees were not even informed about the possibility to apply for protecting measures or the fact that they might be confronted with the perpetrator during the proceedings.

„Q: Później był pan pytany czy woli pan rozpoznać sprawcę przez lustro weneckie czy przez zdjęcia?
A: Pamiętam, że to były pytania do lekarza. Lekarz nie zgodził się, żebym wyszedł ze szpitala.
Q: A w ogóle rozmawiano z panem na temat konfrontacji ze sprawcą?
A: Ja akurat tego nie chciałem, dlatego nie chciałem brać udziału w procesie. Ale że byłem poinformowany, że tak może być? Nie."

"Q: Later you were asked whether you preferred to identify the perpetrator through a venetian mirror or on photos?
A: I remember that these were the doctor's questions. The doctor did not agree for me to leave the hospital.
Q: And did they talk to you about the confrontation with the perpetrator?
A: I actually did not want that. This is why I did not want to take part in the process." (PL/V/11)

These interviewees (e.g. PL/V/4) who were aware of that possibility that they may be confronted with an offender felt very uncomfortable with it and e.g. sitting in front of the offender during the court hearing.

„Q: Jak opisałby pan doświadczenie kontaktu z oskarżonym?
A: Jestem człowiekiem dość empatycznym i widok człowieka w kajdankach prowadzonego przez policję wywołał takie poczucie, że to jednak trochę przeze mnie…"

„Q: How would you describe your contact with the defendant?
A: I am a quite empathic person and the sight of a man in handcuffs escorted by the police caused in me this sensation that it was partially my fault..." (PL/V/4)

Some of the interviewees stated that they felt uncomfortable with police's presence – it was a case of respondents PL/V/8 who was heard by the police during his stay in the hospital.

Only one respondent, PL/V/9, received information that the restraining order was applied in his proceedings. He received this information in a letter from the prosecutor's office, but it seems that no law enforcement officer had discussed it with him.

6.2.2. Did the interviewed victims feel, at any time, exposed to a confrontation with the offender in a situation that the interviewee experienced as intimidating or stressful (Question V 6.2)?

A vast majority of the interviewees was not exposed to the confrontation with the offender during the investigation. Two interviewees had contact with offenders during the investigation. One interviewee took part in mediation (PL/V/1) which she did not assess as stressful, but rather too much detail-oriented and as a consequence not serving her case well. Another interviewee (PL/V/2) had contact with the offender before he was arrested – she described this situation as extremely stressful.

Four interviewees (PL/V/4, PL/V/5, PL/V/7 and PL/V/9) were confronted with the offenders during the trial. The interviewees had mixed reactions to it – from feeling very unpleasant (see the quote of PL/V/4 in point 6.2.1) to some sort of satisfaction. Respondent PL/V/9 described this situation as a "nice change of places." One of the interviewees (PL/V/11) intentionally opted out from attending the court hearing to avoid being confronted with the perpetrator.

6.2.3. When the police took the statement of the interviewees, did the latter experience the setting as safe and comfortable? How did the interviewees describe the situation (Question V 6.3)?

In general, the interviewees described the police rooms in which they were interviewed as a quite unfriendly environment. The respondents were interviewed by the police usually in random rooms, which were sometimes small and noisy (PL/V/2) or were being renovated during the hearing (PL/V/7). The respondents also complained about the way the interviews were carried out. In several cases (PL/V/1, PL/V/2), the interviews at the police station were interrupted a couple of times, both by persons entering the room or police officers who had to pick up a call during the interview.

The most worrying aspect of the setting was the lack of privacy. The respondents in several cases did not feel comfortable and the most striking example was the one provided by respondent PL/V/9 who stated that he had to undress in the presence of police officers who did not deal with his case.

„Oględzin dokonywała policjantka, która wkładała mi do ust obiektyw aparatu, robiąc zdjęcie złamanego zęba. Przy otwartych drzwiach rozbierałem się, żeby pokazać, że mam siniaki na całym ciele. Ludzie zasadniczo sobie przez cały pokój przechodzili."

"The bodily examination was conducted by a police woman who put a camera in my mouth, taking pictures of a broken tooth. With the doors open, I undressed to show that I have bruises all over my boy. The people were, generally, going in and out all the time." (PL/V/9)

Only few respondents (PL/V/3 and PL/V/6) stated that the room seemed comfortable. In one case, PL/V/3, however, the most important fact was not the room, but the approach of the policewoman who carried out the interview. She was very polite and by her comments in a way empowered the victim. Also, the protective approach of the police was noted by other respondent – PL/V/1 – who seemed to appreciate the interview, despite poor infrastructure.

"*Jeśli chodzi o policjantkę to było tak jak chciałam. Czułam się bezpiecznie […] pani policjantka poinformowała mnie, że zrobiła tak jak prosiłam. Nie poinformowała go o tym, że może przeczytać moje zeznania […] tak naprawdę on do końca nie wiedział, że to ja zgłosiłam"*

„When it comes to the policewomen everything was in a way I wanted it to be. I felt safe […] the policewomen informed me that she did what I asked for. She didn't inform him that he could read my testimonies […] as a matter of fact till the end he didn't know that it was me who notified the authorities" (PL/V/1)

6.2.4. When the interviewees were heard during court trial, did this happen in a setting that they experienced as safe and comfortable? How did the interviewees describe the situation (Question V 6.4)?

The interviewees who participated in the trial assessed the conditions of the court room better than the conditions at police stations. The interviewees paid attention to the issue of space in the court room, approach of judges and offenders' attorneys and general conditions.

When it comes to the space of the court room, the interviewees (PL/V/4, PL/V/5 and PL/V/6) stated that it was unpleasant to see the offender on the opposite side and, in some cases, the distance between them was too small. One of the interviewees (PL/V/4) stated that the court room lacked additional space, e.g. to talk to his attorney during the recess. This lack of additional space was visible, since the media attended the hearing and the room was very crowded. One of the interviewees (PL/V/9) also stated that it was extremely cold in the court room, and it made him feel quite uncomfortable.

Similarly to police stations, also in this case the interviewees paid attention to the approach of people carrying out the hearings. Three interviewees (PL/V/1, PL/V/2 and PL/V/3) made specific comments regarding this fact. For two of them (PL/V/1 and PL/V/3), the court hearing evoked quite positive memories. The first respondent was satisfied with its outcome and the fact that the judge paid a lot of attention to explaining to her in detail the motives of the court's decision. The second stated that she was well-prepared for the hearing by her legal representative, so the amount of potential stress was limited from the outset.

6.2.5. Were the interviewees asked questions about their private or family life that they considered inappropriate or unnecessary (Question V 6.5)?

All interviewed women stated that at different stages of proceedings they were asked questions which they found intrusive or impropriate. The questions referred to their private and sexual life, as well as relations with their relatives. In the respondents' opinions, none of these questions was justified from the perspective of the proceedings.

„Kiedy przesłuchującymi były kobiety [policjantki], czułam to wsparcie zdecydowanie bardziej. Nie mam też nic do zarzucenia absolutnie panom, którzy interweniowali. Może poza jedną dywagacją osobistą: jeden z nich,

znany mi z podstawówki, pozwolił sobie na uwagę: „Taka przystojna dziewczyna, a nie mogła sobie znaleźć młodszego i fajniejszego faceta."

"When I was interviewed by women [female police officers], I felt much more supported. Also, I have absolutely nothing against the gentlemen who intervened. Maybe besides one personal digression made by one of them, whom I know from my primary school. He said: "Such a handsome girl and couldn't find a younger and nicer guy." (PL/V/7)

Furthermore, two interviewed man (PL/V/9 and PL/V/10) stated that they were asked questions about their private life which they did not find relevant from the perspective of the proceedings.

6.2.6. To what extent did the interviewed victims agree to the following statements (Question V 6.6)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
6.2.6.1 Overall, it was difficult to understand and follow the course of the proceedings.	1	8	1	1	1	12/12
6.2.6.2 The police treated me in a respectful and sympathetic manner.	2	6	3	0	1	12/12
6.2.6.3 During the court trial I was treated in a respectful and sympathetic manner.	2	3	0	1	4	10/12*
6.2.6.4 If I look back at the proceedings, there were moments when I experienced the presence of the offender as intimidating.	2	4	4	0	1	11/12**

* The respondents PL/V/8 and PL/V/10 did not provide an answer to this question hence their cases did not reach the court phase of the proceeding or had not been settled by court yet.

** The respondent PL/V/10 did not provide an answer to this question hence his cases did not reach the court phase of the proceeding.

Please provide an analysis and your own interpretation of the results:

The most disturbing result of this part of the questionnaire was respondents' general assessment of their possibility to understand and follow the procedure. Three-fourths of the respondents agreed that it was difficult for them to follow and understand the proceedings. This element is strongly combined with the amount of information provided to victims and shows that in many instances this information is not properly prepared and conveyed.

Secondly, the respondents' assessment of the police's approach towards them is much more positive than the assessment made by professionals who, with an exception of group P, had much more critical opinions in this regard. The respondents also presented quite a positive assessment of their experience of participation in the trial – the majority whose case reached the court stage declared that they were treated with respect and sympathy.

When it comes to the assessment of the last statement (6.2.4) interestingly there were no differences in assessing this statement between victims for domestic violence and other victims. The same number of victims (PL/V/5 and PL/V/7) strongly agreed with that statement, the same number of respondents (two victims of domestic violence: PL/V/2 and PL/V/6 and two victims of other crimes: PL/V/4 and PL/V/12) agreed with the statement and the same

number of respondents disagreed with the statement (two victims of domestic violence: PL/V/3 and PL/V/1 and two victims of other crimes: PL/V/8 and PL/V/9). Only one respondent (PL/V/11) could not assess this statement.

Last but not least, the majority of the respondents' answers showed that the offender's presence was intimidating or to some extent was too much of a burden. This opinion becomes even more disturbing if analysed through the perspective of the professionals' answers that did not reveal any systemic approach towards the issue of isolating the offender from the victim during the trial.

7. Protection against repeat victimization

7a) Cases not involving domestic violence

7.1. Views of practitioners

7.1.1. According to the practitioners interviewed, do the police on a regular basis assess whether measures need to be adopted in order to protect the victim against repeat victimisation (Question Pr 7.1)?

It seems that this question was problematic for professionals. Respondents either did not provide an answer (PL/P/4, PL/J/5) or provided information related to domestic violence (PL/P/2, PL/J/6, PL/S/1, PL/S/2, PL/S/5) which was not included in the analysis here. When interviewees provided an answer, they were unlikely to talk about the details of such assessment, e.g. forms used or criteria applied, but immediately jumped to the measures they could apply if a danger was identified.

The interviews suggest that if the police do conduct some sort of assessment of the victim's situation, it does not always happen regularly. Only six interviewees agreed that the police do that regularly. While four interviewees were willing to say that such an assessment does happen, they did not agree that it was regular, but rather not often or rare (PL/L/1, PL/L/3, PL/J/4, PL/S/3). Three interviewees stated that the police do not assess such a need (PL/L/2, PLJ/4, PL/S/4). For example, interviewee PL/L/3 observed in this context:

> *"Moim zdaniem, w tym zakresie jest wciąż dużo do zrobienia jeśli chodzi o policję w zakresie empatii dla pokrzywdzonego i jego wsparcia"*
>
> *"I think there's a lot to do in this area, regarding the police empathy and support for victims." (PL/L/3)*

Interviewee PL/J/7, who agreed that the police regularly conducted an assessment and provided a description of what he considers this assessment to be:

> *"Przecież to policja przesyła materiały od razu z określonym stanowiskiem, to znaczy sugestią o np. zastosowanie środka zapobiegawczego w postaci dozoru kuratora lub wnioskiem o tymczasowy areszt. Są to wnioski, które prokurator zapoznając się z aktami danej sprawy, decyduje, co jest najwłaściwsze […] Takie materiały zawsze wpływają z sugestią policji, która oczywiście nie jest wiążąca, ale tak przynajmniej to u nas funkcjonuje."*
>
> *„It's the Police who sends the materials with the precise suggestion to e.g. order some protection measures like the supervision of the guardian or applying for ordering the pre-trial detention. After verification of these motions, the prosecutor decides what would be the most appropriate solution […] The materials are sent to us with the Police's suggestion which isn't binding, but that's the way it works here." (PL/J/7)*

However, in the context of this particular observation, it should be noted that the purpose of preventive measures is in Polish criminal proceedings primarily to protect the proper course of proceedings. One could, therefore,

assume that the police, before formulating such suggestions for the prosecutor, had to assess the danger first and foremost to proceedings. While it could involve analyzing the danger of repeat victimization, this is not a necessary element of such an assessment.

Interviewee PL/L/4 also agreed that police conduct regular assessments, however he negatively evaluated the procedure for granting such protection measures (bureaucratic and long) and stated that the police apply them with reluctance due to the involved high costs:

> *"Nie spotkałem się nigdy z sytuacją, żeby kogoś wprost pouczono o tym, że ma takie uprawnienia. Do tego, żeby zastosować ochronę, która zapobiegnie wtórnej wiktymizacji tej osoby potrzebne są ogromne środki […] Tym samym niechętnie udziela się takiej ochrony. Ja sam miałem taką sytuację, gdy występowaliśmy z wnioskiem o udzielenie takiej ochrony mojej klientce […] cała ta procedura jest strasznie zbiurokratyzowana i trwa. Nie udało nam się uzyskać tej ochrony."*

> *„I have never seen a situation in which a victim was directly informed about this right. The application of special protection measures requires significant financial resources […] That is why such a protection is not usually granted. I had a case in which I applied for special protection for my client […] the entire procedure is extremely bureaucratic and long-lasting. We didn't get this motion granted." (PL/L/4)*

With respect to this particular example, it should be noted that it was the interviewee's client who had to file a motion for such a measure (see also below a procedure described by interviewee PL/P/1). It may suggest that the police conduct an assessment upon a motion, rather than at one's own initiative. This has not, however, been expanded upon in the interview.

As visible from the above quoted fragments, respondents understood protection measures to mean, for example, preventive measures available within criminal procedure (e.g. a restraining order) (PL/P/1, PL/P/3, PL/P/5, PL/L/3), other institutions available under the Code of Criminal Procedure (e.g. anonymous witness) (PL/L/3) or protection measures applied on the basis of the Act on the protection and support for a victim and witness (PL/L/4).

Only one interviewee, after more prompting, explained how the assessment could be carried out in practice (some sort of a procedure) (PL/P/1). According to this interviewee, there is a possibility of conducting a social interview (pl. *wywiad środowiskowy*). When such an interview showed that the victim may be in any danger, the police can motion to apply preventive measures towards the perpetrator and can encourage the victim to file a motion for a protective measure, including protection from the police.

In a direct response to this question, interviewees did not present any criteria (risk factors) taken into account in the course of assessment. Responses of two interviewees suggest that the presence of children (PL/P/4) and organized nature of the crime (PL/L/3) could be such two factors. In an answer to the next question, interviewee PL/P/3 stated that violence itself is a risk factor.

In this context, it is also worth quoting interviewee PL/P/1, for once because he represents the police whose actions were assessed in this question, but mostly due to the fact that his answer reveals a certain kind of attitude which, if present among more officers, could be quite dangerous. In his first reaction to the question, the interviewee noted that assessment of such risk was not his task. The interviewee believes that this is a responsibility of community police officers and police officers who are closer to the people. Since the interviewee started talking about domestic violence, the interviewer clarified the question, to which the interviewee replied:

> *„Q: Tutaj nie mówimy o przemocy domowej, tylko chodzi o sytuacje, w których osoba jeszcze raz może być ofiarą przestępstwa… A: No to co, ja mam pilnować tej osoby w domu?"*

> *„Q: Here we are not talking about domestic violence, but about situations in which a person can fall victim to another crime….A: So what, am I supposed to watch this person at home?" (PL/P/1)*

It seems that he did not fully grasp the concept of repeat victimization, further still displayed a fairly high insensitivity to the problem. But, the answer also reveals frustration whose sources may be multiple. Perhaps, the interviewee was frustrated by the demands made on the police, which he perceived as excessive. However, this is in no way clear.

7.1.2. Apart from domestic violence, are there other areas of crime where the police routinely focus on protecting the victim against repeat victimisation (Question Pr 7.2)

In a response to this question interviewees noted such examples as sexual violence (PL/P/1, PL/P/2, PL/P/4, PL/P/5, PL/L/1, PL/S/4), violence against children (PL/P/5), organised crime (PL/S/3).

At the same time, two interviewees from groups S (PL/S/1 and PL/S/5) noted that the police even in cases of domestic violence do not routinely focus on protecting the victim against repeat victimisation.

"Q: Poza przemocą domową, czy są inne sprawy, w których policja rutynowo skupia się na ochronie ofiary przed powtórną wiktymizacją? Czy w ogóle w sprawach przemocy domowej się skupia?

A: No nie!"

"Q: Apart from cases of domestic violene, are there other cases when the police routinely focuse on protecting victims from repeat victimization? …Well, does it in fact routinely focus on cases of domestic violence?

A: Well, no!" (PL/S/1)

Interviewee PL/S/3 made a comment which in fact also suggests a similar conclusion, although it was more general in nature:

"Przy przestępstwach popełnionych przez zorganizowaną grupę przestępczą lub przy przestępstwach handlu ludźmi, to mam wrażenie, że Policja rutynowo ocenia potrzebę zastosowania tych środków. Ale w przypadku indywidualnych zbrodni […] to raczej się to nie zdarza"

"I have an impression that the police routinely assess whether to apply protective measures in the cases of crimes committed by organised criminal groups or in human trafficking cases. However, such an assessment is not carried out in the cases of individual felonies". (PL/S/3)

7.2. Views of victims

7.2.1. When the interviewed victims first talked to the police, did the police assess whether they were in need of protection against repeat victimisation or retaliation (Question V 7.1)?

Interviews with victims show that the police do not routinely assess whether there is a need to protect the victim from repeat victimisation or retaliation. Of six interviewees who were asked this question, five stated that the police did not assess whether they were in need of protection against repeat victimisation.

Only one interviewee stated that the police in fact conducted such an assessment, but could not remember many examples of questions (PL/V/9). They did, however, ask whether he was threatened by the perpetrators. Interviewee PL/V/11, who stated that the police did not assess the need for protection, noted that, when he inquired about possible negative consequences of reporting from the offenders, the police officers asked whether he was familiar with the perpetrators. Responses of these two interviewees could suggest that previous threats and familiarity with the offender could be among the risk factors taken into account by the police while assessing the danger of repeat victimisation.

Interestingly, interviewee PL-V-4 did not see the sense of the police addressing this issue. As he explained, the offence took place in a part of the city far from the interview's home and the attacker was an unknown, accidentally met man. The interviewee did not feel the threat of coming into contact with the attacker again.

7.2.2. In cases where the police found that the interviewee was in need of protection measures, which measures were adopted by the police? How did victims assess the effectiveness of these measures (Question V 7.2)?

Among six interviewees who were asked this question, only one noted that a preventive measure was applied in his case (PL/V/9). At first, the police officers assisted the interviewee in the hospital and took him back home after the hearing. Shortly after he reported the crime to the police, the interviewee received a written confirmation from the prosecutor's office that the suspects had received a court order banning them from approaching the interviewee. According to the interviewee, this was needed because the offenders threatened to kill him. Any other protection measures were not adopted by the police or other representatives of the justice system.

7b) Domestic violence

7.3. Views of practitioners

7.3.1. As concerns cases of domestic violence, what are the standard procedures followed by the police in such cases in order to assess the need for immediate protection measures (Question Pr 7.3)?

Interviewees provided various answers to this question, which in itself suggests that any procedures applied by the police to assess the need for immediate protection measures, if applied at all, are in no way standard or routine. The interviewees were mostly not able to provide any details of police assessment.

The majority of interviewees did not refer to any standard procedures. Some were simply not aware of any (PL/L/3, PL/J/3); others thought that there were no such procedures, but assessment was carried out on a case-by-case basis (PL/J/2, PL/P/4); still others thought that assessment was carried out rarely (PL/L/4) or not at all (PL/S/2). In fact, two intervewees doubted the existence of immediate protection measures in Poland altogether (PL/L/1, PL/S/1) and one stated that the police cannot employ protection measures (PL/S/3). This is true in so far as the police cannot, for example, apply preventive measures (e.g. a banishing order) in criminal procedure.Only three interviewees (PL/P/2, PL/P/3, PL/L/3) noted that police officers can use some sort of a form/**questionnaire** which facilitates the decision-making process during intervention. However, this was described as a facultative tool. Four interviewees thought or suspected that the police used some procedures or conducted routine assessments (PL/J/1, PL/J7, PL/S/4, PL/S/5), but were not able to describe any particular details of such a procedure.

Some respondents mentioned certain elements which could be interpreted as possible criteria used in the assessment process. Interviewees noted that the police would take into account the magnitude of violence (PL/J/6), prior cases of domestic violence (PL/J/6, PL/P/4) and the presence of children (PL/J/6, PL/P/4, PL/J/7). An organized nature of the crime could also be among assessed risk factors (PL/L/3). Interviewee PL/P/3 stated that violence itself is a risk factor.

Three interviewees were not able to answer this question (PL/L/4, PL/J/4, PL/J/5).

7.3.2. In cases of domestic violence, what are the standard procedures followed by the police when there is a need for immediate protection measures (e.g. advising the victim to move to a shelter, arresting or banishing the offender)? From the point of view of the practitioners interviewed, how effectively are these protection measures implemented (Question Pr 7.4)?

In their answers to this question interviewees did not, in fact, talk about procedures pertaining to specific immediate protection measures. Interviews show that standard procedures followed in cases of domestic violence when there is a need for immediate protection measures are, in fact, general procedural activities foreseen in the Code of Criminal Procedure, in particular arrest or application of preventive measures.

While police officers can perform an arrest, they cannot apply any other immediate measures within criminal proceedings, in particular they cannot impose **preventive measures**. Under the code, preventive measures can be applied by prosecutors or courts. This means that the police cannot in fact apply immediate protection measures. As suggested above, two interviewees explicitely doubted the existence of immediate protection measures in the Polish system altogether (PL/L/1, PL/S/1) (see also comments under 7.3.1.).

> *"Q: W odniesieniu do przemocy domowej, jakie są standardowe procedury policji dla oceny potrzeby zastosowania natychmiastowych środków ochrony?*
>
> *A: To znaczy, przede wszystkim, my nie mamy tych natychmiastowych środków ochrony, bo policja nie ma tego uprawnienia wydania nakazu opuszczenia domu. Może zatrzymać sprawcę tylko na 24 godziny i wnioskować do prokuratury o wydanie nakazu opuszczenia domu."*
>
> *„Q: As concerns cases of domestic violence, what are the standard procedures of the police to assess the need for immediate protection measures?*
>
> *A: Well, first and foremost, we do not have such immediate protection measures because the police cannot issue a banishing order. It can apprehend the offender for 24 hours and motion the prosecution to issue a banishing order." (PL/S/1)*

While the police itself cannot apply preventive measures, interviewees noted that – because of its subordinate role to the prosecution – it may be cautious and reluctant to motion the prosecution to apply a particular preventive measure (e.g. PL/J/2, PL/S/3).

> *"W mojej ocenie policjanci mają poczucie, że we współpracy z prokuraturą ich rola jest służebna i bardzo mało się liczy. W związku z tym jest tak, że jeśli policjant wykonuje jakieś czynności na zlecenie prokuratury to robi to, czego prokuratura od niego zażądała. Natomiast jeśli on ma wnioskować o coś do prokuratury to ma przed tym ogromną tremę i bardzo rzadko to policjanci robią"*
>
> *"I think that the police feel that they are servants of the prosecution service and that their position is weak. So police officers readily perform tasks ordered by the prosecution and do what the prosecution wants them to do. However, if they are to ask the prosecution for something, then they feel extremely reluctant and do it very rarely." (PL/S/3)*

The majority of interviewees stated that in the case when there is a need for immediate protection measures, **preventive measures** provided under the Code of Criminal Procedure can be applied (12 interviewees). As examples of these measures, professionals most often indicated a banishing order (PL/P/3, PL/L/3, PL/J/5, PL/J/7, PL/S/1) and a restraining order (PL/P/5, PL/L/3, PL/J/7, PL/S/3). Some also mentioned pre-trial detention (PL/P/5, PL/J/1, PL/J/3), however rather as a consequence of violating another preventive measure or as a solution in the most severe cases. Interviewee PL/S/1 noted that even when perpetrators do not comply with the applied preventive measure, motions for a pre-trial detention are not filed. At the same time, interviewees noticed difficulties related to verification of perpetrators' compliance which such measures as a restraining order. They pointed out that assessment of its implementation in practice relies very much on the victim's testimony (PL/J/1, PL/J/4, PL/S/5).

Many interviewees also stated that, when there is a need to immediately **isolate** the perpetrator, especially in the most difficult circumstances, the police can perform an arrest (9 interviewees). Another measure of isolating the perpetrator mentioned was driving the perpetrator to a sobering-up station (PL/P/3, PL/P/4, S/4).

"A: Jeżeli kobieta mieszka z jakimś tam panem i on używa przemocy nie tylko do niej ale i do dzieci, no to możemy zaproponować, czy odseparować ją, albo jego. Jeżeli jest pod wpływem alkoholu to przewozimy go do naszych pomieszczeń, do wytrzeźwienia."

„A: If a woman lives with a man who uses violence against her or children, then we can […] separate her or him. If he is under the influence of alcohol, we drive him to our units, to sober up." (PL/P/4)

Two interviewees also noted that the police can direct or drive the victim to the crisis intervention centre which provides shelter (PL/P/4, PL/S/5). PL/P/4 stated, in a response to another question, that this would be the case when there is a victim mother with a child, while PL/S/5 observed that such a conduct could be applied in extreme situations. At the same time, PL/P/4 noted that the police has limited possibility to act.

"A: Jeżli jest dziecko i jest matka, to jest jeszcze ośrodek interwencji i trzeba ich w jakiś sposób chronić. My niewiele możemy, bo prawo nie jest takie, że bierzesz i wyjmujesz. Jeśli jest przemoc domowa i agresor jest pod wpływem alkoholu, to jest dosyć prosta sytuacja, bo go bierzemy do PDOZtu i on tam spędza [czas] do wytrzeźwienia, ochłonie trochę i trochę jest inaczej. Natomiast nie ma takiego prawa, które mówi, że jeżeli jest pani poszkodowana, to my panią z tego domu zabieramy."

"A: When there is a child and a mother, then there is also a crisis intervention centre, we have to somehow protect them. But we cannot do much because the law does not allow us to just take them out. If there is domestic violence and the perpetrator is inebriated, then the situation is simpler because we take him to the police station [to a room for apprehended persons] and he spends [some time] there until he sobers up, he calms down a bit and it is different. But, there is no such law which would say that when a woman is victimised we take her from her house." (PL/P/4)

Three interviewees, in turn, observed that there are no special or standard procedures (PL/J/1, PL/J/2, PL/S/2). For example, PL/J/1 stated that in his opinion, there are no specific procedures for such kind of crimes and elaborated that firstly, the suspect is arrested, then detained pending trial whenever the case fulfils the conditions described in the Code of Criminal Procedure.

Two interviewees also noted a possibility of applying protection measures provided in the **Act on protection and support for a victim and witness** (PL/P/1, PL/J/6) (e.g. protection during a procedural act, personal protection, assistance in changing accommodation; see Introduction for more information on this act). However, interviewee PL/J/6 noted that due to high costs of such measures, the police would be reluctant to apply them. Interviewee PL/P/1 noted that the practice concerning such meaures has been developing. He also described the procedure which involves a couple of actors. As he said, in every voivodeship police station, there is a police officer responsible for protecting victims and witnesses. There are also police officers in city police stations who deal with that subject. The police officer in the voivodeship police station processes the victim's motion for application of protection measures. Risk factors are analysed and the assessment is presented to the voivodeship police commander in chief. If there is a risk, the voivodeship police commander in chief grants protection measures. This description itself suggests that the nature of such measures may not, unfortunately, be immediate. In fact, in an answer to another question, interviewee PL/L/4 noted that the procedure is bureaucratic and time-consuming.

7.3.3. If the police learn of a case of domestic violence, do they routinely inform a victim support service? If yes, would it be a generic or a specialist support service (Question Pr 7.5)?

Direct answers provided by interviewees to this question suggest that the police do not routinely inform victim support services about cases of domestic violence (PL/P/1, PL/L/1, PL/L/4, PL/J/6, PL/S/2, PL/S/4).

In group S, out of three professionals who provided answers, two assessed cooperation with the police in this respect negatively, stating that the police do not inform organisations (PL/S/2) or do not inform them routinely

(PL/S/4). Interviewee PL/S/5 stated that the police should focus more on cooperation with NGOs, which also suggests that it does not do it to a sufficient degree.

Answers in group P visibly differed from responses in other groups. Interviewees in group P mostly referred to the Blue Cards procedure as a mechanism which requires interdisciplinary cooperation between various professionals (PL/P/2, PL/P/3, PL/P/5). Interviewees noted that the police have to transfer information on a new case to other members of interdisciplinary teams involved in the procedures, e.g. from the municipal social care centre. Interviewees' invocation of the Blue Cards procedure at this point may suggest that they consider transfer of information between services which the procedure requires as sufficient notification of a victims support service, e.g. in the form of a social assistance institution.

7.3.4. In routine cases of domestic violence, are the protection measures adopted by the police followed up by court orders? If yes, which courts adopt such orders and for which time span? How do the interviewed practitioners assess the effectiveness of these orders (Question Pr 7.6)?

As visible from interviewees' answers, protection measures adopted in the course of pre-trial proceedings can be and are, to an extent, continued by courts in trial proceedings. However, prolongation of protection is not automatic, so the practice varies.

Most of the interviewees stated that measures applied in pre-trial proceedings are (usually or generally) continued by the court (e.g. PL/J/1, PL/J/2, PL/J/5, PL/J/6, PL/J/7, PL/S/5, PL/P/3), while four interviewees – mostly in group S – noted that the practice varies (PL/P/1, PL/S/1, PL/S/3, PL/S/4). Only one interviewee PL/S/2 was more inclined to say that appropriate measures are not adopted by courts:

> *"W tych sytuacjach kryzysowych, którymi się zajmowałyśmy, kryzys polegał na tym, że środki ochrony nie zostały zastosowane"*
>
> *„In these crisis situations with which we dealt, the crisis was a result of the fact that protection measures had not been implemented" (PL/S/2)*

The question was problematic for interviewees from group P of whom three did not provide an answer (PL/P/2, PL/P/4 and PL/P/5).

7.3.5. Did the interviewees agree to the following statements (Question Pr 7.7)?

7.3.4.1 More needs to be done to effectively protect victims of domestic violence against repeat victimisation.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	3	2	0	0	0	5/5
P	1	3	1	0	0	5/5
J	0	4	3	0	0	7/7
L	3	0	1	0	0	4/4
7.3.4.2. A number of good practices are already in place for victims of domestic violence.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	2	1	2	0	0	5/5

P	2	3	0	0	0	5/5
J	1	6	0	0	0	7/7
L	0	0	3	0	0	3/3
7.3.4.3. More needs to be done to ensure that victims of domestic violence have access to specialist support services.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	3	2	0	0	0	5/5
P	2	3	0	0	0	5/5
J	1	4	2	0	0	7/7
L	2	2	0	0	0	4/4
7.3.4.4. There are competing demands on resources for different groups of victims, and so sufficient resources are already dedicated to support victims of domestic violence.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	1	1	1	2	0	5/5
P	0	0	5	0	0	5/5
J	0	1	6	0	0	7/7
L	0	0	1	1	1	3/3

Please provide an analysis and your own interpretation of the results:

In relation to 7.3.4.1 (more needs to be done to effectively protect victims of domestic violence against repeat victimisation), the majority (16) of interviewees agreed with this statement, including seven who strongly agreed. None of the respondents from groups S disagreed that more needs to be done to protect victims. Disagreements were also rare (one in each group) in groups L and P. The greatest split was visible in group J in which three out of seven interviewees disagreed (PL/J/1, PL/J/5, PL/J/7). For example, according to interviewee PL/J/1 everything that could be done for victims, has already been done:

"Na granicy tego co można zrobić dla ofiar przemocy to zostało już zrobione."

„To the limit of what can be done to the victims, all has been done." (PL/J/1)

In relation to 7.3.4.2. (a number of good practices are already in place for victims of domestic violence), the majority (15) of respondents agreed with the statement, including five who strongly agreed. All respondents from groups J and P were in agreement, while all respondents from group L disagreed, which may come as a surprise. For example, interviewee PL/L/3 was of the opinion that the provisions have already provided a wide range of possibilities for victims to participate in the proceedings, however such possibilities should be better applied in practice. The respondents from group S were divided, however more agreed that a number of good practices are

already in place. For example, as good practices interviewee PL/S/4 noted available restraining and banishing orders.

In relation to 7.3.4.3. (more needs to be done to ensure that victims of domestic violence have access to specialist support services), all but two respondents agreed, including eight who strongly agreed. The problem of lack of specialised serviced was particularly emphasised by interviewee PL/S/1. While the respondents clearly see a need to improve the availability of such services, organisations offering them, in particular to victims of domestic violence have recently faced increased difficulties in receiving financing from government, e.g. on account of their allegedly limited target group. These difficulties have been mentioned by some interviewees throughout the interviews (PL/S/1, PL/S/2, PL/P/5, PL/S/3).

In relation to 7.3.4.4. (there are competing demands on resources for different groups of victims, and so sufficient resources are already dedicated to support victims of domestic violence), most of the interviewees (16) disagreed with the statement, including three who strongly disagreed. Interestingly, all interviewees from group P unaminously disagreed with this statement, while there was more variation in other groups. Interviewee PL/S/4 noted that even if things have been done for domestic violence victims, it has not been enough. She emphasised that these were specific crimes, taking place for a long time, perpetrated by people who are close to the victim, leaving long-term consequences and sometimes depriving the victim of the support from the family. In the interviewee's view, these victims were among the most vulnerable, in need of the highest support and protection.

> *"Wiem Pani co, niestety się nie zgadzam, że wystarczające. Nawet w porównaniu z potrzebami [ofiar] innych kategorii przestępstw, bo jednak to [przemoc domowa] jest specyficzne, to są specyficzne potrzeby. To są długotrwałe przestępstwa, które zostawiają długotrwałe skutki. Bardzo trudno jest się dźwignąć na nogi po takiej traumie przestępstwa. To jest ze strony najbliższych osób. To się często wiąże często z brakiem wsparcia ze strony najbliższych. Zupełnie inaczej niż w kategorii innych przestępstw. Pozwoliłabym sobie na to, żeby powiedzieć, że jeśli porównamy ofiary przestępstw z różnych kategorii, to ofiary znęcania się i przemocy seksualnej najbardziej potrzebują tej pomocy."*

> *„You know, I unfortunately disagree that sufficient [resources are already dedicated to support victims of domestic violence]. Even in comparison to the needs [of victims] of other crimes, this [domestic violence] is a specific, there are specific needs. These are long-term crimes which leave long-lasting consequences. It is very hard to recover after such trauma. This is perpetrated by people who are the closest. It is often connected with the lack of support from those who are the closest. This is completely different than in other crimes. I would venture a claim that if we compare victims in various categories of crime, victims of domestic and sexual violence need this support the most." (PL/S/4)*

7.4. Views of victims

7.4.1. How did the police learn about the interviewees' situation: were they called to the interviewees' homes or did the interviewees call them or turn to a police station (Question V 7.3)?

In the majority of cases, the police learned about the victim's situation because the victim reported to the police, either on the phone or in person (PL/V/2, PL/V/3, PL/V/5, PL/V/6, PL/V/7). In one case, the victim first approached the municipal social care centre which later notified the police about her situation (PL/V/1). In the case of victim PL/V/6, after she personally reported the crime at a police station, the interviewee repeatedly called the police to request emergency assistance at home.

The case of interviewee PL/V/3 is illustrative of the problems that victims face while reporting victimisation to the police. At first, interviewee PL/V/3 phoned the community officer who promised to talk to the offender, but never did. She later came to the police station with a piece of evidence that suggested her husband had been tracking

her friends. The police did not investigate. She was only successful in reporting to the prosecution after having presented more evidence. Only after that was she called by the police to testify.

7.4.2. When the police first learned about the interviewees' situation, did they thoroughly assess whether measures were needed to protect the victims against repeat victimisation or retaliation (Question V 7.4)?

The majority of respondents either stated that the police failed to thoroughly assess whether measures were needed to protect the victims against repeat victimisation or retaliation (PL/V/5, PL/V/6) or they did not conduct any assessment at all (PL/V/1, PL/V/3).

Only in one case did the interviewee explicitely state that the police thoroughly assessed whether measures were needed to protect the victim against repeat victimisation or retaliation (PL/V/7). In this case, the police arrested the perpetrator. The interviewee stated that the situation might have turned much more serious had the police not isolated the perpetrator. An arrest was applied in one more case of interviewee PL/V/2, however, it is not clear whether any particular assessment concerning repeat victimisation was conducted.

An interview with respondent PL-V-6 offers an interesting illustration of a police intervention in her case and police practice with respect to protecting victims against retaliation. The interviewee stated that when the police were called to intervene for the first time, they failed to thoroughly assess the measures needed to protect her against another abusive incident. They asked what happened, told the perpetrator who beat her to calm down and advised the interviewee to calm down as well. Before they left, the interviewee asked them if she could initiate the Blue Cards procedure, but the officers said it was not necessary.

7.4.3. When the police learned about the interviewees' situation, what concrete measures did they adopt in order to immediately protect victims against repeat victimisation? How did the interviewees assess the effectiveness of the measures adopted by the police (Question V 7.5)?

The answers to this question were split in half. In three cases no immediate protection measures were used and in three the police did take certain actions.

Interviewees stated that the police did not apply any immediate protection measures (PL/V/1, PL/V/5, PL/V/6). As she stated, interviewee PL/V/1 did not actually believe in the effectiveness of such measures. She thought that the crisis intervention centre was the only protection she could obtain.

Interviewee PL/V/6 once again provided more details on the police intervention in her case. The interviewee could not remember that any measures were applied. It was immediately after one of the police interventions when she was forced out of her apartment by the perpetrator. The officers had already left and started interviewing neighbours, when the offender made the interviewee and her child to leave the flat. The police officers whom she approached told her that there was nothing they could do. As she noted, the police did not help the interviewee to secure her child's safety either.

In two cases, the police arrested the perpetrator (PL/V/2, PL/V/7). The interviewees assessed the effectiveness of this measure as high. In an answer to another question, interviewee PL/V/7 observed that the police did what they could to secure her safety, since the police had no other options to protect the victim except for direct measures, such as arresting the perpetrator when something happens. The interviewee would expect more support as she does not feel safe at the moment, but she was not sure who provides such support. She speculated that perhaps it was the prosecutor's office. This suggests that she was not effectively informed about such elements of criminal proceedings as preventive measures or protection measures available under the Act on the protection and support

for a victim and witness. Finally, in the case of interviewee PL/V/3 the address was classified, so this information is not available in the case file.

7.4.4. When the police learned about the interviewees' situation, did they inform the victims of support services available to them or did the police contact a support service themselves (Question V 7.6)?

In general, police does not seem to be a source of information about the victim support service. Three victims explicitely stated that the police did not inform them of support services available, nor did they contact a support service themselves (PL/V/1, PL/V/2, PL/V/6). Interviewees PL/V/1 had known about the crisis intervention centre beforehand; PL/V/2 sought support services on her won, while interviewee PL/V/3 saw an organization's flyer at a police station, but only really learnt about this organisation from the Commissioner for Human Rights.

Only in one case did the police inform the interviewee about the available support services (PL/V/7). Interviewee PL/V/7 stated that the information was attached to the files which she received after the first hearing.

7.4.5. In cases where victims were in contact with a support service, how did they assess the services provided in terms of supporting them in coming to terms with their victimisation or in finding a way out of a violent relationship (Question V 7.7)?

All interviewees positively assessed the support they received from an NGO providing specialised services. Interviewee PL/V/1 particularly appreciated the possibility of volunteering for the organization which provided her with a sense of empowerment. Interviewee PL/V/7 was very pleased with the support offered by a psychologist who, as she emphasised, was not judgmental. While interviewee PL/V/6 said that what helped her the most was the fact that she stopped blaming herself for the collapse of a relationship between her and her partner. She realized that it was not her fault.

Two victims referred to the support in the form of shelter provided by the crisis intervention centre (PL/V/1, PL/V/5). Both assessed this support as positive, however interviewee PL/V/1 noted that the crisis intervention centre's psychologist did not ensure confidentiality. The same two interviewees also referred to the support offered by the municipal social care centre. One interviewee assessed it as limited and dependent on resources (PL/V/1), while the other claimed that the centre did not help (PL/V/5).

7.4.6. According to the interviewed victims, did a court issue at any time a protection order with a view to protect the victim against repeat victimisation? If yes, which court, and how do interviewees assess the effectiveness of these court orders (Question V 7.8)?

In five out of six cases, the court did not apply a protection order with a view to protect the victim against repeat victimisation. Interviewee PL-V-2 was satisfied with the court order that was applied in her case, but at the same time not sure whether the perpetrator will comply with the court order after leaving prison. It should be noted that, despite the order, she does not believe that the police have effective measures to protect her and her daughter from repeat victimisation. The perpetrator still sends letters or calls.

7.4.7. To what extent did the interviewees agree to the following statements (Question V 7.9)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
7.4.7.1 Overall, the police made all possible efforts to protect me.	1	1	4	2	4	12/12

7.4.7.2 I would have needed more support in changing my situation with a view to overcoming the threat of violence.	0	7	1	0	3	11/12*

* In the case of interviewee PL/V/4, the question did not apply.

Please provide an analysis and your own interpretation of the results:

Only two interviewees strongly agreed or agreed that the police, overall, made all possible efforts to protect them, while six disagreed or strongly disagreed. Seven out of 11 stated that they would have needed more support in changing their situation with a view to overcoming the threat of violence. These results show that the engagement of the police is not assessed positively.

8. Civil law claims: compensation and restitution

8.1. Views of practitioners

8.1.1. According to the practitioners interviewed, do the police routinely inform victims about their entitlement to state compensation (Question Pr 8.1)?

The interviews show that victims are, to some extent, infomed about this right. However, provision of information is not routine in character and effectiveness may be lacking. Generally, interviews suggest that state compensation is rarely used as a remedy.

The majority of interviewed professionals stated that victims are informed about their entitlement to state compensation (13 out of 21). Five interviewees, in particular from group P, noted that such information is contained in the official letter of rights presented to the victim before the first hearing (PL/P/2, PL/P4, PL/P/5, PL/L/1, PL/J/3).

Six interviewees expressed negative opinions about the information process stating that victims are not informed, not always or that the interviewees have not seen such information, etc. (PL/L/3, PL/J/7, PL/S/1, PL/S/2, PL/S/4, PL/S/5).

Three interviewees who stated that victims are routinely informed, also noted that they had seen no case when state compensation was awarded (PL/J/3, PL/J/6, PL/L/1). This suggests at least two possibilities. For once, it is likely that victims are not effectively informed. In fact, some interviewees alluded to the effectiveness, but did not provide an assessment (PL/L/4, PL/J/4). On the other hand, it may suggest that conditions for obtaining compensation are very strict. Such a conviction was expressed by three interviewees (PL/S/4, PL/J/5, PL/S/1):

> *"Q: A ta ustawa o kompensacie państwowej na przykład funkcjonuje? Czy policja informuje, że pokrzywdzeni mogą…A: No tam też chyba tyle było ograniczeń i utrudnień, żeby z niej korzystać, że ja przynajmniej nie słyszałam, żeby to działało. Nie słyszałam u nas o osobach, które by jakoś korzystały z tego."*
>
> *„Q: And the law on state compensation functions? Does the police inform victims… A: Well, there were so many limitations and hindrances in using it this law that at least I have not heard that it works. I have not heard about persons who come to us who would use it." (PL/S/1)*

8.1.2. Do the police routinely inform victims about the possibilities to obtain restitution within the framework of criminal proceedings (Question Pr 8.2)?

Similarly to the previous point, the interviews show that victims are, to some extent, infomed about this right. However, provision of information is not routine in character and effectiveness may be lacking. However, the

practice in the case of restitution seems to be better than in relation to state compensation, with courts awarding it more often.

The majority of intervewees (11 out of 21) stated that victims are informed about the possibilities to obtain restitution within the framework of criminal proceedings. Five interviewee noted that such information is contained in the official letter of rights handed out to victims (PL/L/1, PL/L/2, PL/L/3, PL/J/3, PL/J/5). Only in group S were the respondents more negative in their assessment of the information process, stating that clients are not aware of this right or are not duly informed (PL/S/2, PL/S/3, PL/S/5).

The **practice of awarding restitution** was assessed better by respondents than the practice related to state compensation (e.g. PL/J/2, PL/J/3, PL/J/7), in particular by representatives of group J.

Interviewee PL/J/2 stated, for example, that victims' awareness has grown, but that victims' eagerness to apply for remedies depends on the type of crime from which they suffered. If a victim suffered from a crime against property, they are more willing to seek such remedies. The interviewee also observed that victims seek an award of damages significantly less often than they make a restitution claim. In cases concerning crimes against property in which restitution may be awarded (e.g. there are no pending civil proceedings on that matter), the court often orders restitution as part of the conviction judgement:

> *"Wtedy sprawca nie musi mieć orzeczonej bardzo wysokiej kary grzywny, tak aby te wszystkie obciążenia nakładane na niego były z korzyścią dla pokrzywdzonego. Nie ma sensu w stosunku do sprawcy, którego sytuacja materialna jest średnia albo bardzo zła, nakładać na niego bardzo wysoką karę grzywny, a nie orzekać o obowiązku naprawienia krzywdy. Trzeba to wyważyć tak aby konsekwencje tego czynu były dla sprawcy takie same albo porównywalne, a jednocześnie były odczuwalne zyski dla samego pokrzywdzonego".*
>
> *"In such a case, there's no need to impose a large fine on the perpetrator. It's more sensible that the perpetrator pays all amounts adjudged directly to the victim. There is no point in imposing fine on a perpetrator whose financial situation is not-so-good or plainly bad without obliging him to make restitution. In deciding between fine and restitution, you need to make a balancing act so that the perpetrator faces at least comparable consequences of his act and the victim can benefit from the financial measures ordered in a meaningful way." (PL/J/2)*

Interviewee PL/J/5 noted that under the recent amendment to the CCP the court may award redress ex officio, even when the victim does not seek such redress by filing a motion. However, in light of recent jurisprudence such a situation might be an example of secondary victimisation. She argued that proceedings might strongly interfere with victims' private life. Therefore, it is important to ask the victim whether they would like to obtain such compensation. What is more, the interviewee assesses the possibility of actually executing the remedy as low:

> *Ludzie pytają czy coś to da. Odpowiadam, że wątpię. Kradzież na parę tysięcy złotych, w perspektywie kara pozbawienia wolności na kilka lat, oskarżony doprowadzony z zakładu karnego. Widać, że nie ma szans. Gdy tak mówię, część rezygnuje. Inni twardo stoją na stanowisku: niech zwraca. . Ale to jest tylko zapis w wyroku. Nie ma sprawy, ja zasadzić mogę.*
>
> *People ask me: is it going to help? I say I doubt it. A theft worth several thousand zloty, a possibility of imprisonment for a couple of years, the accused brought from prison. It's obvious there's no chance. When I put it this way, some of them withdraw. Others are firm in their stance: I want him to give it back. But it's only a passage in a judgment. No problem, I can order him to pay. (PL/J/5)*

Interviewee PL/J/5 also added that it would be easier for judges dealing with criminal law to **move the issue of restitution to civil courts**. In her view, judges would be able to focus on more important elements of the proceedings. It would also be better for the parties themselves, since the regulations in that area are quite complicated and criminal judges lack knowledge of and experience in civil law. On the other hand, she pointed out that victims often used this measure to seek compensation. Moving it to civil courts would require a victim to initiate other proceedings.

Nawet w prostych sprawach, gdzie jest łatwo zasadzić zadośćuczynienie pojawia się koszmarny art. 46 k.k., do którego wprowadzono kwestie cywilistyczne: odsetki, odroczenia. Otwierają się rzeczy trudne, obarczone ryzykiem błędu. Nie pracujemy nad tym na co dzień.

Even in simple cases, where it is easy to award compensation, there is this terrible Article 46 of the CC involving civil law issues of interest, postponements. These are difficult things, burdened with a risk of mistake. We don't deal with on them on a daily basis. (PL/J/5)

8.1.3. As concerns proceedings in cases of violent crimes and judging by your practical experiences, how often does the criminal court adjudicate on the victim's civil law claims (Question Pr 8.3)? According to the interviewees, does this happen

	S	P	J	L
Often or very often	0	N/A	6	3
Occasionally	3	N/A	0	1
Only in exceptional cases or not at all	1	N/A	1	0
Don't know	1	N/A	0	0
TOTAL	5/5	N/A	7/7	4/4

Please provide an analysis and your own interpretation of the results:

When it comes to the perception as to the frequency of civil claims, there is a clear difference between respondents from groups J and L, on the one hand, and group S on the other. While the majority of representatives in groups J and L stated that criminal courts adjudicate on the victim's civil law claims often or very often, representatives of group S stated that this happens only occasionally.

Perhaps the difference can be explained by the circumstance noted by interviewee PL/S/3 who said that not many of the cases which her organization deals with end in court. Additionally, NGOs are often contacted by those victims who have somehow been mistreated by the system.

When it comes to the perceptions of group J and L, one could note two factors which possibly add to such assessment of the frequency. For once, on the basis of the Criminal code, the court can adjudicate on remedies *ex officio*, but has to do it upon a victim's motion. Therefore, when the case reaches trial, the courts have available options and obligations to rule on the matter. The results in group L may suggest that when victims do have a representative they indeed often or very often file a civil law claim and the courts then often or very often adjudicate on them. However, this has not been elaborated upon in the current research.

8.2. Views of victims

8.2.1. Did the interviewees apply for state compensation? If yes, what was the result (Question V 8.1)?

The results of interviews with victims confirmed the observations made by professionals that state compensation is rarely, if at all, employed in practice.

None of the interviewees apply for state compensation. Some of them stated that they were not informed about this option or did not know they could apply for it (PL/V/2, PL/V/3, PL/V/7, PL/V/8).

Some deliberately resigned for making such claimes. For example, interviewee PL/V/4 did not apply for any form of compensation, as it could be misunderstood by the public. The interviewee was motivated by his desire to counteract xenophobia. Interviewee PL/V/6, in turn, stated that she will not apply for compensation available under a state-run criminal injury compensation scheme because the legal professional who advises her said she was unlikely to qualify.

The interviewee PL/V/7 did not apply for state compensation because until the interview she did not know about its existence, but her attitude towards this matter is interesting. The interviewee questioned whether it is the state which should pay in her situation and not the perpetrator. She underlined the fact that she did not wish to receive compensation from the state because she knew people who were more in need of support.

8.2.2. Did the interviewees raise civil law claims within the framework of criminal proceedings? If yes, what was the result (Question V 8.2)?

The majority of the interviewees did not raise civil law claims. In some cases this was due to the lack of any or sufficient knowledge about such a possibility within the framework of criminal proceedings (PL/V/2, PL/V/6, PL/V/7). In other cases, the motivation to take part in the proceedings was different, which prevented the victim from seeking pecuniary benefit (PL/V/3, PL/V/4).

Only two interviewees asked for damages, however they experiences have been different as to the effectiveness of their claims. Both interviewees were victims of battery and both had a lawyer. The claim of interviewee PL/V/9 was not taken into consideration. As the interviewee stated, his request was ignored by the court. While, interviewee PL/V/12 was convinced by his lawyer to seek damages, made such a claim and eventually received a financial award. In the case of interviewee PL/V/12 the legal representative played a positive role, but in the case of PL/V/6 who was a victim of domestic violence, her counsel told her that her request was unlikely to be taken into account, which is why she did not ask for damages.

Interviewee PL/V/8 is planning to file such a claim.

8.2.3. To what extent did the interviewees agree to the following statement (Question V 8.3)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
Criminal courts should ensure that victims receive compensation from the offender.	5	5	0	0	2	12/12

Please provide an analysis and your own interpretation of the results:

Victims of crimes either strongly agree or agree that criminal courts should ensure that victims receive compensation from the offender. Ten respondents marked these two answers, while the remaining two answered that they did not know.

At the same time, despite this strong conviction, the respondents did not make such claims in court. This state of affairs seems to be related to the limited knowledge that interviewees possess on the matters of restitution and compensation. This stands in contrast to professionals' claims that victims are informed about these possibilities. Professionals indicated, among others, that information about these matters is contained in the official letter of rights. According to Polish law, the letter is supposed to be handed out before the first hearing. Apart from its problematic form, it thus reaches victims at a very early stage in the proceedings. Perhaps this is precisely the

reason why victim feel that they are not informed about restitution and compensation; they may simply not remember.

In light of these observations, as well as other observations made by professionals in relation to informing victims about their rights, perhaps the government and law enforcement bodies should reconsider the information process to be more adjusted to particular stages in proceedings. The information provided to victims could be bundled into stage-relevant chunks.

9. General assessment of victims' situation in accessing justice

9.1. Views of practitioners

9.1.1. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statements (Question Pr 9.1)?

9.1.1.1 Criminal justice is mainly a matter between the public and offenders; hence victims' role in criminal proceedings is necessarily peripheral.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	2	2	1	0	5/5
P	1	1	3	0	0	5/5
J	0	1	6	0	0	7/7
L	0	0	2	2	0	4/4
9.1.1.2 If victims became influential in criminal proceedings, this would come with a risk of unsettling the fragile balance between public prosecution and the rights of defendants.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	0	3	2	0	5/5
P	1	1	3	0	0	5/5
J	0	0	5	1	1	7/7
L	0	0	3	1	0	4/4
9.1.1.3 Generally speaking, practitioners working in the criminal justice system take the rights and concerns of victims very seriously.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
S	0	0	4	1	0	5/5
P	1	4	0	0	0	5/5
J	0	5	1	0	1	7/7
L	0	1	3	0	0	4/4
9.1.1.4 In the past, the criminal justice system has not paid due attention to the concerns and rights of victims. It is about	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL

time that victims' concerns are taken more seriously.						
S	1	4	0	0	0	5/5
P	1	1	3	0	0	5/5
J	0	4	2	0	1	7/7
L	1	2	1	0	0	4/4

Please provide an analysis and your own interpretation of the results:

In general, it seems that respondents may have had some difficulties in interpreting these statements, since in some cases they were not sure whether they should refer to the current situation or desired standards of victims' protection.

In reference to the first point, most of the respondents (13) did not agree with the statement that the justice system is mainly focused on offenders and as a result victims' role is peripheral. In all groups the majority of the respondents disagreed with this statement either, and in group L none of the respondents agreed with this statement. This result may be treated as yet another proof that victims' role in the proceedings is perceived as important, however in practice there are different opinions on how victims can play this role and how they can execute their rights.

Furthermore, a vast majority of respondents (18) disagreed or strongly disagreed with the statement that providing victims with a possibility to influence the proceedings may come with a risk of unsettling the fragile balance between prosecution and the rights of the defendants. This result should be analysed in, among others, the context of information provided by several respondents from **group V** in which they stated that the Polish justice system is much more concentrated on the situation of the offender.

> ***Podejście pani policjant, która przesłuchiwała mnie, uważam, że było niestosowne w stosunku do sytuacji i do osoby*** *(…) stwierdzenie policjantów – panów, którzy przygotowywali [śledztwo] – i później pani na komendzie, że* ***to nie było aż tak przesadne****…* ***„Tak bardzo – pani stwierdziła, mogę zacytować – tak bardzo mnie nie ułał, żeby można było coś z tym zrobić"****, że gdybym miała więcej świadków, świadczących o tej przemocy fizycznej i psychicznej, to byłoby lepiej. Próbowałam tłumaczyć, że to wszystko działo się w domu, że ja nie poszłam do wszystkich powiedzieć: słuchajcie, dzieje się tak, czy tak. A oni na to: „No jak się tak działo, to powinna pani o tym mówić". Ja mówię: gdybym wiedziała, to ja bym wcześniej coś z tym zrobiła, do takiej sytuacji by w ogóle nie doszło. Natomiast podejście było takie: mogła pani przyjść wcześniej, mogła pani coś zrobić, mogła pani zrobić coś innego. (…)* ***Stwierdziłam, że niepotrzebnie przyszłam do nich prosić o pomoc, bo i tak z tym nic nie zrobią.*** *I tak nic się nie wydarzy, co będzie na mogą korzyść,* ***a on*** *[sprawca]* ***i tak będzie bezkarny i w każdej chwili będzie mógł coś zrobić na ulicy, czy mi, czy dziecku****, np. zabrać go i mi oddać później.*

> ***The approach of the female officer who interviewed me, I think it was inappropriate for the situation and myself*** *(...) what the officers said, both the gentlemen who prepared the investigation and later the lady at the station, that* ***this wasn't serious enough... The female officer said, and I can give you the exact quote, that "He didn't beat enough crap of you for us to do something about it",*** *she said I should have had more witnesses who'd confirm the abuse. I tried to explain that everything was happening at home, I didn't just go to people and talk about it. And she said: "But if this happened, you should have told people about it". I tell her: "If I knew that, I'd do something about it earlier, this wouldn't have happened at all". But the police approach was like "you should have come earlier, you should have*

done this or that". (...) ***I thought that what I really shouldn't have done was coming to them for help because they won't do anything about it anyway.*** *Nothing will happen, nothing good for me, and he [the perpetrator]* ***will go unpunished, he may always do something to me or my kid on the street,*** *say take him away from me and give him back later. (PL/V/6)*

***

Powiem pani tak: ***jeżeli nie ma krwi, gwałtu, takich hardkorowych rzeczy, nikt nic nie zrobi****. Bo się nikomu nie chce. Bo wiadomo, że się przeciągnie, że dużo czasu się na to poświęca, a nie ma gwarancji wygranej – ja bym to tak powiedziała od strony prokuratury bardziej.*

I will tell you this: when there is no blood, rape, such hardcore things, nobody will do anything. Because nobody feels like it. It is clear that it will be longer, a lot of time is devoted to it, and there is no guarantee of winning – I would describe it like this from the prosecution's perspective.(PL/V/5)

Given the responses of the professionals, it seems that in practice there would be some margin for better execution of the rights of victims without; however, limiting the procedural rights of defendants.

The answers to point 9.1.1.3 were strongly polarized between groups. **Groups J and P** strongly agreed or agreed with the statement, while respondents from groups S and J disagreed or strongly disagreed. This tendency may be strongly related to the general perception of victims' rights within the justice system. Judges, prosecutors and the police may have more positive assessment of this issue, and as part of the system, declared high commitment to protecting victims' rights. On the other hand, representatives of victim support organizations and lawyers dealing with victims who may have had bad experiences in contacting the justice system may present a more critical assessment.

The last statement caused the most difficulties for the respondents, since it includes two different aspects. Nevertheless, the majority of the respondents agreed or strongly agreed with this sentence. On the other hand, a relatively small number (6) of the respondents did not support this statement.

9.2. Views of victims

9.2.1. Did the experience of the interviewed victims in the course of the investigation and the ensuing proceedings rather add to the harm done by the offender(s) or support them in coming to terms with the experience of victimisation (Question V 9.1)?

Overall, what I experienced during the investigation and the court proceedings	rather added to the harm done by the offender;	3
	mitigated the harm done by the offender;	2
	I couldn't tell/don't know.	6

Please provide an analysis and your own interpretation of the results:

Half of the respondents could not provide a general assessment of their experience of the proceedings and the experienced crime. This inability to provide such an assessment may be a result of two issues. First of all, the proceedings in four cases were still on-going and the victims may have wanted to refrain from presenting general assessments before the proceedings are completed. Secondly, for some respondents it could have been too

difficult to assess the proceedings as a whole because they did not have an impression that they participated in it or received enough information about their rights and position in the proceedings. When it comes to the interviewed victims of domestic violence, four of them (PL/V/1, PL/V/2, PL/V/3, PL/V6 and PL/V/7) could not asses the statement while 2 of them (PL/V5 and PL/V7) stated that the proceedings rather aggravated the harm they suffered from the crime. Similarly in the group of victims of crimes different than domestic violence, the majority of the respondents (PL/V/4, PL/V/8, PL/V/10 and PL/V/12) could not assess how the experience of the proceedings affected them. One of the respondents (PL/V/9) stated that this experience rather added the harm while only one respondent (PL/V/11) stated that this experience had mitigating effect.

A quarter of the respondents declared that their experience of criminal proceedings added to the harm done by the offender. A relatively high ratio of such responses may be a result of poorly functioning mechanisms of protecting victims as well as of the lack of policies preventing secondary victimisation within the law enforcement system.

9.2.2. To what extent did the interviewees agree to the following statements (Question V 9.2)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
1. During the investigation, I had the impression that my concerns and rights were taken seriously by the police and were given due attention.	1	6	4	2	0	13/12
2. At the court trial, I had the impression that my concerns and rights were taken seriously and were given due attention by the court.	3	3	1	1	3	11/12*
3. Overall, the investigation and the following proceedings conveyed a strong message that justice is done.	1	2	5	2	3	13/12

* The respondents PL/V/8 and PL/V/10 did not provide an answer to this question since their cases did not reach the court proceeding or had not been settled by the court yet.

Please provide an analysis and your own interpretation of the results:

The answers provided in this section show an interesting trend of how much the respondents' trust and confidence put in the justice system drops during the course of criminal proceedings. Although the majority of the respondents declared that their rights and concerns were respected and addressed by the police and courts, a similar group of respondents stated that at the same time they were not satisfied with the result of the proceedings.The assessment of each of the statements by the interviewed victims of domestic violence varied depending on the stage of proceedings and its overall assessment. In general, almost all victims of domestic violence disagreed or strongly disagreed with the statement that the proceedings conveyed a strong message that justice has been done. The only respondent from this group who agreed with this sentence was PL/V/3, however in the case of this respondent some of her proceedings were still pending. Furthermore, the majority of respondents (namely: PL/V/1, PL/V/2, PL/V/5 and PL/V/6) diagreed with the first statement that their rights were taken seriously by the Police. Two of the interviewees who agreed with this statement (PL/V/7 and PL/V/3) also presented quite a positive assessment of the police's works. In both cases, the law enforcement officers took some steps against the perpetrators (in one case the perpetaror was arrested and in the second one the police decided to press charges against the perpetrator in another case related to the main case of the victim). The interviewed victims of domestic violence presented the most diversed assessment of the second statement. In the opinion of three respondents (PL/V/1, PL/V/3 and

PL/V/6), the prosecutors and judges took their rights seriously. However, two other respondents (PL/V/2 and PL/V/7) presented an opposite point of view. For example in the case of respondent PL/V/7, a low assessment of judges and prosecutors in this regard may be related to the fact that respondent's expectations to be more involved in the proceedings were not met. In cases of victims of crimes different than domestic violence, the assessment of these statements was slightly different. First of all, almost all victims from this group (PL/V/4, PL/V/8, PL/V/9, PL/V/10, PL/V/11 and PL/V/12) agreed or strongly agreed with the statement that the police took seriously the protection of their rights. Similar assessment was presented in the case of judges and prosecutors' approach towards victims' rights, however in this instance only three respondents expressed their opinions (PL/V/4, PL/V/9 and PL/V/12), since the proceedings of other three respondents did not reach the court stage or were not completed yet. By contrast to the group of victims of domestic violence, this group was quite polarised in their assessment of the entire proceedings. Two respondents (PL/V/4 and PL/V/9) strongly agreed or agreed with the statement that the investigation conveyed a strong message that justice was done, while two of the respondents (PL/V/8, PL/V/10) did not agree with it.

Conclusions

The interviews revealed several overarching issues that were addressed by numerous respondents from different groups.

One of the most common conclusions was a wide **discrepancy between the law and practice**. Several respondents (e.g. PL/S/1, PL/J/1, PL/J/7, PL/L/2) stated that the law already provides a wide set of rights to victims within the criminal procedure. In practice, however, the proper execution of these rights faces numerous challenges and obstacles related to, among others, the organisational aspects of the justice system. The research results show a couple of reasons behind this phenomena. One of them may be a lack of systemic guidelines or policies aiming at raising the standards of victims' rights protection. This lack is especially visible in the sphere of referring victims to support organisations, informing them about their rights and protecting them from secondary and repeat victimisation. Usually, the practice in this regard is shaped on a case-by-case basis. Another reason for the lack of proper execution of victims' rights in practice may be difficulties in interpreting legal provisions (that might be the case especially in crimes related to domestic violence).

The second, most common subject, which was discussed in almost every interview was **the position of a victim in the criminal procedure**. The majority of the respondents declared that victims are "persons harmed by crime" or "persons in need of assistance", however their role is usually limited only to providing necessary information. It is also worth noting that despite the fact that victims' information is perceived as crucial for the proceedings, in the opinion of many interviewees law enforcement officials enjoy a wide margin of discretion and verification of this information.

Another recurring issue was the process of **informing victims about their rights**. Beyond some singular opinions stating that victims receive all important information in an adequate form (e.g. PL/J/7), numerous respondents criticised the practice of informing victims about their rights (see PL/J/2, PL/S/2, PL/S/3, PL/L/2, PL/L/2). In the opinion of many respondents the information provided to victims is too hermetic, written in a difficult to understand way, and in general not enough attention is paid by law enforcement officials to this process. Similar reflections are shared by some interviewed victims who stated that they did not receive relevant information or they did not understand it correctly.

A proper implementation of victims' rights in practice is also strongly combined with another recurring observation which is the **lacking capacity of the law enforcement system.** The shortages are particularly visible in the daily work of the police. Numerous interviewed victims noticed the poor conditions in which they were heard, and these observations were echoed by respondents from group P, but not only (PL/J/4, PL/J/1), who noted at several occasions that the police does not have the right infrastructure, is overloaded with work and does not have enough financial resources.

Many respondents also paid attention to the **general support of victims and functioning of the victim support system**. In the opinion of several respondents the system lacks proper financing and human resources. However, an even more disturbing observations were made by several interviewees (PL/S/1, PL/S/2, PL/S/3 and PL/S/4) who noted that the atmosphere around specific organisations dealing with domestic violence has changed over the last years and become much more hostile. This observation may be related to the recent changes in the process of financing several non-governmental organisations providing support to victims of domestic violence. Since 2016, the media has reported several times that organisations leading in supporting victims of domestic violence such as e.g. Women's Rights Centre,[9] BABA Association[10] or the Blue Line Foundation[11] were denied access to the public funds for their work.

[9] Kupracz A., Centrum Praw Kobiet znów bez pieniędzy od resortu Ziobry, Gazeta Wyborcza, available at: http://wyborcza.pl/1,75248,21250453,centrum-praw-kobiet-znow-bez-pieniedzy-od-resortu-ziobry.html

[10] Szczęch M., Bo bite nie głosują, Polityka, available at: http://www.polityka.pl/tygodnikpolityka/spoleczenstwo/1664456,1,jak-pomagac-ofiarom-przemocy-domowej.read

[11] Ambroziak A., Nie ma takiego numeru". Resort Ziobry nie dał pieniędzy na porady telefoniczne dla ofiar przestępstw, Oko.press, available at: https://oko.press/bedzie-takiego-numeru-resort-ziobry-da-pieniedzy-porady-telefoniczne-dla-ofiar-przestepstw/

Despite these negative examples, several respondents pointed at **positive examples of improving the practice of victims' rights protection.** Several interviewees (e.g. PL/S/1, PL/S/2 and PL/S/4) pointed at the progress which has been made in this field over last couple of years.

> *"Ja w ogóle widze postęp jeśli chodzi o prokuraturę i policję za ostatnie 17 lat jak my tutaj pracujemy"*
>
> *"I see progress when it comes to the police and prosecutors during the last 17 years as we have been working here" (PL/S/2)*

In the opinion of the interviewees, the progress is a result of, among other things, the organisations' cooperation with local key stakeholders (the police, prosecutors and the municipal office and services), trainings for law enforcement officials and professional approach of certain police officers, judges and prosecutors as well as implementation of EU law. Some of the respondents stated that improving the legal protection of victims and their rights is a result of the process of implementing EU provisions.

> *"Na pewno bardzo dużo na rzecz poprawy pokrzywdzonego w polskim postępowaniu karnym robi Unia Europejska. […] to jest instrument [decyzja ramowa z 2014 r. – red.], który jest na pewno bardzo dobry. Bardzo pożądane byłoby implementowanie tego instrumentu do polskiego porządku prawnego. Ale on jest dostosowany do standardów zachodnio-europejskich. Tam jest czymś normalnym i rutynowym, że jeśli przychodzi ktoś pobity to jest kierowany do określonej instytucji wsparcia. Tutaj nikt się nie zastanawia nad takim rozwiązaniem: czy ja mam podjąć taką decyzję, czy nie? […] Jeżeli takie rozwiązania byłby w Polsce przyjęte, to na pewno mielibyśmy zdecydowanie lepszy standard pomocy ofiarom przestępstw. Tylko trzeba sobie zdać sprawę z tego, że to, co jest w Holandii normalne, to w Polsce jest to rzecz na którą będziemy musieli długo pracować i pewnie długo nie osiągniemy"*
>
> *„For sure the EU is doing a lot to improve the position of a victim in the Polish criminal procedure. This tool [the framework decision of 2014 – ed.] is a very good tool. It's be desired to implement this tool to the Polish legal framework. However, it's more adjusted to the Western-European standards. There, it's something normal and routine that someone bitten is directed to the specific support organization. Here none thinks about it whether I should direct such a person or not? […] If such remedies were adopted in Poland then we would have a way better standard of victims' protection. But we have to realize that what is usually in the Netherlands, in Poland is a goal towards which we'll have to work for years and we won't reach it any time soon" (PL/L/4)*

The research results seem to be showing a comprehensive map of gaps and shortages that have to be properly addressed in order to improve the standards of protection of victims and their rights. One of the biggest challenges in this regard will be overcoming the perception of a victim as a tool to obtain information, instead of a full-fledged participant to the proceedings.