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**REFERRAL, ASSESSMENT AND INFORMATION PROVISION TO VICTIMS OF CRIMES
- REPORT FOR ROMANIA -**

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List of Acronyms

GDSWCP - General Direction for Social Welfare and Child Protection (RO: *DGASPC – Direcția Generală de Asistență Socială și Protecția Copilului*)
CCP – Code of Criminal Procedure (RO: *CPP – Codul de Procedură Penală*)
CC – Criminal Code (RO: *CP – Codul Penal*)
NAEO - National Agency for Equality of Opportunities between Women and Men (RO: *ANES – Agenția Națională pentru Egalitate de Șanse între Femei și Bărbați*)
NAAHT - National Agency Against Human Trafficking (RO: *ANITP – Agenția Națională Împotriva Traficului de Persoane*)
GIRP - General Inspectorate of Romanian Police (RO: *IGPR - Inspectoratul General al Poliției Române*)
PSWS - Public Social Welfare Services (RO: *SPAS - Serviciile Publice de Asistență Socială*)

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Executive Summary

This report is part of the *Best Practices in Victims' Support: Referrals, Information, Individual Assessment (VICToRIIA)* project¹. The aim of the project is to assess the support that victims of crime receive in Lithuania, Romania, Italy, and Portugal, and the extent to which national legislation and services are in line with Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (the Victims' Directive).

Chapter 1 of the report provides a general overview of the rights granted to victims of crime in Romania, the state of support services, as well as issues that are specific to particular vulnerable groups in the country. Special attention is allotted to three topics, with each of them treated in a separate chapter: Chapter 2 analyses the referral of victims to judicial authorities and support services, Chapter 3 looks at the individual assessment of victims to identify specific protection needs, while Chapter 4 approaches how information is provided to victims. The last chapter offers details about eight (8) good or promising practices identified in Romania in relation to referral, assessment and information provided to victims. Each section ends with recommendations for stakeholders, aimed at improving aspects related to the rights of victims of crime, tackled in the corresponding chapters.

Romania is among the seven (7) EU Member States that do not have national generic victim support services, only specialised support services for victims that are deemed more vulnerable: mostly children victims of abuse and neglect, victims of domestic violence, and victims of human trafficking. Nevertheless, a very recent legal amendment, coinciding with the finalisation of the present report (April 2019), set the foundation for the creation of national generic victim support services which are to operate within the General Directions for Social Welfare and Child Protection (GDSWCPs), the state-run Social Services. An in-depth analysis of these services, after their effective establishment and subsequent activity is, however, the object of future research.

In Romania, despite improvements in recent years, specialised support services remain underdeveloped, insufficient and oftentimes inaccessible. This is due either to financial considerations (for instance, many victims have to pay for psychological counselling, as they cannot access it free of charge, despite national legislation granting them the right) or to geographical considerations (support services tend to be located in bigger cities, and people residing in rural areas have difficulties reaching them).

Research found that although the Victims' Directive has been transposed to a large extent into national legislation, including the provisions regarding referral (Articles 8 and 9 of the Directive), assessment (Article 22), and the right to information (Articles 4 and 6), its practical implementation is still unsatisfactory.

While some mechanisms of referral are in place, mostly between the Police and Social Services, research (Chapter 2) shows that there is great variation in referral practices across the country, ranging from good interinstitutional cooperation to practically inexistent referral. These issues stem first and foremost from the scarcity of such services, particularly in rural areas, but they are also due to inefficient collaboration between institutions – judicial authorities, Social

¹ For more information on the project, see <http://www.crj.ro/en/antidiscrimination/victoriia/>.

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Services and victim support organisations. While most referral takes place when the victim reports a crime or when authorities begin criminal procedures, victims may also be referred to support services through three national helplines dedicated to children, victims of domestic violence, and victims of human trafficking, respectively.

Furthermore, research carried out for the present study has shown that the individual needs assessment (Chapter 3) is carried out by a limited set of institutions – mostly the Social Services and nongovernmental organisations – and only for some categories of victims: mostly child victims of abuse or exploitation, victims of human trafficking and victims of domestic violence. While there is a legal framework for ensuring that victims’ protection needs are met, there are few to no clear guidelines for judicial authorities to conduct assessment, in line with the individual needs and particular circumstances of the crime, as detailed by the Directive. However, Social Services and victim support organisations operate according to more developed guidelines and procedures for needs assessment, either regulated by state legislation or, in the case of NGOs, according to internal practices.

With regard to the provision of information to victims (Chapter 4), the report indicates that there are no formal mechanisms to ensure that victims understand the information that is being communicated to them, apart from providing interpreters when the victim does not understand Romanian or has a hearing impairment, or having the legal guardian and/ or a psychologist present when interviewing a child victim. On average, judicial authorities – police officers, prosecutors, and judges tend to use legal jargon when presenting victims their rights and fail to provide practical information on how to access them. In addition, there is a shortage of support materials containing information for victims (leaflets, posters, brochures, websites, infographics), but also raising awareness campaigns, as well as insufficient or inadequate training of professionals regarding victims’ needs or how to inform victims or conduct referral to authorities and/ or support services.

Chapter 5 of the report contains a list of eight identified good or promising practices with regard to information, referral and assessment. Some of them are initiated by the state: the multidisciplinary teams coordinated by the GDSWCPs; the County Intervention Centre for the Abused Child, under the coordination of GDSWCP Cluj; the special interview room in Cluj-Napoca and Craiova for children victims of abuse; and rent subsidies for victims of domestic violence offered by the City Hall of Cluj-Napoca. Two good practices are in the form of public-private partnerships: multisectorial collaboration for cases of family violence in Târgu Mureş; and collaboration between the Police and the NGO Save the Children on referral and reporting online child pornography, while two examples are initiatives of NGOs: pro bono legal assistance and representation, and online information and psychological counselling offered to victims of domestic violence.

Last but not least, in Chapter 6, the report makes a series of recommendations to competent authorities, aimed at facilitating victims’ access to justice and support services. These recommendations include: the creation of national generic support services for all victims of crime; securing sufficient funding for service providers, including NGOs; improving the provision of information to victims; creating and/ or developing referral procedures and guidelines between involved institutions; developing and expanding existing needs assessment procedures; and providing adequate training on the abovementioned aspects to specialists dealing with victims of crime.

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Chapter 1 – Introduction

The present report provides an overview of the situation of victims of crimes² in Romania in terms of referral to support services, needs assessment and information provision, as stipulated by the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (hereinafter, the Directive), which has been partially transposed into national legislation³.

The findings of the report stem from quantitative and qualitative research conducted between November 2018 and April 2019, combining desk research and legislation and policy analysis with 10 semi-structured interviews with national specialists⁴ and 25 public information requests addressed to state institutions with attributions in the field of victim protection and support⁵. The interviewees and the institutions that were contacted were selected so as to

² The Romanian Criminal Code (hereinafter, CC) and the Code of Criminal Procedure (hereinafter, CCP) use the concept of “injured person”, defined as “the person who has suffered a physical, material or moral damage through a criminal act” (Art. 79, CCP). Law 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime introduced a definition for the term “victim” in April 2019, when it was last amended. According to Art. 3⁴, letter (a), “a victim of crime is a person who has suffered harm of any kind, including harm to his or her physical, mental or emotional integrity, or economic harm directly caused by a crime, as well as the family members of a person who has died as a result of a crime and who have suffered harm as a result of the death of the respective person”. In practice, the two terms are synonymous and are used interchangeably.

³ The Romanian national legislation for the transposition of the Victims’ Directive at the moment of the present report is composed of the following:

- Law no. 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime (updated in 2019)
- The Criminal Code (updated in 2018)
- The Code of Criminal Procedure (updated in 2018)
- Law no. 678/2001 regarding the prevention and combatting of trafficking in human beings
- Law 302/2004 regarding the international judiciary cooperation in criminal matters
- Law no. 192/2006 regarding the functioning and organization of mediators

⁴ The interviewed specialists included three psychologists, one social worker, three attorneys, one forensic doctor, one judge, and two university professors (10 specialists in total, some with more than one profession) from across the country, from 6 counties (Cluj, Iași, Sălaj, Argeș, Bistrița-Năsăud, Sibiu) and Bucharest. Six of them were directors and representatives of victims support organisations, offering support to different vulnerable groups (women victims of violence, children victims of abuse, victims of human trafficking, Roma, and LGBTQI), while three represented state institutions (Social Services, Forensic Medicine Institute and a Court). For reasons of confidentiality, their names are protected, and they are referred to as Interviewee 1, 2, and so on.

⁵ The 25 requests for information, based on Law 544/ 2001 regarding the free access to public interest information, were addressed to the General Directions for Social Welfare and Child Protection of the 6 sectors of Bucharest, of Cluj, Iasi and Dolj counties, respectively; to the National Agency for Equality of Opportunities between Women and Men; to the General Inspectorate of Romanian Police; to the Prosecutor’s Offices of the High Court of Cassation and Justice, as well as of the Courts of Bucharest Sector 1, Cluj-Napoca and Iasi; the National Institute of Forensic Medicine and the Institute of Forensic Medicine in Cluj-Napoca; the National Criminology Institute; the Probation Services in Bucharest, Sector 1, Cluj-Napoca and Iasi and the General Direction of Probation Services. An extensive geographical coverage was sought: the requests were sent to institutions in Bucharest, in Cluj, Iasi and Dolj counties – Romania’s largest counties and respective cities, covering all three of the country’s main regions. All institutions replied, with the exception of the National Institute for Forensic Medicine; the answer of Prosecutor’s

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obtain comprehensive and multifaceted information from professionals with different backgrounds, from the public and NGO sector alike, from different parts of Romania, and offering support and protection to a wide range of vulnerable groups. Although the interviews and requests for public information did not cover the entire country, the representativeness and diversity of the sources are a strong indicator for the state of affairs at the national level. The report found that, despite positive developments in the last decade, mostly due to partial alignments with European and international legislation, Romania continues to lag behind with regard to the rights of victims of crime to information, access and referral to support services, and protection measures⁶.

The legal framework and the extent of support services in Romania

Romania is among the 7 EU Member States that do not currently have nation-wide generic support services for victims of crime⁷. The services that exist are dedicated to some categories of victims, who are perceived to be more vulnerable, mostly child victims, victims of domestic violence, and victims of trafficking in human beings (for sexual exploitation and forced labour) and additional specific legislation refers to these categories of victims. Support services are offered by a range of state-run institutions, mainly: the General Directions for Social Welfare and Child Protection, hereinafter GDSWCP (one such institution for each of the 41 counties and the 6 sectors of Bucharest), the Public Social Welfare Services (PSWS) organised at local (communal, town and municipal) level, the National Agency Against Human Trafficking (NAAHT), and to a lesser extent the National Agency for Equality of Opportunities between Women and Men (NAEO), an entity within the Ministry of Labour. Specialised support services are also offered by NGOs, who often complement the services offered by the state at times without receiving financial support from public funds. Sometimes these organisations represent the only alternative with regard to support services for victims of crime⁸.

Importantly, Law 211/ 2004 regarding some measures for ensuring the information, support and protection of victims of crime was substantially amended in April 2019 through Emergency Ordinance 24/ 03.04.2019. **This sets the basis for the creation of generic victim support services in Romania** as well, in the form of specialised departments which are to function within each GDSWCPs and are to consist of at least three specialists: social worker, psychologist

Office of the Court of Bucharest, Sector 1 consisted in one paragraph with reference to legislation and could not be used to draw out information.

⁶ This conclusion is also supported by the national report on Romania conducted as part of the project *VOCIARE: Victims of Crime Implementation Analysis of Rights in Europe*. The report on Romania, authored by the Equality and Human Rights Action Centre (ACTEDO), is scheduled for publishing in May 2019 and contains a more in-depth analysis of the transposition and implementation of the Victim's Directive.

⁷ The other EU states that do not have generic victim support services are Bulgaria, Cyprus, Greece, Latvia, Lithuania, and Slovenia. European Union Agency for Fundamental Rights (2014), *Victims of crime in the EU: the extent and nature of support for victims*, p. 21. Formerly included in this list, Italy launched Rete Daphne – The National Network of Assistance Services for Victims of Crime in July 2018.

⁸ See the domestic violence victims's perspective on support services and providers in the research National Report on the Right to Information and to Support Services – The Situation of Victims of Domestic Violence, Center for Legal Resources, 2019, available at http://www.crj.ro/wp-content/uploads/2019/03/VICATIS-Romania-national-report_EN_2019.pdf.

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and legal counsellor⁹. The services offered by the departments for victims of crime may include¹⁰: information about their rights, psychological counselling, counselling about financial matters regarding the crime, emotional support, social insertion services, information about the victim's role in criminal proceedings and preparation for the trial, as well as referral to other specialised support services¹¹. These services are free of charge and are provided at the request of the victim or his/ her family. Upon request, free legal aid is foreseen for victims of some crimes, mainly attempted murder, bodily injury, and sexual violence¹². Victims of other types of crime may access free legal aid according to a needs-based system¹³.

Prior to the recent amendment to Law 211/ 2004, the Probation Services of Tribunals were responsible with the provision of free psychological counselling to victims of crime¹⁴. In reality very few victims did indeed access this right – 12 victims, to be precise, between 2015 and

⁹ Art. 3[^]1, Law 211/2004: “(1) In order to provide support and protection services for the victims of crime, a department for the support of victims of crime is set up in the organizational structure of each Direction, a structure in which at least three specialists will operate: social worker, psychologist, legal counsellor.”

¹⁰ Law 211/2011 does not make it an obligation for these specialised departments to offer any of the abovementioned support services, probably to allow the GDSWCPs more autonomy in managing their existing resources and to take into account the needs of the victims. However, making the provision of these services optional poses a risk to the delivery of support to victims of crime.

¹¹ Art. 7, Law 211/2004: “(4) The support and protection services provided to victims of crime and their family members may be: a) information on the victim's rights; b) psychological counseling, counseling on the risks of secondary and repeated victimization or intimidation and revenge; c) advice on financial and practical aspects of the crime; d) social insertion/ reintegration services; e) emotional and social support for the purpose of social reintegration; f) information and counseling on the victim's role in criminal proceedings, including preparation for participation in the trial. These information and counseling services do not include free legal assistance to victims of crimes under Art. 14-20 or the legal assistance of the injured person provided by Law no. 135/2010 regarding the Code of Criminal Procedure, as subsequently amended and supplemented; g) referring the victim to other specialized services where appropriate: social services, medical services, employment services, education or other services of general interest granted under the law.”

¹² Art. 14, Law 211/2004: “(1) Free legal aid shall be granted on request to the following categories of victims: (a) persons who have been the subject of attempted murder, attempted first-degree murder, as defined in Art. 188 and 189 of the Criminal Code, the crime of bodily injury, provided in Art. 194 of the Criminal Code, a deliberate crime which resulted in the victim's bodily injury, rape, sexual assault, sexual intercourse with a minor, sexual abuse of minors under Art. 218-221 of the Criminal Code; b) the spouse, children and dependents of a person who died as a result of murder, first-degree murder, as defined in Art. 188 and 189 of the Criminal Code, as well as the intentional crimes that resulted in the person's death.”

¹³ Art. 15, Law 211/2004: “Free legal aid is granted upon request to victims of crimes other than those provided under art. 14 par. (1), subject to the conditions laid down in Art. 14 par. (2) if the monthly income per family member is at most equal to the minimum gross wage of the country for the year when the victims formulated the request for free legal aid”.

¹⁴ Art. 7, Law 211/2004, prior to the April 2019 amendment: “The psychological counselling of victims of crime is ensured, under the present law, by the victim protection services and the social reintegration of the offenders which function at tribunals.”

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2018¹⁵, either because of insufficient staff or due to the lack of information on the part of victims, who did not request these services¹⁶.

Although the deadline for the transposition of the Directive into national legislation was November 16th, 2015, Romania has not yet fully implemented its provisions, which lead the European Commission to open an infringement case against the country in January 2016¹⁷. Moreover, in a memo released on November 8th, 2018, the European Commission calls on Romania, as well as on Ireland and Slovenia, to ensure the complete transposition of the Directive. In case of a failure to act within two months, their case may be referred to the Court of Justice of the EU¹⁸.

The rights granted by the Directive which have been fully transposed into national legislation include the right to information and accessible language, as well as translation and interpretation, the right to be heard, to legal aid, to safeguards in the context of reparatory justice (in Romania, mediation), to reimbursement of expenses, to compensation, as well as property and goods restitution. In addition, Romania has transposed the Directive's provisions regarding the rights of victims in the situation of a decision not to prosecute, together with the rights of victims who reside in another EU member state. At the same time with finalising this report, in April 2019, Law 211/2004 was amended so that all of its provisions apply to victims of crimes that occurred on the territory of Romania, regardless of their residence status in the country¹⁹. Up to the point when the present report was finalised, foreign citizens were not excluded from the exercise of these rights, provided they were legally residing in Romania. Persons who had applied for a refugee status were also included, receiving a temporary residence permit until their application for a refugee status was resolved²⁰.

Furthermore, in line with the Directive, the Code of Criminal Procedure (hereinafter, CCP) presumes the following groups to be more vulnerable: "child victims, victims who are in a relationship of dependence on the offender, victims of terrorism and organized crime, victims of human trafficking and violence in close relationships, victims of sexual violence or exploitation, as well as of hate crimes and victims affected by an offense due to prejudice or discrimination, victims with disabilities or who have suffered considerable damage as a result of the gravity of the offense" (Art. 113, (2), CCP). For these categories of victims, judicial authorities may institute

¹⁵ Reply by the National Probation Directorate to the Centre for Legal Resources (letter no. 2/9610/06.02.2019).

¹⁶ Replies to requests of information by the Probation Services of the Tribunals of Cluj (letter no. 1100/15.01.2019), Iasi (letter no. 25377/ 13.12.2018) and Bucharest Sector 1 (letter from 17.12.2018).

¹⁷ European Commission, *Infringement decisions: EU Directive 29/2012*. Infringement no. 20160142, Romania. Retrieved from: http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&typeOfSearch=true&active_only=1&noncom=0&r_dossier=20160142&decision_date_from=&decision_date_to=&EM=RO&title=&submit=Search (accessed December 10th, 2018).

¹⁸ European Commission, *Fact Sheet. November infringements package: key decisions*, Brussels, 8 November 2018. Retrieved from: http://europa.eu/rapid/press-release_MEMO-18-6247_EN.htm (accessed December 10th, 2018). At the date of finalising this report, namely April 15th, 2019, there was no public update on the situation.

¹⁹ Art. 3[^]12, Law 211/ 2004: "The provisions of this chapter apply to victims of crime if the crime was committed on the territory of Romania or if the crime was committed outside the territory of Romania and the victim is a Romanian or foreign citizen legally residing in Romania."

²⁰ Art. 13 (1), Government Ordinance 102/ 2000 regarding the status and regime of refugees in Romania.

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special protection measures, if the victim is deemed a vulnerable witness²¹. In addition, protection measures for victims may take the form of supplementary punishments for offenders, restricting some of the offenders' rights, such as, for instance, forbidding them to contact the victim or her family or to go near her home or workplace²². According to the Criminal Code (hereinafter, CC), violating this obligation carries a sentence of 3 months to 2 years in prison or a criminal fine²³. However, interviews with specialists have indicated that in practice judicial authorities rarely institute these protection measures²⁴. Moreover, protection measures for victims that are presumed vulnerable may also include being interviewed by the judge, police or

²¹ Art. 113, CCP – The protection of the injured person and the civil party: “(1) When the conditions provided by the law regarding the status as a threatened or vulnerable witness or for the protection of private life or dignity are met, the criminal investigative body may order the protection measures provided for in art. 125-130, which apply accordingly.”

The protection measures are as follows:

- Art. 126, CCP – Protective measures ordered during criminal proceedings: “(1) In the course of the criminal prosecution, once the threatened witness status is granted, the prosecutor shall apply one or more of the following measures: a) supervising and guarding the witness's dwelling or providing temporary housing; b) to accompany and ensure the protection of the witness or his / her family members during movement or travel; c) the protection of identity data by giving a pseudonym with which the witness will sign his statement; d) hearing the witness without being present, by means of the audiovisual means of transmission, with distorted voice and image when the other measures are not sufficient. (2) The prosecutor shall order the application of a protective measure of his own motion or at the request of the witness, of one of the parties or of a principal procedural subject.”

- Art. 127, CCP – Protection measures ordered during the trial: “During the trial, once the threatened witness status is granted, the court orders one or more of the following measures: a) supervising and guarding the witness's dwelling or providing temporary housing; b) accompanying and ensuring the protection of the witness or his / her family members during movement or travel; c) declaring the session closed to the public during the hearing of the witness; (d) hearing the witness without them being present in the courtroom by means of audiovisual means of transmission, distorted voice and image when the other measures are not sufficient; e) protection of the identity data of the witness and granting a pseudonym under which he/ she will testify.”

²² Art. 66, CC – The content of the complementary punishment for the prohibition of the exercise of certain rights: “(1) The complementary punishment of the prohibition of the exercise of rights consists in the prohibition of the exercise of one or more of the following rights for a period of one to five years: a) the right to be elected in public authorities or in any other public office; b) the right to occupy a position involving the exercise of the state authority; c) the foreign citizen's right to be on the territory of Romania; d) the right to vote; e) parental rights; f) the right to be a guardian or a curator; g) the right to occupy the position, to exercise the profession or to carry out the activity which was used for committing the offense; h) the right to hold, wear and use any category of weapons; i) the right to drive certain categories of vehicles as established by the court; j) the right to leave the territory of Romania; k) the right to hold a management position within a legal person governed by public law; l) the right to be in certain localities established by the court; m) the right to be in certain places or at certain sports, cultural or other public gatherings, established by the court; n) the right to communicate with the victim or his / her family members, the persons with whom he / she committed the offense or other persons, established by the court, or to approach them; o) the right to approach the home, workplace, school or other places where the victim carries out social activities under the conditions established by the court.”

²³ Art. 288, CC – Non-execution of criminal sanctions: “(1) The removal from execution or the non-execution according to the law of a complementary punishment or the safety measure provided in art. 108 letters b) and c) by the natural person against whom these sanctions have been ordered, shall be punished by imprisonment from 3 months to 2 years or by a fine, if the act does not constitute a more serious crime.”

²⁴ Interviewee 7.

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prosecutor in special venues and in the presence of a psychologist or social worker whose purpose is to ensure that the risk for secondary victimisation is mitigated. These victims should, as much as possible, be interviewed again only if strictly necessary and by the same person²⁵. Moreover, vulnerable victims are granted the right to be interviewed by a person of the same sex, on demand²⁶. However, in reality, few victims are aware of this right and therefore do not request to be interviewed by a person of the same sex²⁷.

Vulnerable victims

There are also a number of issues related to the understanding of vulnerability and victimhood among judicial authorities and other professionals working with victims. First of all, **women victims of domestic or sexual violence** often face victim-blaming attitudes. According to a 2016 survey conducted by the European Commission, 55% of Romanians – the highest percentage in the EU (the average being 27%) – believe that rape is sometimes justifiable, in other words that there is at least one situation, such as the victim being drunk, having multiple sexual partners or wearing revealing clothes, which may make sexual intercourse without consent acceptable²⁸. Similar attitudes are to be found among police officers, prosecutors, and judges, sometimes even in extremely severe cases, such as children victims of rape²⁹. Interviews

²⁵ Art. 111, CCP – Hearing the injured party: “ (6) In the case of injured persons for whom the specific legal protection requirements have been established, the judicial body may order one or more of the following measures, when possible and when it deems that it does not conflict with the good conduct of the trial or the rights and interests of the parties: b) hearing them through or in the presence of a psychologist or other specialist in counselling victims; c) their hearing, as well as their possible re-examination, shall be carried out by the same person, if this is possible and if the judiciary deems it to be without prejudice to the proper conduct of the trial or the rights and interests of the parties.”

²⁶ Art. 111, CCP – Hearing the injured party: “(7) The hearing by the criminal investigation bodies of the injured persons who have been victims of the offense of domestic violence, provided by art. 199 of the Criminal Code, rape, sexual assault, sexual intercourse with a minor and sexual abuse of minors, provided in art. 218-221 of the Criminal Code, of the offense of ill-treatment applied to the minor, provided in art. 197 of the Criminal Code, harassment, provided by art. 208 of the Criminal Code, and sexual harassment, provided by art. 223 of the Criminal Code, as well as in other cases in which, due to the circumstance of the offense, this is deemed necessary, it is performed only by a person of the same sex with the injured person at his request, except when the judiciary considers that this prejudices the proper conduct of the trial or the rights and interests of the parties.”

²⁷ Interviewees 4 and 6.

²⁸ European Commission (2016), *Special Eurobarometer 449 Report: Gender-based Violence*, p. 65.

²⁹ A case which resulted in Romania’s conviction at the European Court of Human Rights in 2016 showed that the court interpreted the fact that an eleven year-old girl did not tell her parents about being raped by five men on different occasions as proof that she consented. In addition, the ECHR ruling pointed to 12 similar cases in Romania where the rape of a minor was judged on a case by case basis, despite the child being below the legal age of consent. The ECHR ruling indicated that the twelve domestic court judgments (2009-2013) submitted by the Romanian Government “follow the approach that the capacity to express valid consent on the part of a victim of sexual abuse who is a minor was to be determined in accordance with the particular circumstances of each case. In the majority of these cases, victims aged between eleven and fourteen years old were considered to have agreed to sexual acts with older men – including anal and oral sex – based on elements such as the fact that they had not told their parents, they had not screamed for help or that they had agreed to accompany the perpetrators to various places where the acts had taken place. In some of the cases discrepancies between the statements given by the victims at various stages of the proceedings were also considered to constitute an element proving their consent.” European Court of

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with specialists confirm the aforementioned issues: police officers often disregard victims of domestic violence who come to the police stations to report an abuse, telling them to return when the situation is more severe; they consider victims to be partially responsible for the situation they are in; they discourage the victims from pressing charges under the justification that they will likely withdraw their complaint or treat their case superficially if they seem less educated or come from a lower socio-economic background³⁰.

A specialist from an NGO offering support to **victims of human trafficking** states that many times victims, even children, are seen by the police as willing sex workers. Victims may be fined or referred to Social Services, but when they return on the streets the police often no longer intervene. Consequently:

“No victim ever calls the police. She knows herself to be guilty, so she runs from the police.”³¹

Another particularly vulnerable group, **LGBT people** (lesbian, gay, bisexual, and transgender persons)³², also face many barriers in accessing justice. Generally, LGBT victims have little trust in the justice system and particularly in the Police, and oftentimes fear the stigma that accompanies their sexual orientation/ gender identity. A specialist from an NGO working with the LGBT people described one such interaction between a victim and the police:

“When we talk about LGBT, people who are more exposed to sexual crimes, the police agent discourages victims from giving details about the harassment, asking them to avoid using language with sexual connotation and including details in their [written] statement, under the pretext that it is ‘indecent’, which is a denial of the situation in which a victim of sexual aggression finds herself. And all of this was happening in my presence, as a chosen attorney, imagine what happens when the person is alone!”³³

A number of structural barriers also hinder the access to justice of **persons with disabilities**. In 2018, there were a total of 812,594 persons with disabilities in Romania, of whom 18,015 were living in state institutions³⁴, oftentimes in conditions that clearly violate basic human rights – between 2011 and 2014, 4,568 people with mental disabilities living in residential centres died³⁵. According to the European Commission, the risk of poverty and social exclusion for

Human Rights, *Case of M.G.C. against Romania, Judgement 61495/11*. Retrieved from: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-161380%22%5D%7D> (accessed January 29th, 2019).

³⁰ Interviewees 1, 2, 3, and 4.

³¹ Interviewee 5.

³² Attitudes towards LGBT people in Romania remain problematic. For example, 54% of Romanians indicated in 2012 they would not be comfortable having a homosexual as a neighbour (in contrast to, for instance, Sweden, where only 4% of people responded in the same way). World Values Survey, Wave 6: 2010-2014, “V40.- Would not like to have as neighbors: Homosexuals”. Retrieved from <http://www.worldvaluessurvey.org/WVSOnline.jsp> (accessed February 13th, 2019).

³³ Interviewee 3.

³⁴ Ministry of Labour and Social Justice, *Trimestrial statistics 2018*. Retrieved from: <http://anpd.gov.ro/web/transparenta/statistici/trimestriale/> (accessed February 14th, 2019).

³⁵ Center for Legal Resources, *The Death Map. How many people with mental disabilities died while in state custody?*, 2015. Retrieved from: <http://www.crj.ro/harta-deceselor-cate-persoane-cu-dizabilitati-mintale-au-murit-in-custodia-statului-intre-anii-2011-2014/> (accessed February 14th, 2019).

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people with disabilities in Romania is alarming, as is employment and activity rates, which are considerably lower than the EU average³⁶. Despite having adopted a national disability strategy in 2016, Romania still fails to properly address accessibility, access to the labour market, and access to education of persons with disabilities³⁷. Furthermore, in the case of institutionalised persons with disabilities, especially mental or intellectual disabilities, oftentimes basic access to justice is not provided³⁸, as there is no one to handle criminal complaints on their behalf. In fact, although an independent monitoring mechanism for institutionalised people with disabilities was created in 2015 in line with the requirements of the UN Convention on the Rights of Persons with Disability, it exists only on paper³⁹.

Not least, **Roma**, in many respects the most vulnerable minority group in Romania, also face manifold barriers in accessing justice and support. Financial constraints and lack of legal education, coupled with the intricacies of the Romanian justice system, discourage many Roma victims of crime from seeking justice. In addition, racism oftentimes permeates the very institutions that are meant to protect them: Romania has received several convictions at the European Court of Human Rights for, among other things, submitting Roma to inhuman and degrading treatment (Article 3 of the European Convention on Human Rights⁴⁰), in cases where police brutality was also involved – Lingurar and Others against Romania⁴¹, Moldovan and Others against Romania⁴², and Stoica against Romania. In the latter, a case of police brutality and violence against Roma, unduly investigated by the Romanian state, authorities expressed prejudice against Roma in writing, stating that insulting behaviour coming from Roma cannot constitute an offence as it is something characteristic to this ethnic minority:

“On 23 August 2001 the Suceava Police informed the military prosecutor that the Dolhasca police officers had not filed a report in order to have criminal investigations started against the Roma for insulting behaviour, for the following

³⁶ European Commission, *Recommendation for a COUNCIL RECOMMENDATION on the 2017 National Reform Programme of Romania and delivering a Council opinion on the 2017 Convergence Programme of Romania*, Brussels, 2017. Retrieved from https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-specific-recommendations-commission-recommendations_-_romania.pdf (accessed February 14th, 2019).

³⁷The Academic Network of European Disability Experts (ANED), *Country report on the European Semester – Romania*, p. 2. Retrieved from <https://www.disability-europe.net/country/romania> (accessed February 14th, 2019.)

³⁸ The NGO Center for Legal Resources remains the only independent entity in Romania to conduct unannounced visits to psychiatric wards and centres for people with mental health problems or intellectual disabilities (which they have done since 2004) and filing complaints in cases of abuse.

³⁹ Centre for Legal Resources, *Center for Legal Resources Oral Statement. Item 6 - General debate at the 38th session of the Human Rights Council*, Geneva, 29 June, 2018. Retrieved from: <http://www.crl.ro/wp-content/uploads/2018/07/CLR-statement-Item-6-General-debate-29.06.pdf> (accessed March 25th, 2019).

⁴⁰ European Convention on Human Rights, Article 3: Prohibition of torture: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

⁴¹ ECHR, *Lingurar and Others against Romania*, 2018. Retrieved from: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-186774%22%5D%7D> (accessed February 11th, 2019).

⁴² ECHR, *Moldovan and Other against Romania*, 2005. Retrieved from: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22moldovan%22%5D%2C%22itemid%22:%5B%22001-69670%22%5D%7D> (accessed February 11th, 2019).

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reason: *[T]he way in which some of the Roma acted is pure Gypsy behaviour (pur țigănesc) and does not constitute the crime of insulting behaviour.*"⁴³

A representative of a Roma rights NGO interviewed for the report also indicated that, on average, Roma are less likely to report crimes, because they fear the Police (there have been cases of Roma beaten or even killed by police officers in police stations), but also that educational and financial constraints hinder them from accessing support services⁴⁴.

Some of the issues presented pertaining to vulnerable victims in general may stem partly from the perception of the relationship between the Police and victims:

"[Police officers] see the relationship with the person filing the complaint as one in which the police officer has to take note of the complaint and find the offender, in order to protect the law, not necessarily to protect the victim, the person standing before them. [...] The premise is that everybody must know the law, read it and understand it. Nobody from the leadership [of the Police] has trained their officers to pay attention to these issues."⁴⁵

Another interviewee added that:

"[W]e [Romania] are very far from the stage of informing victims, we are at the stage of basic access to justice. Sometimes victims are not even able to file a complaint."⁴⁶

In conclusion, while the legal framework is, to a large extent, tailored to the needs of victims, many gaps remain until victims can fully exercise their rights. In order for this to become reality, there is a need to develop adequate support services and systematic initial and specialised training programmes for all professionals working with victims; to create assessment and referral procedures, and to develop national information campaigns on legal awareness and victim's rights.

Chapter 2 – Referral of Victims

Recital 38: *"Persons who are particularly vulnerable or who find themselves in situations that expose them to a particularly high risk of harm, such as persons subjected to repeat violence in close relationships, victims of gender-based violence, or persons who fall victim to other types of crime in a Member State of which they are not nationals or residents, should be provided with specialist support and legal protection. [...] The types of support that such specialist support services should offer could include providing shelter and safe accommodation, immediate medical support, **referral** to medical and forensic examination for evidence in cases of rape or sexual*

⁴³ ECHR, Stoica against Romania, 2008. Retrieved from: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22stoica%22%5D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%22itemid%22:%5B%22001-85308%22%5D%7D> (accessed February 11th, 2019).

⁴⁴ Interviewee 10.

⁴⁵ Interviewee 3.

⁴⁶ Interviewee 2.

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assault, short and long-term psychological counselling, trauma care, legal advice, advocacy and specific services for children as direct or indirect victims.”

Recital 40: “Although the provision of support should not be dependent on victims making a complaint with regard to a criminal offence to a competent authority such as the police, such authorities are often best placed to inform victims of the possibility of support. Member States are therefore encouraged to **establish appropriate conditions to enable the referral of victims to victim support services**, including by ensuring that data protection requirements can be and are adhered to. Repeat referrals should be avoided.”

Article 8 (Right to access to victim support services): “(2) Member States **shall facilitate the referral of victims**, by the competent authority that received the complaint and by other relevant entities, to victim support services.”

Article 9 (Support from victim support services): “(1) Victim support services, as referred to in Article 8(1), shall, as a minimum, provide: [...] (b) information about or **direct referral to any relevant specialist support services in place.**”

Specialised support services in Romania are still limited to certain categories of victims of crime, in particular to children victims of abuse and exploitation, victims of human trafficking and victims of domestic violence. Many of these services are provided by the state under the form of shelters, counselling centres or information points, but a significant number is also provided by NGOs, which may limit their services to psychological counselling or legal assistance and representation.

In addition, these services generally receive insufficient funding, are not easily accessible to the entire population, as they are located in cities, leaving victims who reside in rural areas with few opportunities to receive information and support, a fact which is alarming as almost half of the Romanian population lives at the countryside⁴⁷. For example, according to a study conducted by Women Against Violence Europe (WAVE), in 2015 58% of the necessary shelter beds in Romania for victims of domestic violence were missing, following Council of Europe’s standard of 1 shelter bed for 10,000 inhabitants⁴⁸.

The situation is even more disconcerting regarding shelters for victims of human trafficking: a 2015 study indicated that, of the 15 regional centres for victims – run by the National Agency Against Human Trafficking (NAAHT) – only 5 of them were functional and that some of them were not hosting any beneficiary at the time the research was conducted⁴⁹. This information was

⁴⁷ National Institute for Statistics (2011), *Rezultate definitive ale Recensământului Populației și al Locuințelor 2011*, [Final Results of the Population Census 2011], p. 1. Retrieved from http://www.recensamantromania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL_2011.pdf (accessed December 14th, 2018).

⁴⁸ Women Against Violence Europe (WAVE), *WAVE Report 2015. Specialised Women Support Services and New Tools for Combatting Gender-Based Violence in Europe*, p. 93.

⁴⁹ Grădinaru, C. (2015), *Analiza serviciilor de asistență a victimelor traficului de persoane. Studiu Social Calitativ [The Analysis of Support Services for Victims of Trafficking in Human Beings. Social Qualitative Study]*, pp. 18-23. Retrieved from

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confirmed by one of the specialists interviewed, a representative of one of the few NGOs in Romania offering support (including shelter and counselling) to victims of human trafficking: the respondent indicated that the 15 NAAHT centres never functioned for the purpose they were created and that some of them hosted victims of domestic violence⁵⁰.

The obligation on the part of judicial authorities to refer victims of crime to support services, to inform them of their right to legal aid and how to access it, as well as available protection measures as protected witnesses or vulnerable victims is stipulated in Law 211/2004⁵¹. In addition, Law 272/2004 regarding the protection and promotion of the rights of the child carries the obligation on the part of public or private employees working with children to notify authorities when they suspect child abuse⁵². An interviewee from a child support organisation stated that police officers do indeed contact Social Services and that doctors notify the Police in cases of child abuse, but that teachers rarely do the same, mostly because they are unaware of existing legislation and how to prevent abuse⁵³.

There is a variation in referral practices across the country. Responses from state authorities point to the fact that most judicial authorities – mostly, the police and the prosecutor – refer victims to state-run social services (GDSWCPs and PSWSs)⁵⁴, but this appears to be contradicted

www.anitp.mai.gov.ro/ro/docs/Cercetare/Analize/Ro20/Analiza%20serviciilor.docx (accessed January 15th, 2019).

⁵⁰ Interviewee 5.

⁵¹ Art. 4, Law 211/2004. “(1) The judicial authorities have the obligation to notify the victims of offense of: (a) the type of support that victims can receive and from whom, including, where relevant, basic information on access to healthcare, any kind of specialized assistance, including psychological assistance and alternative accommodation; b) the criminal investigation body with whom they may lodge a complaint; c) the right to legal assistance and the institution they can address to exercise this right; d) the conditions and procedure for obtaining free legal aid; e) procedural rights of injured person and civil party; f) conditions and procedure to benefit from the provisions of art. 113 of the Code of Criminal Procedure, as well as from the provisions of Law no. 682/2002 on the protection of witnesses, as amended; g) conditions and procedure for the granting of financial compensation by the state; h) the right to be informed, if the defendant is deprived of liberty, respectively sentenced to a custodial sentence, of his release in any way, according to the Code of Criminal Procedure; i) the right to appeal to a mediator in cases permitted by law; j) the judicial authority they will be able to address in the future in order to obtain information on the stage of the case, as well as contact details, if the victim understands to file a complaint; (k) if the victim resides or has his/her permanent address on the territory of another EU Member State, information on the possibility of filing a criminal complaint or requesting financial compensation from the State on the territory of that State and the fact that there is the possibility, under the legislation on international judicial cooperation, to be heard by the Romanian judicial authorities without being present on the territory of Romania.”

Letter a) of Paragraph (1) was amended by Emergency Ordinance no. 24 of April 3rd, 2019.

⁵² Art. 89, Law 272/2004: “(2) Any natural or legal person, as well as the child, may request the General Direction of Social Assistance and Child Protection in the county/ home sector to take appropriate measures to protect them against all forms of violence, including sexual violence, harm or physical or mental abuse, ill-treatment or exploitation, abandonment or neglect. (3) Employees of public or private institutions who, by the nature of their profession, come into contact with the child and have suspicions of a possible case of abuse, neglect or ill-treatment, have the obligation to notify the General Direction for Social Assistance and Child Protection as a matter of urgency.”

⁵³ Interviewee 1.

⁵⁴ Replies to requests of information from NAAHT (letter no. 4230001/ 25.01.2019), GIRP (letter no. 404.495/ 10.01.2019), NAE0 (letter no. 4342/DPCVF/SG/21.12.2018), Forensic Medical Institute Cluj

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by qualitative research, as detailed below. The Social Services subsequently cross-refer victims to specialised services run by their institution or to NGOs⁵⁵.

However, with some exceptions (of which some will be presented in the chapter related to existing practices), NGOs generally have very limited outreach and rarely receive support, in the form of funding, from the state⁵⁶. Furthermore, NGOs have very few alternative sources of funding available to ensure sustainability of their services. For instance, an NGO from Cluj-Napoca, Artemis Association, ran a shelter for victims of gender-based violence (domestic violence and trafficking of human beings) for a number of years but was forced to shut down due to lack of financial resources⁵⁷. In addition, oftentimes some of the first costs that are cut from state funds pertain to NGOs: in March 2019, the City Hall of Bucharest announced it is no longer funding Anais Association, an NGO running a residential and a counselling centre for victims of domestic violence due to lack of financial resources. The NGO declared they are forced to close down the centres, which have offered shelter and counselling to over 1000 women over the past five years⁵⁸.

It remains unclear to what extent referral procedures are formalised and institutionalised: for instance, the Prosecutor's Office of Cluj Court indicated they do not have collaboration protocols with victim support organisations or even with state-provided social services, and so did the Forensic Medicine Institute of Cluj, so that referral is done generically and informally, and mostly to the Police and Prosecutor's Office⁵⁹. Nonetheless, interviews with specialists indicate that state authorities do not refer victims to specialised services⁶⁰, as many times they are unaware these services exist (their absence is confirmed in rural areas) and/ or they do not know where they could access this information – as a judge and a forensic doctor interviewed for the present report admitted⁶¹. According to the judge, who works with both criminal and civil matters:

“I do not know of any support services for victims. [...] We do not know how to collaborate with the GDSWCP. When children are involved, then they carry out social investigations. Personally, I have not interacted with them very much.”⁶²

(letter no. 216/X/10/09.01.2019), Prosecutor's Office of the HCCJ (letter 1587/VIII-3/2018 of 14.01.2019), Prosecutor's Office of Iasi Court (letter no. 17/VIII/3/2018 of 18.12.2018); Interviewee 9.

⁵⁵ Replies to requests of information from GDSWCPs of Cluj (letter no.27924/2018 of 07.01.2019), Iasi (letter no.39319/13.12.2018), Bucharest, Sectors 1 to 6 (letters no. 40/20.12.2018; 154401/28.12.2018; 120203/27.12.2018; 414809/ 04.01.2019; 289/07.01.2019; and C/39 of 03.01.2019).

⁵⁶ All of the six representatives of non-governmental organisations interviewed for the present report declared that their institutions do not receive financial support from the state.

⁵⁷ Interviewee 2.

⁵⁸ Adevărul. *Primăria Capitalei sistează finanțarea pentru victimele violenței domestice* [The City Hall of Bucharest Ceases Funding for Victims of Domestic Violence], March 2019. Retrieved from:

https://adevarul.ro/news/societate/primaria-capitalei-sisteaza-finantarea-victimele-violentei-domestice-1_5c7ffed0445219c57ef44de6 (accessed March 11th, 2019).

⁵⁹ Replies to the requests for information by Prosecutor's Office of Cluj Court (letter of 21.12.2018) and by the Forensic Medicine Institute Cluj (letter no. 216/X/10/09.01.2019).

⁶⁰ Interviewee 2, 3, 4, 5, 6, 7, and 8.

⁶¹ Interviewees 7 and 8.

⁶² Interviewee 7.

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This is confirmed by a recent study conducted by the Center for Legal Resources, consisting of interviews with 22 victims of domestic violence regarding their experience during criminal proceedings, which concluded that the Police rarely refer victims of crime to specialised support services, sometimes even when the violence or threat is serious⁶³. Although the sample of the report is too small to be statistically representative, its findings are in line with the interviewees' statements. This is increasingly alarming given that most victims' first contact with judicial authorities is the Police⁶⁴.

One potential explanation for the limited referral of victims by judicial authorities, apart from the general scarcity of support services, is the insufficient training received by police officers and court representatives on victims' rights from a human rights perspective, which takes into consideration the psychological and social impact of the crime on the victim and the vulnerability of victims. In fact, according to a 2014 report done by the Superior Council of Magistracy and the Ministry of Justice, more than half of the interviewed court representatives did not consider people infected with HIV (62% of respondents), Roma (60% of respondents), children (59%) and single mothers (55%) to be among vulnerable categories⁶⁵, which has implications on how judicial authorities view victims of crime in general, i.e., victims are unlikely to be referred to support services unless their vulnerability and victimhood is properly understood. While magistrates are obliged to attend at least one training session every three years⁶⁶, a very small number of these tackle victim-blaming attitudes and, arguably, none have a victim-centred approach. For example, from the 32 training sessions of 2018 published on the website of the National Institute of Magistracy, 4 had aspects that directly pertained to victims of crime: 2 sessions dealt with combatting discrimination and 2 with criminology⁶⁷. Generally, these training sessions are attended by 20 to 30 magistrates at a time and span over the course of two or three days⁶⁸.

Additionally, there is also inter-institutional variation with regard to staff training on referral and needs assessment, with two of the contacted GDSWCPs indicating that their staff does not

⁶³ Center for Legal Resources, *VICATIS: Victim-centered approach to improving support services. National research report – Romania*, February 2019, pp. 12-13. Retrieved from: http://www.crlj.ro/wp-content/uploads/2019/03/VICATIS-Romania-national-report_EN_2019.pdf (accessed March 11th, 2019).

⁶⁴ Interviewees 4, 6, and 7.

⁶⁵ Superior Council for Magistracy (2014), *Improving access to justice for Roma and other vulnerable groups. An integrated approach*, p. 83.

⁶⁶ Consiliul Superior al Magistraturii, *Regulament din 24/08/2005 Publicat în Monitorul Oficial, Partea I nr. 816 din 08/09/2005 privind modul de desfășurare a cursurilor de formare profesională continuă a judecătorilor și procurorilor și atestare a rezultatelor obținute* [Superior Council of Magistracy, *Regulation from 24/05/2005 published in the Official Monitor no. 816 of 08/09/2005 regarding the professional training courses of judges and prosecutors and certification of results*], p. 1. Retrieved from: http://www.inm-lex.ro/fisiere/d_186/Regulament%20formare%20continua.pdf (accessed March 29th, 2019).

⁶⁷ Institutul Național al Magistraturii, *Programul de formare continuă 2018* [National Institute of Magistracy, *Life-long Learning Programme 2018*]. Retrieved from: <http://www.inm-lex.ro/displaypage.php?p=165> (accessed March 29th, 2019).

⁶⁸ At the end of 2018 there were a total of 4570 judges and 2572 prosecutors who held office in Romania. Source: Consiliul Superior al Magistraturii [Superior Council for Magistracy], *Raport privind Starea Justiției 2018* [Report on the State of Justice 2018], p. 97 and p. 117. Retrieved from: <https://www.csm1909.ro/267/3570/Rapoarte-privind-starea-justi%C5%A3iei> (accessed April 15th, 2019).

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receive such training⁶⁹, which again raises questions with regard to victims' access to these services.

While referral is mostly done between NGOs and Social Services, as well as between judicial authorities and Social Services, victims may also be encouraged to seek specialised support through **three national helplines**. The first, 0800 500 333, which has been operational since November 2015 and is run by NAEQ, is dedicated to victims of domestic violence, trafficking in human beings and gender-based discrimination. The helpline, which operates 24/7, may refer victims – on a case by case basis – to either the GDSWCPs, the General Inspectorate of Romanian Police (GIRP) or the PSWSS. The referral or notification of competent authorities is done as a result of a risk evaluation template filled in by the operator of the call. Between 2016 and January 2019, the helpline received 6,615 calls (1,887 – 2016; 2,627 – 2017; 1,963 – 2018; 138 – 2019), 4,780 being calls which represented provision of information, counselling and/ or referral to local services⁷⁰.

In a similar manner, the Child's Helpline, 116 111, created in 2006, may notify competent authorities and/ or refer children who are victims of abuse or violence to specialised support services. A third national helpline – 0800 800 678 – is dedicated to trafficking in human beings and is run by the NAAHT. Furthermore, Romania's attempt to create a helpline dedicated to all victims of crime where they could obtain information about their rights and protection measures – a responsibility of the Ministry of Justice⁷¹ – has so far failed. The number, 116 006, the same throughout EU Member States in an effort to harmonise cross-border practices in the field, was the subject of an invitation to bid in 2010, launched by the National Agency for Communication Administration and Regulation (ANCOM)⁷², but it is still not functional.

In fact, as GIRP indicated in their official response to our inquiry, it appears that the most comprehensive referral procedures that are in place are those related to victims of human trafficking. If judicial authorities identify a victim of human trafficking, they are obliged to contact a representative of one of the 15 regional assistance centres run by the NAAHT, who will conduct the first evaluation of the victim and will refer the victim to specialised support (either to the GDSWCPs or to NGOs). In case the victim is a child, the institution/ organisation that had identified the child is obliged to contact a representative of the Social Services and of the regional centres of the NAAHT. Specialised assistance is provided to victims by the GDSWCPs, and not by the NAAHT⁷³. To what extent these procedures are followed remains unclear, as our qualitative research points to a severe lack of understanding on the part of authorities, especially police officers, of what human trafficking is. As mentioned in the Introduction, many child victims of exploitation for prostitution purposes are seen as willing sex workers, despite

⁶⁹ Replies to requests of information by GDSWCPs of Bucharest, Sectors 4 and 6 (letters no. 414809/04.01.2019; and C/39 of 03.01.2019). Conversely, the GDSWCPs of Cluj (letter no.27924/2018 of 07.01.2019) and Iasi (letter no.39319/13.12.2018) indicated their staff receives training on referral of victims, while the corresponding institutions of Bucharest Sectors 1, 2, 3, and 5 (letters no. 40/20.12.2018; 154401/28.12.2018; 120203/27.12.2018; and 289/07.01.2019) did not directly respond to this aspect of the question, indicating alternative training programmes.

⁷⁰ Reply no. 2 to request of information by NAEQ (letter no.152/UM/28.01.2019).

⁷¹ Art. 5, Law 211/2004.

⁷² The National Agency for Communication Administration, *Announcement regarding the allocation of national telephone number 116006*. Retrieved from http://www.ancom.org.ro/alocare-116006_4119 (accessed January 15th, 2019).

⁷³ Reply to request of information by GIRP (letter no. 404.495/ 10.01.2019).

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being under-aged, because they often refuse support services and accommodation in centres run by GDSWCPs, sometimes running away and returning to the streets⁷⁴.

In conclusion, there is a need to expand and diversify victim support services, including by creating generic victim support services in Romania and ensuring that they receive adequate funding. As mentioned in the previous sections, Law 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime was modified in April 2019 and, among others, sets the basis for establishment of generic support services within the General Directions for Social Welfare and Child Protection. However, some of the new stipulations cast doubt on the efficiency of future implementation of the new services, based also on the evaluation of the situation insofar. For instance, the Department for the Support and Protection of Victims of Crime (consisting of a social worker, a psychologist and a legal counsellor) which are to be formed within a GDSWCP (county level) shall be established by internal re-organisation within that institution, within the limit of the current number of positions approved and within the approved budget for 2019. Moreover, at the level of the Public Social Welfare Services (city and/or village level), this type of department can be established only if the number of requests in that geographical area justifies it⁷⁵. In the latter case, the lawmaker does not address the issue and causes of under-reporting, but in fact relies on it for not setting up services for victims of crime.

The European Commission recommends Member States to create a national fund for victims of crime in order to support non-governmental service-providers. The fund could be run by the state and stem from “financial penalties, surcharges or fees imposed on offenders, from confiscated assets or as a solidarity fund financed by insurance policies”⁷⁶. Moreover, existing support services need to be identified, evaluated, centralised and constantly updated, as to facilitate referral of victims by judicial authorities and other competent authorities, as well as in order to inform the general population about existing support services. In addition, clear procedures must be established between the Police, the Prosecutor’s Office and courts and institutions, such as Social Services, or NGOs providing support services to victims. Last but not least, staff dealing with victims of crimes must be adequately trained on referral and needs assessment so as to ensure that victims receive personalised and specialised support, tailored to their needs.

Chapter 3 – Individual Assessment of Victims

Article 22 (Individual assessment of victims to identify specific protection needs)
(1) Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine

⁷⁴ Interviewee 5.

⁷⁵ Art 3¹ para 2 and 6 of Law 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime (updated 2019)

⁷⁶ European Commission, *DG JUSTICE GUIDANCE DOCUMENT related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, December 2013*, p. 27. Retrieved from: <https://www.legal-tools.org/doc/daaee5/pdf/> (accessed January 15th, 2019).

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whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

(2) The individual assessment shall, in particular, take into account:

(a) the personal characteristics of the victim;

(b) the type or nature of the crime; and

(c) the circumstances of the crime.

(3) In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.

(4) For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.

(5) The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

(6) Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.

(7) If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

Article 22 of the Directive regarding Individual assessment of victims to identify specific protection needs is of paramount importance, as it provides the basis for a victim-centred approach to crime, while also constituting the foundation for adequate protection measures and support services tailored to the victim. The Directive states that the individual assessment shall take into account the personal characteristics of the victim, such as sex, age, disability status or gender identity; the type or nature of the crime, such as a hate crime or a crime related to gender-based violence or discrimination; and the circumstances of the crime, such as whether the victim resides in the Member State where the crime occurred⁷⁷.

While Article 22 is transposed into national legislation, Romania takes a minimalist approach to this obligation by including provisions regarding special protection needs for vulnerable victims

⁷⁷ Art. 22, paragraph 2, Directive 29/2012/UE. Recital 56 of the Directive provides further explanation regarding Article 22: "Individual assessments should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim's residence is in a high crime or gang dominated area, or whether the victim's country of origin is not the Member State where the crime was committed."

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in its CCP, but without specifying how and whether these needs are assessed⁷⁸. This leads to great variation regarding who performs the individual protection and needs assessments of victims and how it is performed. Interviews with specialists have indicated that judicial authorities very rarely conduct an individual assessment of the victims' needs (including need for protection), and that it is mostly the state-run Social Services and nongovernmental organisations which do⁷⁹.

With regard to judicial authorities, the Police and the Prosecutor's Office may conduct an individual evaluation for victims presumed to be vulnerable according to the Romanian CCP⁸⁰, in order to establish special protection measures, if the court (a judge) deems necessary. These measures may include: protection of their identity, police protection, being heard in the company of a psychologist (for child victims), etc.⁸¹ However, qualitative research seems to point to the fact that in practice these measures are rarely applied or at least that the practice is uneven across the country⁸². For instance, the judge interviewed for the present report indicated he and his colleagues do not carry out an individual needs assessment, do not inform victims of special protection measures, and rarely institute them, as they do not deem them necessary⁸³. The abovementioned report by the Center for Legal Resources on the access to justice of victims of domestic violence supports these findings: victims claimed that protection measures were insufficient or practically inexistent and that, in the few cases of children questioned in relation to the investigation, no special measures of protection were taken⁸⁴.

Specifically for cases of domestic violence, according to the new changes in legislation, there is an obligation on the part of police officers to carry out a risk evaluation, based on a template and a methodology, in order to issue the provisional protection order recently introduced through Law 217/ 2003⁸⁵. Order no. 146/2018 of the Ministry of Internal Affairs and Ministry of

⁷⁸ European Parliamentary Research Service (EPRS), *The Victims' Rights Directive 2012/29/EU. European Implementation Assessment*, December 2017, p. 60. Retrieved from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU\(2017\)611022_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU(2017)611022_EN.pdf) (accessed January 15th, 2019).

⁷⁹ Interviewees 1, 2, 4, 5 and 7.

⁸⁰ Art. 113- The protection of the injured person and of the civil party: "(2) The following are presumed to be vulnerable: child victims, victims who are dependent on the offender, victims of terrorism, organized crime, human trafficking, violence in close relationships, sexual violence or exploitation, victims of hate crime, and victims affected by an offense due to prejudice or grounds of discrimination that may be related, in particular, to their personal characteristics, disabled victims, and victims who have suffered considerable damage as a result of the seriousness of the offense."

⁸¹ Art. 125 -130, CCP, Art. 111, CCP (See footnote 21 for the full text.).

⁸² Interviewees 1, 2, 3, and 5.

⁸³ Interviewee 7.

⁸⁴ Center for Legal Resources, *VICATIS: Victim-centered approach to improving support services. National research report – Romania*, February 2019, pp.24-25. Retrieved from: http://www.crj.ro/wp-content/uploads/2019/03/VICATIS-Romania-national-report_EN_2019.pdf (accessed March 11th, 2019)

⁸⁵ Art. 22[^]1, Law 217/ 2004, introduced through Law 174/2018 from July 21st, 2018: "(1) The provisional protection order is issued by the police officers who, in the exercise of their duties service, finds that there is an imminent risk that the life, physical integrity or freedom of a person is threatened by an act of domestic violence, in order to diminish this risk. (2) The police shall ascertain the existence of the imminent risk provided in par. (1) based on the assessment of the factual situation resulting from: a) the evidence obtained as a result of verifying the domestic violence complaints, when the domestic violence acts are not subject to the investigation of the offense; b) the tight evidence according to the provisions of Law nr. 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented, when

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Labour's⁸⁶ regarding the management of cases of domestic violence by the police includes this template – a form for risk assessment and indications on how to apply it, as well as additional information on issuing and applying the provisional protection order. The risk assessment form includes the victim's evaluation of the state of affairs, as well as the police officer's assessment of the levels of risks, based on the victim's answers to certain questions. An important stipulation in this Order is that the police officers must provide data to the mobile intervention team (set up through the same recent changes in the law) to enforce urgent and specific protection measures or inform the competent authorities and institutions to apply such special protection measures if the provisional protection order includes minors, persons with disabilities or with special needs⁸⁷. In addition to Order no. 146/2678/2018, the Government adopted Order no. 2525/2018 of 07.12.2018 for the Approval of the Emergency Intervention Procedure in Cases of Domestic Violence, published in the Official Monitor in February 2019. This Order includes another template for assessing the risk and establishing the necessary protection measures for victims of domestic violence, as well as a methodology of intervention in such cases from a mobile team mainly formed by workers of the PSWSs or the GDSWCPs. Similar to the template for police officers, this form results in a score reflecting the risk (low, medium or high) and carries an obligation on the part of Social Services to refer victims to support services and institutions that may offer them protection and/ or inform the victims of their rights, respectively. The team is also tasked with contacting the police for a provisional protection order, if deemed necessary. However, given the novelty of the instruments, their efficiency, as well as the procedures guiding the collaboration between the Police and Social Services will have to be the object of future research.

Additionally, needs assessment of victims is not formalised in the medical system either: physicians and forensic doctors do not carry out an evaluation of the victim outside her/ his medical necessities⁸⁸.

In fact, according to existing legislation, only the GDSWCPs and PSWSs have written guidelines on how to conduct a needs assessment for their beneficiaries. The foundation is set up in Law of Social Assistance no. 292/2011, while the methodological framework for GDSWCPs is detailed in Government Decision No. 49/2011⁸⁹. The Decision outlines the intervention procedures and

the domestic violence acts are subject to the investigation in the aspect of committing facts falling under the provisions of art. 199 of Law nr. 286/2009 on the Criminal Code, as subsequently amended and supplemented. (3) The police officers shall assess the factual situation on the basis of the risk assessment form and according to the methodology of its use, established according to the provisions of art. 22¹⁰."

⁸⁶ Appendix 1: Risk Assessment Form, Order no. 146/2578/2018 of 11.12.2018, regarding the management of cases of domestic violence by police (Ro: Ordin 146/2578/2018 din 11 decembrie 2018 privind modalitatea de gestionare a cazurilor de violență domestică de către polițiști).

⁸⁷ Art. 16, Order no. 146/2578/2018 of 11.12.2018: "If the provisional protection order covers minors, disabled persons or persons with special needs, the police provide the mobile team referred to in Art. 35 ^ 1 par. (1) of the Law no. 217/2003, republished, as subsequently amended and supplemented, with data necessary for the implementation of urgent and specific protection measures or, as the case may be, for the notification of the competent authorities and institutions responsible for the implementation of these measures."

⁸⁸ Interviewee 8; Reply from Forensic Medicine Institute Cluj (letter no. 216/X/10/09.01.2019).

⁸⁹ Full name: *Government Decision No. 49/2011 approving the Framework Methodology for the Prevention and Intervention in the Multi-disciplinary Team or in the Network in Situations of Violence against Children and of Domestic Violence and the Multidisciplinary and Interinstitutional Intervention Methodology on Exploited Children and at Risk of Labour Exploitation, Child Victims of Human Trafficking, as well as*

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needs assessment procedures for multidisciplinary teams for, on the one hand, victims of family violence and children victims of violence and, on the other hand, for victims of child labour, child victims of human trafficking and Romanian children victims of cross-border crime. In addition, obligations to carry out needs assessments are also detailed in the Framework Regulation for the Organization and Functioning of the General Directorate for Social Assistance and Child Protection of 02.09.2004, as well as in Order no. 288/2006 Approving the Minimum Mandatory Standards for Case Management in the Field of Child Rights Protection, which applies both to GDSWCPs and PSWSs. Research for the current report seems to indicate that GDSWCPs do indeed follow these guidelines: all institutions indicated they carry out an individual needs assessment (usually done by a social worker or a psychologist), and all except one of the institutions⁹⁰ indicated that case management is done in a multidisciplinary team, although only 3 explicitly mentioned following Government Decision No. 49/2011⁹¹.

Concretely, according to the answers received, the needs assessment is conducted for all victims GDSWCPs provide services for (mostly children, victims of domestic violence and human trafficking, and the categories of vulnerable victims may differ from one institution to another), and it takes into consideration the victim's particularities, such as their psychological and emotional state, the type of crime, the circumstances in which it occurred and its severity. The case is generally investigated by a multidisciplinary team, formed of various professionals (social worker, psychologist, doctor, attorney, etc.) and coordinated by a case manager. The team looks into the social and family environment of the victim and collects relevant information related to the medical, social and psychological aspects to be evaluated. The team may conduct interviews and study visits, may apply evaluation forms or questionnaires, and may require written testimonies from the involved parties or consult relevant documents. The individual needs assessment is conducted with the direct involvement of the victims themselves so as to ensure their needs are met. This investigation constitutes the basis for the Individual Service Plan, which includes support services (healthcare, rehabilitation, etc.) and activities (such as socialising, maintaining contact with family members, etc.), as well as the Intervention Plan, which is adapted to the victim's age, the type of abuse suffered, the victim's needs and other relevant aspects. In the case of child victims, this action plan may include his/ her removal from their residence, referral to support services, and criminal intervention⁹². The aforementioned procedures are in line with Government Decision No. 49/2011. Sometimes, multidisciplinary teams are to be found at municipal level, through PSWSs, not only at county level, through GDSWCPs, as confirmed by one of the interviewees. For instance, in Cluj-Napoca, needs assessment is carried out for children victims of abuse, adult victims of domestic violence, elderly people and people with special needs taking into account the social, psychological and

Romanian Migrant Children Victims of Other Forms of Violence on the Territory of Other States, January 19, 2011.

⁹⁰ The exception is GDSWCP of Bucharest, Sector 4 (letter no. 414809/ 04.01.2019).

⁹¹ GDSWCPs Iasi (letter no.39319/13.12.2018), Bucharest, Sectors 1 (letter no. 40/20.12.2018) and 3 (letter no. 120203/27.12.2018).

⁹² Replies from GDSWCPs; Direcția Generală de Protecție a Copilului [General Direction for Child Protection], *Serviciul Asistență în Situații de Abuz, Neglijare, Trafic și Exploatare a Copilului [Services of Assistance for Abuse, Neglect, Trafficking and Exploitation of Children]*. Retrieved from https://www.protectiacopilului6.ro/directia-protectia-copilului_doc_11_serviciul-asistenta-in-situatii-de-abuz-neglijare-traffic-si-exploatare-a-copilului_pg_0.htm (accessed December 4th, 2018).

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legal dimensions of their situation. The assessment is repeated on a monthly basis or every third month until the situation is solved or drastically improved⁹³.

Nevertheless, the extent to which Social Services have an active stance in providing support to victims of crime, including carrying out a needs assessment, is questionable. Victims of domestic violence, for instance, have indicated a lack of support and reduced interaction with Social Services, which “appear marginal to the phenomenon of domestic violence, in no way proactive in terms of prevention and assistance to the victim to get out of the situation, along with the children, respectively to the situation of violence to cease”⁹⁴.

A particular case is that of the GDSWCP of Cluj, which conducts a first individual assessment by an Emergency Intervention Team and subsequently refers the victim to a specialised evaluation with affiliate entities: for children, to the County Intervention Centre for the Abused Child, for victims of child trafficking, to the Social Rehabilitation and Emergency Centre for Victims of Human Trafficking, for adult victims of domestic violence to the Adult Case Management Services, etc.⁹⁵ As not all of the 47 General Directions of Social Welfare and Child Protection in Romania were contacted for the present study, the author does not exclude that this model could exist in other parts of the country. However, it is not a national practice.

In addition, as mentioned in the previous chapter, an individual assessment is also carried out by the operators of the national helplines for victims of domestic violence (0800 500 333), as well as of the helpline for children at risk of violence, abuse and neglect (116 111). The operators notify authorities and/ or refer victims of violence or abuse to specialised support services based on a Risk evaluation template, which also takes into account the victim’s needs.

The individual needs assessment is, nonetheless, more complex in the case of victims of human trafficking. The General Police Inspectorate indicated that, when the victim is identified by judiciary authorities, a first evaluation of the assistance needs is carried out by a representative of one of the 15 regional centres of the NAAHT, from where a case manager is also assigned. With the victim’s consent, he/ she is referred to specialised support to the regional centres and the GDSWCPs, which carry out a detailed evaluation. And, at the NAAHT case manager request, specialised structures of the Police carry out an assessment in order to establish special protection measures. In all cases, it falls under the competence of the GDSWCP to provide assistance to victims of human trafficking, and not NAAHT⁹⁶. In the case of children who are victims of human trafficking, the individual needs assessment is carried out by Social Services directly, as indicated by Government Decision 49/2011.

However, the representative of an NGO offering support services to victims of human trafficking claims that:

“Overall, the situation has gotten a lot worse. We do not have protection measures, nor do we have services for victims. [...] We don’t have anything: protection,

⁹³ Interviewee 9.

⁹⁴ Center for Legal Resources, *VICATIS: Victim-centered approach to improving support services. National research report – Romania*, February 2019, p. 21. Retrieved from: http://www.crj.ro/wp-content/uploads/2019/03/VICATIS-Romania-national-report_EN_2019.pdf (accessed March 11th, 2019)

⁹⁵ Reply from GDSWCP Cluj (letter no.27924/2018 of 07.01.2019).

⁹⁶ Reply from GIRP (letter no. 404.495/ 10.01.2019).

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prevention, information. [...] The reaction of the police is to fine the girl and, if they realise she is under-aged, to send her to an emergency centre of GDSWCP, where she will run away from the next day. And if this scenario happens again, the police officer doesn't even bother to take her out of the streets [*thinking*] that's where she wants to be, right?"⁹⁷

With regard to the training of Social Services staff on individual assessment and on how to avoid secondary or repeat victimisation, the institutions that were consulted for the present report offered different answers, some claiming they receive such training and some that they do not. For instance, one GDSWCP indicated they do not have any formal practices or procedures aimed at avoiding secondary or repeat victimisation⁹⁸. The diversity of answers indicate a lack of standardised continuous training for the GDSWCP staff on this issue.

In conclusion, there is a need for judicial authorities, especially the Police, to carry out an individual assessment for all victims of crime, in order to identify the risk to the victim's personal and/ or family safety, intimidation and retaliation, the support services most suitable to their situations, as well as the necessary protection measures. Assessment should be based on formalised models (templates, written guidelines and procedures) which should take into account the criteria set out in Article 22, as well as the victim's wish to benefit from protection measures. Clearer procedures must be established for cross-institutional cooperation in order to ensure that victims' needs are adequately evaluated and that they are referred to support services without unnecessary delay. Furthermore, all authorities and professionals conducting an evaluation should receive adequate training on the matter.

Chapter 4 – The Right to Receive Information

Article 4 (Right to receive information from the first contact with a competent authority)

1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:

- (a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
- (b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;
- (c) how and under what conditions they can obtain protection, including protection measures;
- (d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
- (e) how and under what conditions they can access compensation;
- (f) how and under what conditions they are entitled to interpretation and translation;
- (g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;

⁹⁷ Interviewee 5.

⁹⁸ Reply from GDSWCP Sector 6 (letter no. C/39 of 03.01.2019).

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- (h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;*
- (i) the contact details for communications about their case;*
- (j) the available restorative justice services;*
- (k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.*

2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

Article 6 (Right to receive information about their case)

1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information:

- (a) any decision not to proceed with or to end an investigation or not to prosecute the offender;*
- (b) the time and place of the trial, and the nature of the charges against the offender.*

2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information:

- (a) any final judgment in a trial;*
- (b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.*

3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.

5. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.

6. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.

Article 4 of the Directive regarding the victim's right to receive information from the first contact with a competent authority, as well as Article 6, the right to receive information about their case, are to a large extent transposed into national legislation, into the CCP and Law 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime. Nevertheless, there are still many issues with ensuring these rights in practice, which the report addresses further on.

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Concretely, Law 211/2004 indicates that judicial authorities are under the obligation to inform victims about:

- victim support services, including information about healthcare, accommodation, psychological counselling, according to their needs;
- the judicial authority where they can file a criminal complaint;
- where and how to access legal assistance;
- their rights during criminal proceedings;
- the conditions in order to be included in the witness protection programme;
- how to obtain financial compensation from the state;
- their right to be informed if their aggressor, in case he/ she has been legally deprived of liberty, is released;
- their right to a mediator; and
- the contact information of the judicial authority responsible for providing victims with information if they decide to file a complaint⁹⁹.

⁹⁹ Art. 4, Law 211/ 2004: “The judicial authorities have the obligation to notify the victims of crime of: a) the type of support that victims can receive and from whom, including, where relevant, basic information on access to healthcare, any kind of specialized assistance, including psychological assistance and alternative accommodation;; b) the criminal investigation body with whom they may lodge a complaint; c) the right to legal aid and the institution where they can address in order to exercise this right; d) the conditions and procedure for granting free legal aid; e) the procedural rights of injured person and civil party; f) the conditions and procedure to benefit from the provisions of art. 113 of the Code of Criminal Procedure, as well as from the provisions of Law no. 682/2002 on the protection of witnesses, as subsequently amended; g) the conditions and procedure for the granting of financial compensation by the state; h) the right to be informed, if the defendant is deprived of liberty, respectively sentenced to a custodial sentence, of his release in any way, according to the Code of Criminal Procedure; i) the right to appeal to a mediator in cases permitted by the law; j) the judicial authority they will be able to address in the future in order to obtain information on the stage of the case, as well as contact details, if the victim understands to file a complaint; k) if the victim resides or is a permanent resident on the territory of another EU Member State, information on the possibility of filing a criminal complaint or requesting financial compensation from the State on the territory of that State, as well as the fact that there is the possibility, under the legislation on international judicial cooperation, to be heard by the Romanian judicial authorities without being present on the territory of Romania. (2) The information provided in paragraph (1) is brought to the attention of the victim by the first judicial body he/she addresses, in a simple and accessible language. (3) The victim shall be informed of the information provided in paragraph (1) in a language he/she understands. The victim shall be provided with a form containing the information provided in paragraph (1). If he/she cannot or refuses to sign it, the refusal/ inability to sign will be indicated in a written record. (4) If the victim is a Romanian national belonging to a national minority, the information under paragraph (1) will be provided in his/her native language. (5) The fulfillment of the obligations stipulated in paragraph (1) - (3) shall be included in a written record, which shall be registered with the institution where the judicial body is a member. (6) During the first contact with the authorities, the victim may be accompanied by a person chosen by him/her to facilitate communication with them. (7) When filing the complaint according to art. 289 of the Law no. 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented, the victim shall receive a written confirmation thereof. The confirmation will include the registration number of the complaint as well as data on the act for which the complaint has been filed. (8) If the victim does not speak or understand the Romanian language, he/she may also request to receive the translation of the written confirmation provided in paragraph (7).

Art. 4, paragraph (1), a), k), paragraph (2) were amended/ supplemented by Emergency Ordinance No. 24 of 3 April 2019.

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The same law states that the aforementioned information must be provided by the first law enforcement/judicial body the victim has contact with – usually the Police, as indicated by qualitative research¹⁰⁰ – but also that the information shall be provided in a language the victim understands. The victim’s right to information is included in the CCP under Articles 81 – The rights of the injured person and Article 111 – The hearing of the injured person. More specifically, victims have the right to be informed about their rights, as well as about the stage of the proceedings, the right to consult their file, the right to be heard, the right to an interpreter when they do not understand or communicate well in Romanian, the right to mediation, the right to submit evidence, raise exceptions and conclusions, and the right to be informed about the criminal proceedings and to formulate a complaint¹⁰¹.

With regard to the victims right to receive information about support services, including medical assistance, psychological support and alternative accommodation (Article 4, letter (a) of the Directive), there is great variation in how this communication takes place, which is due to the types of crimes, the age of the victims, the institution providing the information, as well as differences which may be narrowed down to the existence or absence of certain procedures within said institutions. For instance, the Prosecutor’s Offices in Cluj-Napoca and Iasi, two of Romania’s biggest cities, have stated that they inform and refer child victims of abuse and victims of domestic violence to support services provided by the Social Welfare and Child Protection Services, but the former institution admitted to not having any collaboration protocol with any public or private institution¹⁰².

All the GDSWCPs that were contacted for the present study indicated that they inform victims about their rights, the support services they may receive and how to access them, as well as provide them with personal and professional counselling. However, there was significant variation among these institutions with relation to the types of victims to whom they provide

¹⁰⁰ Interviewees 4, 6, and 7.

¹⁰¹ Art. 81 – The rights of the injured person: “(1) In the criminal proceedings, the injured person has the following rights: a) the right to be informed about his/ her rights; b) the right to propose the administration of evidence by the judicial bodies, to raise exceptions and to draw conclusions; c) the right to make any other requests related to solving the criminal aspect of the case; d) the right to be informed, within a reasonable time, on the state of the criminal investigation, upon his express request, provided that an address on the territory of Romania is given, an e-mail or e-mail address, to which this information be communicated to him / her; e) the right to consult the file, in accordance with the law; f) the right to be heard; g) the right to address questions to the defendant, witnesses and experts; g ^ 1) the right to benefit free of charge from an interpreter when he/ she does not understand, express himself/ herself well or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if deemed necessary and if do not impede the exercise of the rights of the injured person; g ^ 2) the right to communicate the translation of any decision not to prosecute, in a language that he/ she understands when he/ she does not understand Romanian; h) the right to be assisted by a lawyer or represented; i) the right to appeal to a mediator, in cases permitted by law; j) other rights provided by the law.”

Art. 111 – The hearing of the injured person: “(2) The injured person shall be notified of the following rights and obligations: a) the right to be assisted by a lawyer and, in cases of compulsory assistance, the right to appoint a lawyer ex officio; b) the right to appeal to a mediator in cases permitted by law; c) the right to submit evidence, to raise exceptions and to draw conclusions, under the conditions provided by the law; d) the right to be informed about the conduct of the procedure, the right to file a preliminary complaint, as well as the right to become a civil party”.

¹⁰² Reply to request of information by the Prosecutor’s Office of Cluj Court (letter of 21.12.2018) and Prosecutor’s Office of Iasi Court (letter no.17/VIII/3/2018 of 18.12.2018).

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information and support services: some General Directions limit their services to child victims of violence, abuse and exploitation, some to victims of domestic violence, while others extend to victims of abuse, neglect, exploitation, trafficking in human beings¹⁰³. None of the consulted institutions request the victim to report the crime or file a criminal complaint in order to receive information or access their support services. In fact, victims may receive support and information from the Social Services on how to file complaints, and they may be accompanied by a representative of the institution in court or throughout the criminal proceedings, as well as be provided with legal representation¹⁰⁴.

Recital 21 of the Directive encourages competent authorities to use simple and accessible language when providing victims with information, as well as a variety of media in order to ensure that victims indeed understand what is being communicated to them. In addition, the information should take into account the victim's "age, maturity, intellectual and emotional capacity, literacy and any mental or physical impairment", including disabilities such as "hearing or speech impediments"¹⁰⁵. Although there are provisions related to interpreters for victims who are not proficient in Romanian, as well as sign language interpreters for victims with a speech or hearing impairments¹⁰⁶, neither Law 211/2004, nor the CCP make any explicit reference to the authorities' obligation to adapt the language of communication and the information transmitted to the victim's capacity of understanding. This is reinforced by a lack of regulations and internal procedures to ensure that victims in fact fully understand the information they are receiving. All of the interviewees indicated that frequently judicial authorities – mostly the Police – use legal jargon when providing victims with information, often simply reading them the rights as stipulated by the CCP, without offering them practical advice on how to enforce or access their rights, such as their right to legal assistance or psychological counselling, or how to access support services. One of the interviewees, a psychologist working for a support organisation for children, declared:

"As victims [children and adults alike], they need the information to be presented in a friendly manner and they need written materials to which they can come back later, but victims are informed strictly verbally. And when the person is in a state of shock, the provision of information is almost in vain. She cannot process what is being communicated to her – from a psychological point of view the information is almost zero."¹⁰⁷

Furthermore, research has pointed to an uneven practice across the country, with some police stations offering victims written materials (such as printouts or leaflets, often mentioned as created and provided by NGOs) detailing their rights, while the majority only providing the information orally. A written document then records that the victim has been informed about

¹⁰³ Replies to requests of information by GDSWCPs of Cluj (letter no.27924/2018 of 07.01.2019), Iasi (letter no.39319/13.12.2018), and Bucharest, Sectors 1 to 6 (letters no. 40/20.12.2018; 154401/28.12.2018; 120203/27.12.2018; 414809/ 04.01.2019; 289/07.01.2019; and C/39 of 03.01.2019).

¹⁰⁴ Replies to requests of information by GDSWCPs of Cluj (letter no.27924/2018 of 07.01.2019), Iasi (letter no.39319/13.12.2018), Bucharest Sector 5 (letter no. 289/07.01.2019). Interviewee 9.

¹⁰⁵ Recital 21, Directive 29/2012/UE.

¹⁰⁶ Interviewee 1 confirmed that sign language interpreters are indeed provided in court, at least in some parts of the country.

¹⁰⁷ Interviewee 1.

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her rights. Therefore, it results that rarely or never do victims have access to diagrams, infographics or other materials using visual representations of the victim's rights, the course of the criminal proceedings or any explanatory resources which would support victims to better understand their rights and role in the investigation. It has also been indicated that sometimes when interviewing children and the parent or the social worker is present, the police officers would count on them to inform or pass on the information to the child.

Interviews with specialists have been inconclusive in indicating to what extent prosecutors and judges are better equipped than police officers in ensuring that the victim understands the information that he/ she is being provided with. Thus, the practice appears to be uneven across the country and to depend on the goodwill of the respective magistrate. Some interviewees reported that court officials also use legal jargon and do not adapt their language to the victims' capacity to understand¹⁰⁸. In contrast, the judge interviewed for the report indicated that he does, in fact, adapt the language to the victim's capacity of understanding. But he also stated that informing the victim of protection measures is not common practice among judges at the court where he is employed¹⁰⁹.

Recital 23 of the Directive states that victims should be provided, from the first contact with a competent authority, with information about reimbursement of expenses, in a written form, such as a leaflet. However, qualitative research has shown that this almost never happens in practice. Moreover, research shows that, despite the fact that Law 211/ 2004 obliges competent authorities to inform victims of their right to compensation from the state, in line with Article 4 of the Directive, in practice this does not always happen. Similarly, research has shown that victims do not always receive information about the possibility to file a complaint against the judicial authority, in case they feel their rights are not respected, as indicated in Article 4, letter (h) of the Directive¹¹⁰.

In addition, the provision of information to victims of crime in Romania is complemented by three national helplines, treated in more detail in Chapter 2. The first – 0800 500 333 – is operated by the NAEO and is dedicated to victims of domestic violence, trafficking in human beings and gender-based discrimination. The helpline is free of charge, has national coverage, runs 24/7 and offers callers information on their rights, support services, as well as refers them to or notifies competent authorities or institutions, according to a Risk evaluation document that the operator fills in¹¹¹. Children facing abuse, neglect or who need psychological support may also call the special helpline 116 111, which is also free of charge and which runs daily between 8:00 and 0:00¹¹². In cases where the operators feel the child is in danger, they are obliged to notify the Child Protection Services. Similarly, victims of human trafficking may receive information by calling 0800 800 678, which is run by the NAAHT. However, their availability is not of common knowledge among the population.

With regard to awareness raising campaigns for victims of crimes, they are generally sporadic, have a limited outreach and cover few types of crimes. Oftentimes, they dependent on time-

¹⁰⁸ Interviewees 1 and 10.

¹⁰⁹ Interviewee 7.

¹¹⁰ Interviewees 1, 2, 3, 4, and 6.

¹¹¹ Reply no. 1 to request of information by NAEO (letter no. 4342/DPCVF/SG/21.12.2018).

¹¹² Telefonul Copilului [The Children's Helpline]. Retrieved from <http://www.telefonulcopilului.ro/intrebari-frecvente> (accessed January 10th, 2019).

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bound institutional projects, which makes them inconsistent and insufficient for the general public. At times, even simple information measures are lacking, such as posters about victims' rights in police stations. Examples of raising awareness campaigns stipulated in the answers received from institutions are the partnership between the NAEO and Carrefour Romania and two other projects of the Agency, dealing with domestic violence¹¹³. Another example is the Romanian Police's involvement in the Europol campaign "Say no!", aimed at informing people about cybercrimes and on how to report it¹¹⁴.

The scarcity of raising awareness campaigns supported by the state, combined with the authorities' rather poor information procedures and practices, leads to the fact that the population in general and victims in particular are not informed about their rights, protection measures and support services. For instance, in 2014, 74% of Romanian women were unaware of institutions or organisations providing support services in cases of gender-based violence¹¹⁵.

In conclusion, there is a stringent need for the state and particularly judicial authorities to ensure that basic informative materials are available in their offices throughout the country, in sufficient numbers, containing relevant information explained in simple and accessible language, or with the help of visual representations, such as diagrams or infographics, which victims can take with them. These materials should be distributed in venues where victims are likely to seek information and support (police stations, hospitals and medical centres, victims support organisations, Social Services). In addition, all staff coming into contact with victims of crime, particularly police officers, prosecutors, judges, and representatives of Social Services, should create or review and adapt their existing procedures, as well as receive adequate training so as to ensure that victims receive sufficient information about their rights, support services and protection measures, but also their role in the criminal proceedings in a manner that is adapted to their level of understanding and their psychological and social needs. These measures should be doubled by comprehensive information and raising awareness campaigns targeting all types of crimes and vulnerable categories of society.

Chapter 5 – Existing Practices

As a result of desk research, interviews with specialists and requests for information from public institutions, eight (8) good or promising practices¹¹⁶ regarding referral, needs assessment and information of victims have been identified. Four of them are initiated by the state: the multidisciplinary teams coordinated by the GDSWCPs; the County Intervention Centre for the Abused Child, under the coordination of GDSWCP Cluj; the special interview room in Cluj-Napoca and Craiova for children victims of abuse; and rent subsidies by the City Hall of Cluj-

¹¹³ "National campaign for awareness raising and public information about family violence" (2016-2017) financed by Norway Grants and "Justice Has No Gender" (ongoing, at moment of research) financed by DG Justice. – Reply no. 1 to request of information by NAEO (letter no. 4342/DPCVF/SG/21.12.2018).

¹¹⁴ Reply by GIRP (letter no. 404.495/ 10.01.2019).

¹¹⁵ European Union Agency for Fundamental Rights (2014), *Violence against Women. An EU-wide survey*, p. 162.

¹¹⁶ As not all models presented in the report are accredited services, but rather examples identified by the author, the interviewees and the contacted institutions, the use of the more inclusive "good or promising practice" was preferred.

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Napoca. Two good practices are joint programmes of state authorities and NGOs: multisectorial collaboration for cases of family violence, in Târgu Mures; and collaboration between the Police and Save the Children on referral and reporting online child pornography. Two good practices are initiatives of NGOs: pro bono legal assistance and representation provided to victims of crime through the Equality and Human Rights Action Centre (ACTEDO); and online information and psychological counselling offered to victims of domestic and/ or sexual violence by the Association for Equality and Liberty of Gender (A.L.E.G.). While the list is not exhaustive, it does offer an overview of the state of support services in Romania.

Public initiatives:

The first example of a good practice regarding referral is the **multidisciplinary teams coordinated by the GDSWCPs**, in accordance with Governmental Decision no. 49/2011, that ensure the case management for situations of family violence (adults and children alike) and abuse and neglect of children. This particular practice has been highlighted by 7 of the 8 GDSWCPs contacted for the present report, as well as by 3 of the interviewees¹¹⁷. These teams are generally composed of professionals from different backgrounds: social workers, psychologists, attorneys, prosecutors, police officers, and doctors, who, apart from offering a specialised opinion on the matter, bridge the gaps between institutions, ensuring a more efficient collaboration and a quicker response. In addition, multidisciplinary teams also constitute the basis for a more detailed Individual Service Plan for victims¹¹⁸. Similarly, multidisciplinary teams coordinated by PSWSs, such as the one in Cluj-Napoca, may also serve as good practice¹¹⁹.

Also worth mentioning is the loss of a good practice in one county, as indicated by an interviewee from a victim support NGO dealing with children who are victims of abuse. The interviewee stated that multidisciplinary teams, composed of social workers, psychologists, teachers, police officers, prosecutors, doctors, attorneys, etc. no longer meet on a monthly basis due to lack of funding. In the past, these meetings were organised by NGOs, but due to financial restraints, they have reduced their activity so that the responsibility for these meetings has been passed on to the Social Services, who no longer organise them¹²⁰.

A second good practice regarding all three aspects of victim support – information, assessment, referral – is the **County Intervention Centre for the Abused Child**, under the coordination of GDSWCP Cluj¹²¹, which has three complementary components: a counselling centre for children victims of abuse, a network of child care workers (“maternal assistants”) trained to work with children of abuse, and a shelter for children. The centre offers victims accommodation and psychological counselling, it conducts a needs assessment with the help of a multidisciplinary team, who also work together on the case, and monitors the case. In addition, the centre informs

¹¹⁷ Replies from GDSWCPs of Cluj (letter no.27924/2018 of 07.01.2019), Iasi (letter no.39319/13.12.2018), Bucharest Sectors 1, 2, 3, 5, and 6 (letters no. 40/20.12.2018; 154401/28.12.2018; 120203/27.12.2018; 289/07.01.2019; and C/39 of 03.01.2019). Interviewees 1, 4, and 9.

¹¹⁸ The Individual Service Plan for Victims may also be referred to as the Intervention Plan.

¹¹⁹ Interviewee 9.

¹²⁰ Interviewee 1.

¹²¹ Reply from GDSWCP Cluj (letter no.27924/2018 of 07.01.2019).

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victims about their rights, as well as disseminates information about their field of activity among the general population through workshops, events and promotional materials¹²².

A promising practice stemming from needs assessment is **the special interview room in Cluj-Napoca and Craiova for children victims of abuse**, also used to interview child offenders. Both rooms are coordinated by GDSWCP Cluj and GDSWCP Dolj, respectively, and were created in 2014. The goal of the rooms is to reduce secondary victimisation by limiting the number of interviews to one and by offering a child-friendly environment. The child is interviewed in one room by a trained specialist, a psychologist or a social worker, while other specialists – prosecutors, police officers, attorneys, etc. – assist from another room via audio-visual equipment¹²³. While there are still logistic problems in using the room, dealing with the need to transcribe the interview for the court¹²⁴, the room constitutes a good starting point in reducing secondary victimisation of children. With regard to the room in Craiova, in its five years of existence, in it a total of 58 children (victims of crime and offenders) have been interviewed¹²⁵. There is, nevertheless, a need to create such rooms in all institutions dealing with vulnerable victims, including the Police, and to extend the practice to all GDSWCPs.

Although not directly related to information or referral, but rather to needs' assessment and victim support in general, a fourth promising practice is the allocation of **rent subsidies by the City Hall of Cluj-Napoca** to three categories of beneficiaries, including victims of domestic violence (the other ones being people who have recently left child protection services and people in risk situations, such as people with disabilities or low income)¹²⁶. The project was introduced in 2018 and offers victims of domestic violence the possibility of independent living (thus, separation from the aggressor), by partially or entirely covering their rent for a period of up to 3 years, amounting to between 900 RON (c. 190 Euros) and 1400 RON (c. 290 Euros) monthly.¹²⁷ Four victims of domestic violence applied for the programme in 2018, and all were accepted, and three other requests were submitted in January 2019¹²⁸. The low number of victims who have in fact received rent subsidies indicates administrative barriers, strict eligibility criteria and/ or lack of awareness on the part of beneficiaries about the programme. This was the only initiative of its kind in Romania until February 2019, when the City Hall of

¹²² Consiliul Județean Cluj (2016), *Regulament de organizare și funcționare a serviciului social de zi Centre de consiliere pentru prevenirea și combaterea violenței în familie, Centrul de consiliere pentru copilul abuzat, neglijat, exploatat din cadrul Centrului județean de intervenție pentru copilul abuzat* [Cluj County Council, *The Organization and Functioning of the Day Social Service Counseling Centers for the Prevention and Combating of Domestic Violence, of the Counseling Center for the Abused, Neglected, Exploited Child, within the County Intervention Centre for the Abused Child*], p. 3. Retrieved from: <http://www.dgaspc-cluj.ro/rof/Anexa%2018.1%20Centre%20de%20consiliere%20pentru%20prevenirea%20si%20combaterea%20violentei%20in%20familie%20din%20cadrul%20Centrului%20județean%20de%20intervenție%20pentru%20copilul%20abuzat.pdf> (accessed March 29th, 2019).

¹²³ Ziua de Cluj (2014), *Sală specializată în audierea minorilor, inaugurată la Cluj* [Special interview room for children, inaugurated in Cluj]. Retrieved from <http://ziuadecj.realitatea.net/administratie/--125456.html> (accessed February 1st, 2019).

¹²⁴ Interviewee 9.

¹²⁵ Reply from GDSWCP of Dolj county (letter no. 14614/04.04.2019).

¹²⁶ Interviewee 9.

¹²⁷ Primăria Cluj-Napoca, *Ajutor pentru plata chiriei*, 2018, [City Hall of Cluj-Napoca, *Rent Subsidies*, 2018]. Retrieved from <https://primariaclužnapoca.ro/social/ajutor-pentru-plata-chiriei/> (accessed February 1st, 2019).

¹²⁸ Interviewee 9.

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Bucharest announced that a similar programme was soon to begin in the city. The programme, called “Together” (in Romanian, “Împreună”) is set to cover rent costs of up to 1500 RON (c. 315 Euros) monthly for victims of domestic violence only¹²⁹.

Public-private initiatives:

The first good practice refers to efficient **multisectorial collaboration for cases of family violence, in Târgu Mureș**, Mureș County, where GDSWCP works with an NGO, The East European Institute for Reproductive Health (IEESR)– in the form of a private-public partnership for rapid intervention. GDSWCP subcontracts the services of IEESR, who have autonomy in providing support services. The NGO runs a shelter, the only one in the county currently, where children and adults receive practical help, food and clothing, as well as psychological counselling, legal assistance and representation in court. Victims are also directly involved in creating a personalised action plan to help them gain independence and leave the abusive relationship. In addition, there is a strong collaboration with the Emergency Unit of the County Hospital: 4 social workers work side by side with the doctors, who are also trained to recognise the signs of violence (behavioural and psychological). The staff provide victims with information and, based on an interview guide, design a safety plan with the victims, as well as refer them to specialised support and/ or notifies the police, if there is need¹³⁰.

Similarly, in Bucharest, efficient inter-institutional and private-public collaboration in cases of family violence has been identified between the GDSWCPs and Anais Association, which runs a residential and counselling centre for victims. The efficient collaboration with this NGO was indicated by 3 of the 6 contacted GDSWCPs¹³¹. However, this model lacks the medical component, as there is no formalised referral from hospitals or medical units. Nevertheless, as indicated previously, funding for the NGO is soon to be terminated, as announced by the City Hall of Bucharest in March 2019. As a result, Anais Association declared they are forced to close down the centre.

Another good practice is the collaboration between the Romanian Police and Save the Children in managing the Portal *Ora de Net (The Internet Class)* and the platform *esc_Abuz*, operated by the NGO. The goal of the project is to collect information on **online sexual exploitation of children**, as well as to inform children on safety measures online. In addition, it is possible to use the platform to report such cases to the Direction of Combatting Organised Criminality, as well as for children to seek counselling on how to safely use the Internet. The project includes a website and a Facebook page which educates children and adults on Internet safety. The information is presented in a child-friendly manner (using accessible language, images and video materials)¹³².

¹²⁹ Direcția Generală de Asistență Socială a Municipiului București, *Proiect Pilot „Împreună”*, [General Direction of Social Welfare of the Municipality of Bucharest, *Pilot Project “Together”*] Retrieved from: <http://dgas.ro/servicii-sociale/proiect-pilot-impreuna/> (accessed March 11th, 2019).

¹³⁰ Interviewee 9.

¹³¹ Replies by GDSWCPs of Bucharest Sectors 1, 4, and 5 (letters no. 40/20.12.2018; 414809/ 04.01.2019; and 289/07.01.2019).

¹³² Reply by GIRP (letter no. 404.495/ 10.01.2019). More information available at: <https://oradenet.salvaticopiii.ro/esc-abuz> (in Romanian only).

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Private initiatives:

Furthermore, two good practices regarding victims of crime were also identified among Romanian NGOs. Although not strictly related to victims' right to information, needs assessment and referral, all of the following examples integrate elements from these three aspects. Firstly, the access to justice of victims of crime is facilitated by a programme run by the Equality and Human Rights Action Centre (ACTEDO)¹³³. ACTEDO, an NGO based in Cluj-Napoca, coordinates the only pro bono clearinghouse in Romania – *The Pro Bono Network for Human Rights* – which offers **pro bono legal assistance and representation** to vulnerable individuals whose fundamental human rights have been violated, with the help of attorneys from all over the country¹³⁴. The second good practice refers to **free psychological counselling**, as well as information offered to victims of domestic violence and/ or sexual violence, provided face-to-face, but also through an online platform. Provided by the Association for Liberty and Equality of Gender (A.L.E.G.), based in Sibiu, these services help victims understand the situation of abuse and how to stop it, and support them in knowing their rights and legal options¹³⁵.

The aforementioned examples may be by and large classified in two categories: integrated services and intervention, and provision of basic rights (such as the right to legal aid and the right to information). While they constitute good or promising practices, they have a very limited outreach and should be extended to the national level, so as to represent the norm and not the exception.

Chapter 6 – Conclusions and Recommendations

The present report assessed the transposition of the Victims' Directive into Romanian national legislation and its practical implementation, the types of support services available to victims of crime, as well as differences in legislation and approach concerning particular vulnerable victims. The report focused primarily on how referral of victims takes place in practice (to/ from judicial authorities and support services), on who conducts the assessment of victims' needs in order to identify their protection needs and how this assessment is done, and, thirdly, on how and by whom victims are informed about their rights and role in the criminal proceedings. A chapter is also dedicated to identified good or promising practices with regard to the aforementioned aspects of victim support.

Firstly, Romania needs to develop **national generic support services for victims of crime**, as it remains among the few EU Member States to have only specialised services, and for certain categories of victims, mostly child victims, victims of domestic violence and victims of human trafficking. The foundation for generic support services was set in April 2019, when Law 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime was amended. Given that this amendment coincided with the period when the current report was finalised, future research will need to assess the quality and efficiency of the newly-proposed model. However, drawing from past lessons, it is important that these services have

¹³³ The NGO was also named by Interviewee 6 as an example of good practices.

¹³⁴ More information available at: <http://probono.actedo.org/en/about-pro-bono-network/>

¹³⁵ More information available at: <https://aleg-romania.eu/2013/09/16/consiliere-on-line/> (In Romanian only).

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national coverage, receive **sufficient funding**, and that their staff be sufficient and adequately **trained** to deal with victims of all crimes.

In addition, specialised support services need to be expanded and diversified, and the state should ensure their financial stability. This includes the consolidation of the state-run Social Services (the GDSWCPs and the PSWSs), but also supporting NGOs that provide services to victims of crime. It is also recommended, if the conditions permit, that the state partly or fully outsource its support services to competent NGOs and/ or create public-private partnerships with them, as is the case in Târgu Mureş, in order to render these services more dynamic and efficient. In addition, Romania should create a national, state-run fund for victims of crime in order to support non-governmental service-providers, as recommended by the European Commission. This fund should ensure its sustainability from fees, financial penalties and surcharges imposed on offenders, as well as from confiscated assets and/ or in the form of a solidarity fund supported by insurance policies.

Secondly, with regard to **the referral of victims**, there is a need to identify, evaluate, centralise and constantly update information related to existing support services, among all institutions involved, in order to facilitate referral, but also to inform the general population about existence and accessibility of support services. Additionally, there is a need for referral procedures and guidelines to be created to ensure enhanced collaboration between the Police, the Prosecutor's Office, courts, the Social Services, and NGOs providing support services to victims. Procedures and clearer guidelines would also contribute to the referral of victims without unnecessary delay.

Thirdly, all victims of crime should be the subjects of **an individual needs assessment** in order to identify the risk to the safety of the victim or their family, to intimidation and retaliation, the appropriate support services for their situation, as well as the necessary protection measures. Given the fact that the victims' first contact with professionals/ authorities is usually with the Police, they should carry out an initial individual needs assessment, preferably with the aid of representatives of Social Services or victim support organisations. All judicial authorities should carry out an individual needs assessment for all victims of crime or at least ensure this assessment is carried out by competent authorities and according to formalised models (templates, guidelines). Assessment should take into consideration the criteria outlined in Article 22 of the Directive (including the personal characteristics of the victim, the type of crime, and the circumstances of the crime) and the victim's wish to benefit from protection measures and should pay particular attention to the victims that are most vulnerable, as seen by para. 3 and 4 of Article 22.

Furthermore, measures should be taken to ensure that **information about victims' rights** is brought to their knowledge by the first authority they come in contact with, in simple and accessible language and in a language they understand. Informative materials should be made available throughout the country and in key places such as police stations, courts, hospitals, Social Services etc. The victims' rights, information about protection measures, support services and their role in criminal proceedings should be presented in an accessible manner, including with the help of images, diagrams and infographics. Judicial authorities and support services should provide victims with handouts or leaflets detailing the aforementioned aspects, which the victims may take with them for future consultation. Information about victims' rights should

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also be disseminated nationally through comprehensive information and raising awareness campaigns targeting all types of crimes, as well as the most vulnerable categories of society.

Lastly, in order to ensure that victims receive the necessary protection and support, all professionals who come in contact with victims of crime, especially officers, prosecutors, judges, and representatives of Social Services and NGOs providing support services, should receive adequate **training**. Training should include information about the following aspects: legal obligations of authorities with regard to informing victims of their rights, to conducting needs assessment and referral; existing support services and referral to appropriate services; conducting individual needs assessment; provision of information to victims in a timely and adequate manner; ways of avoiding secondary and repeat victimisation; and transdisciplinary aspects aimed at increasing the understanding of professionals concerning the vulnerability of victims of crime. The latter may include elements of psychology, human rights, and non-discrimination legislation, which could provide professionals with a better understanding of the barriers faced by vulnerable groups in accessing justice.

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2. Criminal Code
3. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
4. European Convention on Human Rights
5. Government Decision No. 49/2011 approving the Framework Methodology for the Prevention and Intervention in the Multi-disciplinary Team or in the Network in Situations of Violence against Children and of Domestic Violence and the Multidisciplinary and Interinstitutional Intervention Methodology on Exploited Children and at Risk of Labour Exploitation, Child Victims of Human Trafficking, as well as Romanian Migrant Children Victims of Other Forms of Violence on the Territory of Other States, January 19, 2011.
6. Governmental Decision no. 1434/2004 on the attributions and the framework regulation on the organization and functioning of the Directorate General for Social Assistance and Child Protection
7. Law 272/2004 on the Protection and Promotion of the Rights of the Child
8. Law 302/2004 regarding the international judiciary cooperation in criminal matters
9. Law no. 192/2006 regarding the functioning and organization of mediators
10. Law no. 211/2004 regarding some measures for ensuring the information, support and protection of victims of crime

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