



**Improving protection of victims' rights: access to legal aid**

## **Victim's rights to legal aid in the criminal proceedings in Latvia**

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## INTRODUCTION

The protection of victim's rights has both social and economic significance. After a criminal offence the life of the victim alters – due to the health problems and psychological sufferings. Rather often the victim is forced to give up personal dreams and professional challenges of his or her life. The victim's ability to integrate himself or herself back in the community after the crime is not only the victim's problem. It is in the interests of the whole community that the consequences of the criminal offence affect the victim's further life as little as possible. The state has to establish a support system for a wholesome return of the victim back in the community, ensuring emotional, financial and legal aid in due time. Emotional support can be provided by consultations of a psychologist; financial support can be ensured through the victim compensation system; legal support can be provided through the state ensured legal aid system.

### 1. Explanation of terms and the development of legal framework

#### 1.1. Explanation of the term "victim"

In the Criminal Proceedings Law (*hereafter – CPL*), the term "victim" has been used in two meanings, first, factually, a person to whom harm has been caused by the criminal offence, and second, a victim in the procedural meaning – a participant of the criminal proceedings with a definite regulated criminal procedural standing. A victim who has not yet acquired the legal status of a victim has only several procedural rights, for instance, to submit an application regarding the initiation of the criminal proceedings; to get information regarding the possibility to be recognised as a victim etc. A person who has acquired the legal status of a victim is a participant of the criminal proceedings recognised as a victim by the decision of the person directing the proceedings, thus having all the rights of the victim referred to in the law (*see part 2 of this report*), including the right to receive state ensured legal aid.<sup>1</sup> The person directing the proceedings informs the victim in a timely manner regarding the person's rights to be recognised as a victim in the criminal proceedings. A person who does not want to acquire the status of a victim obtains the status of a witness. Taking into consideration the above mentioned, a person can be recognised as a victim under the following prerequisites: (1) it is a natural person or legal person to whom a moral injury, physical suffering or a material loss has been caused. If the person has deceased, the victim in the criminal proceedings may be the surviving spouse, one of the ascending or descending relatives of the deceased, the adopter, or a collateral relative of the first

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<sup>1</sup> Strada-Rozenberga K. Cietušais un tā tiesības kriminālprocesā [Victim and His/Her Rights in the Criminal Proceedings]. Published in the magazine "Jurista Vārds", 04.11.2008, No.42 (547).

degree of such deceased; (2) the moral injury is not caused to the person as to a representative of a specific group of society; (3) the person himself or herself or the representative thereof has expressed a written wish or consent regarding the acquisition of the status of a victim; (4) the person has been recognised as a victim with a special decision of the investigator, public prosecutor or the court.

### **1.2. Explanation of the term “legal aid”**

The fourth sentence of Section 92 of the Constitution of the Republic of Latvia stipulates that everyone has a right to the assistance of counsel. The right to receive assistance from an attorney is an instrument of ensuring the right to defend a person’s rights and lawful interests in a fair court referred to in the first sentence of Section 92 of the Constitution, with the aim to provide a timely, accessible and qualitative legal aid. The right to the assistance of counsel includes the right to receive assistance by qualified legal services providers and the duty of the state to provide such aid to the persons who are not able to afford it themselves. In the criminal proceedings, the person has the right to attorney’s assistance not only in the court hearings but also in the process of pre-trial proceedings.<sup>2</sup> Thus, legal aid in the criminal proceedings is the assistance ensured by the victim himself/herself or by the state to solve legal issues and protect the infringed or disputed rights or lawful interests of the person. Persons determined by law have individual rights to apply for the acquisition of qualified state ensured legal aid in order to protect their rights and lawful interests in a wholesome manner.

### **1.3. The development of legal framework**

Since the restoration of the independence of Latvia, two laws have regulated the criminal proceedings. Until October 1, 2005, the criminal proceedings in Latvia were stipulated by the Code of Criminal Procedure, adopted on June 1, 1961, in the Soviet Union, though several amendments were made to the law. Afterwards, the CPL came into effect. Unlike the CPL, the Code of Criminal Procedure of Latvia in its Section 100, part 1 stipulated that the decision of the recognition of a person as a victim might be made regardless of whether the person had given his or her consent, possibly even against the person’s will. Besides, the duty of the state to ensure legal aid to the victim was significantly changed by the amendments to the CPL that regulated that since January 1, 2011, a private accusation process is not possible. At the moment, the rights of the victim to legal aid only in a public accusation process are referred to in laws, for instance: (1) the

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<sup>2</sup> Comments on the Constitution of the Republic of Latvia (Satversme). Chapter VIII. Fundamental Human Rights. Published in the official publication “Latvijas Vēstnesis”, 2011, 160 – 164 pp.

Satversme (the Constitution), (2) the CPL, (3) Advocacy Law and (4) State Ensured Legal Aid Law, and Cabinet Regulations related to the mentioned laws, for instance: (1) Regulations of the Cabinet of Ministers of the Republic of Latvia No.1493 of December 22, 2009, “On the Scope and Procedures for Payment of State Ensured Legal Aid, Reimbursable Expenses and the Procedures for Payment thereof”, (2) Regulations No. 1093 of December 30, 2008, “On the Procedures for Determination of Compensation and Reimbursable Expenses and Amounts thereof of the Elder of the Sworn Attorneys” and (3) Regulations No. 754 of October 4, 2005, “Procedures and Amount of Compensation for Criminal Procedural Expenses”.

## **2. Victim’s rights to receive information and the amount of information**

The Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime declares that information should be accessible to all the victims taking into account their personal situation – age, gender, possible disability and maturity. 88% of the population of Latvia indicate that they would know where to seek for help immediately if harm was caused to the person himself/herself, a relative or an acquaintance. Not knowing where to turn to in case of help needed was admitted by respondents over 75 years of age, who do not speak national language on daily basis, with basic education and monthly income below 100 lats (142 EURO) per capita per household.<sup>3</sup>

The legislation of Latvia do not provide for a specific regulation regarding the accessibility of information to victims who are citizens of other member states of the European Union. The legal framework in Latvia has been formed so that it stipulates the right to receive information; the law does not regulate expressis verbis the right of the victim not to receive information related to the progress of the criminal proceedings. In accordance with the regulatory enactments, if a person has suffered from a criminal offence, he or she has the right to turn to a law enforcement agency (usually – the police) with an application for the initiation of the criminal proceedings. After the examination of the application the official who performs the criminal proceedings makes the decision regarding the initiation of the criminal proceedings and the recognition of the person as a victim, or refuses to initiate the criminal proceedings. The victim’s rights in pre-trial criminal proceedings, in a court of first instance, in a court of appeals and in a court of cassation are regulated in Sections 98 to 101 of the CPL. The victim implements his or her rights voluntarily and

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<sup>3</sup>Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumus cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimization Prevention in Latvia]. Riga: PROVIDUS, 2013.

in an amount designated by him or her. The non-utilisation of rights does not delay the progress of the proceedings.

In the pre-trial criminal proceedings the victim has the right to familiarise himself or herself with the Criminal Proceedings Register and to submit a recusation to officials entered therein; to submit applications regarding the performance of investigative and other operations; to familiarise himself or herself with the decision on the determination of an expert-examination before the transferral thereof for execution, and to submit an application regarding the amendment thereof if the expert-examination is conducted on the basis of the victim's application; in accordance with the procedures specified by law, to submit complaints regarding the actions of an official authorised for the performance of the criminal proceedings; to appeal procedural decisions in the pre-trial criminal proceedings in accordance with the cases, term and procedures specified by law; after the completion of the pre-trial criminal proceedings, to receive copies of the materials of the criminal case to be transferred to the court that directly apply to the criminal offence with which harm has been caused to the victim, if such materials have not been issued earlier, or with the consent of the public prosecutor to become acquainted with these materials of the criminal case; to submit a request to the investigating judge to get acquainted with the materials of special investigative actions that are not appended to the criminal case (primary documents). In questioning and interrogation, the victim also has all the rights and duties of a witness.

In a court of first instance the victim has the rights to find out the place and time of the trial in a timely manner; to submit a recusation to the composition of the court, an individual judge, a maintainer of state prosecution, and an expert; to participate himself or herself in the examination of the criminal case; to express his or her view regarding every matter to be discussed; to participate in an examination performed directly and orally of each piece of evidence to be examined in court; to submit applications; to speak in court debates; to familiarise himself or herself with a court adjudication and the minutes of a court session; to appeal a court adjudication in accordance with the procedures specified by law. If the adjudication of a court of first instance or of appeals is appealed in the part regarding the criminal offence with which harm was caused to the victim, the person directing the proceedings sends copies of received appellate or cassation complaints to the victim, and a court of appeals or of cassation notifies the victim regarding the time, place and procedures for the examination of the complaints. In a court of appeals and of cassation, the victim has the same rights as in a court of first instance. In Latvia, the victim is not

informed separately regarding the progress of the execution of the judgement and the offender's serving of the punishment, the information is not provided to the victim also regarding the release of the offender from the imprisonment.

On the one hand, no one can plead ignorance of the legal enactments or official announcements published in the official publication, on the other hand, the state should consider the special standing of the victim and ensure the accessibility to these rights to be efficient, namely, the possibility of efficient protection of the rights.<sup>4</sup> Before each procedural action, in which the victim participates, the nature of the action, victim's rights, duties and responsibilities regarding the nature of the action have to be explained. The persons directing the proceedings and experts admit the shortcomings in the practice regarding the informing of the victim: *"There are cases when the victim is not informed sufficiently in the duty part of the police. There have been cases when the victim has not understood that he has to go to the forensic examination to check the bodily injuries."* *"People are very poor informed. They lack information about where to turn to, how to solve the situation, what applications to submit in which institution. In Riga surroundings and big cities they have easier access to the information than in the countryside."*<sup>5</sup>

By submitting an application regarding the criminal offence committed, the state does not ensure legal aid to the victim, it is received only in the way that the police officer provides help in the process of the application submission and explains the rights of the victim provided for by law in the process of the initiation of the criminal proceedings and in pre-trial proceedings in general, including the right to receive legal aid and consultations from an attorney. Usually, in practice it means the delivery of a paper copy with the text of the particular legal provisions defined by law. In each case separately, the type of information delivery depends on the understanding of the state police or public prosecution about the situation of the victim and their humane attitude. There is no special code of ethics in written to regulate that. Though, the Professional Ethics and Conduct Code of the State Police Personnel stipulates the general principles of the professional ethics of the police such as professionalism, decency and responsibility. The police officer acts in an even-handed and fair manner, thus with his or her behaviour enhancing the community trust in the police. The police officer in his or her contact with other persons respects and protects their dignity, treats them with politeness and tolerance. Also the Code of Ethics for Prosecutors of Latvia stipulates that the prosecutor has to be tolerant and polite to the victims and other

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<sup>4</sup> The judgement of the European Court of Human Rights in the case No. 62393/00 Kadiķis v. Latvia, § 60.

<sup>5</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumos cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Riga: PROVIDUS, 2013.

participants of the proceedings. The Ethics Code of Latvian Judges envisages that the judge has to be patient, dignified and courteous to the participants of hearings.

The state police officer should inform the person also about the right to obtain the state compensation (*see part 4.3*), however the victim should seek for detailed information himself/herself on the website of the Legal Aid Administration, published brochures, attending consultations or calling to the free of charge information telephone number 80001801. Detailed information about the possibilities to participate in the measures of *restorative justice* is available in the State Probation Service and its published sources of information.

In addition to the explanations of the official, the victim can find information about the procedures of submitting a complaint on the website of the State Police<sup>6</sup> where the information for victims is visually well-indicated. The information mainly consists of the textual excerpts from the law; besides, the section about the victim's rights is as big in size as the part about the duties and responsibilities of the victim, including the interpretation and explanatory information about particular sections of the Criminal Law and indicating to the punishment the victim can be imposed on in case of wrong actions. Also the experts admit that, despite the improvements, the way of information delivery could be better. In addition to the formal information, there should be references to the institutions or NGOs that provide not only legal but also psychological assistance and other types of support.<sup>7</sup> The website of the Prosecutor's office<sup>8</sup> does not provide any information for the victims at all. The situation is rather similar on the websites of the Latvia Courts Portal<sup>9</sup> and the Supreme Court<sup>10</sup>. On the website of the Ombudsman,<sup>11</sup> general information about fundamental rights can be found, but there is no special information for victims. Useful information for victims can be found on the websites of particular NGOs,<sup>12</sup> however the accessibility of this information is fragmented and also incomplete. The fragmentation and incompleteness of the websites of national authorities is compensated by the special website in Latvian (also planned in Russian) for victims <http://www.cietusajiem.lv> created by the Centre for Public Policy PROVIDUS. The website provides wide range of information that is presented in various formats. In the future, the maintenance and updating of the site is planned to be handed

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<sup>6</sup> <http://www.vp.gov.lv/>

<sup>7</sup> Interview with the lawyer from the society "Patvērums „Drošā māja”" [Shelter "Safe House"], 02.07.2013. Not published.

<sup>8</sup> <http://www.prokuratūra.gov.lv/>

<sup>9</sup> <http://www.tiesas.lv/>

<sup>10</sup> <http://at.gov.lv/>

<sup>11</sup> <http://www.tiesibsargs.lv/>

<sup>12</sup> For instance, <http://www.patverums-dm.lv/>, <http://marta.lv/>

over to the Legal Aid Administration. The implementation of this plan can be endangered by the lack of funding,<sup>13</sup> whereas the failure to hand it over holds a risk that the information on the website is not supplemented and updated. At the moment, the Legal Aid Administration provides the payments of the state ensured compensation to the victims of intended criminal offences.

The evaluation of the accessibility of the information about the victim's rights in general leads to conclude that the state does not perform this task in accordance with the standard of a good governance principle. It is partially compensated by the information provided for the public by NGOs; however, there are risks that after some time these sources may fail to reflect up-to-date information. Besides, the implementation of victim's rights is influenced not only by the accessibility of information but also the possibility to execute these rights in practice. The current traditional process of the restoration of justice does not envisage the opportunities for the victims to influence the progress and result of the criminal proceedings, i.e. the victim has a limited opportunity to express his or her opinion and even less possibilities to influence the decisions made during the criminal proceedings and its result: *"The victim is just a tool to prove the guilt or innocence of the offender."* The victim has a secondary role in the criminal proceedings and that is admitted both by the prosecutors and the judges: *"Not always the presence of the victim is necessary at the court, he/she gets interrogated and, in fact, we do not need him/her anymore, I don't need him/her in the debates and also it is not important whether he/she comes to the announcement of the decision – he/she may come and may fail to come."*

### **3. General overview on the right of the victim to the state ensured legal aid**

#### **3.1. Description of the victim and criteria for the access to the state ensured legal aid**

In order to ensure the actualisation of the rights, the victim or the representative thereof, in case of a wish, may invite an attorney for the provision of legal assistance. The provider of legal assistance has the right to participate in all procedural actions that take place with the participation of the victim, and on the basis of a request of the victim may use the rights of the victim, completely or partially. However, Section 104, part 5 of the CPL imperatively indicates that in case if the protection of the rights and interests of the *minor* is encumbered or otherwise not ensured, or if the representatives of the minor, for instance, his or her parents or guardian, submit a substantiated request, the person directing the proceedings makes a decision on retaining of an attorney as the representative of the minor victim. In exceptional cases, if it is otherwise not possible to ensure the protection of the rights and interests of the person in the criminal

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<sup>13</sup> Interview with the director of the Legal Aid Administration, 03.07.2013. Not published.

proceedings, the person directing the proceedings makes a decision on retaining of an attorney as a representative of the victim who is *needy or low-income person of legal age*. In such cases, the amount of payment for the provision of state ensured legal aid and the reimbursable expenses related to the provision of state ensured legal aid, their amount and procedures for payment are determined by the Cabinet. In such cases, the person directing the proceedings notifies the elder of the sworn attorneys of the territory of the relevant court process about the decision on the necessity to ensure a representative for the victim in the criminal proceedings. The elder of the sworn attorneys notifies the person directing the proceedings regarding the participation of the relevant attorney in the criminal proceedings not later than within three days after the receipt of the request of the person directing the proceedings. If necessary, the person directing the proceedings retains an attorney for ensuring legal representation in the procedures, which are to be carried out immediately and in which the victim is involved, in conformity with the schedule of the attorneys on duty compiled by the elder of the sworn attorneys in the territory of the relevant court process.

### **3.2. Special regulations for the citizen of another member state of the European Union or a third country**

The CPL does not stipulate special regulation regarding the victims who are citizens of other member states of the European Union or a third country. All the victims, regardless of their citizenship, have equal rights to be recognised as victims and, under the prerequisites mentioned before, to receive state ensured legal aid.

### **3.3. Sufficiency of the available state ensured legal aid and the rigidity of criteria**

In Latvia, the victim and the representative thereof has the right to invite a sworn attorney for ensuring legal assistance covering the expenses related to the assistance. The victim has the right to request the compensation for such financial losses in accordance with the procedures of criminal or civil proceedings. State ensured legal aid in Latvia is ensured for minor victims in case of special conditions and for adult victims if they are needy or low-income persons. The evaluation of the procedures of assigning legal aid leads to conclude that the accessibility of state ensured legal aid is insufficient and the existing criteria excessively limits the number of cases when such aid is provided. Legal aid is not ensured to the person affected by a crime until the person has not been legally recognised as a victim. Until that, the person has to be competent in the legal framework and the progress of the proceedings himself or herself. Besides, after the acquisition of the legal status of a victim only a particular, small group of victims may apply for receiving legal

aid. First, the person directing the proceedings has to acknowledge that the protection of the rights and interests of the person is encumbered or otherwise not ensured, and the formal prerequisite has to be satisfied that the victim is a minor or an adult with the status of a needy or low-income person. In accordance with Section 33 of the Law On Social Services and Social Assistance and the Cabinet Regulations No.299 of 31.03.2010. "Regulations Regarding The Recognition of a Family or Person Living Separately As Needy" a family (person) may be recognised as needy if the average monthly income per each family member during the last three months does not exceed 90 lats (128 EURO) and if it does not own monetary accumulations, securities or property; it has not entered into a maintenance contract; it does not receive services from long-term social care and social rehabilitation institutions or is not imprisoned; the person is registered as unemployed.<sup>14</sup> Thus, the conditions of acquiring this status lead to a limited number of persons to whom the status is accessible, meanwhile limiting the possibilities of receiving legal aid in criminal proceedings. In fact, the demand for legal aid is much bigger.

In 2011, 51582 criminal offences and 15403 victims<sup>15</sup> were recorded in Latvia, whereas in 2012 – 49905 crimes and 12600 victims.<sup>16</sup> Unfortunately, there is no statistical data about the number of victims who have received state ensured legal aid. Moreover, it must be taken into account that not reporting a crime is a widespread phenomenon in Latvia. With respect to the type of the criminal offence, the dark number of crime victims ranges from 80 % to 40 %.<sup>17</sup> The survey data show that approximately in 39% of cases victims need legal aid. Having the need for legal assistance, in practice the victims often await that the defence of their interests and help within the criminal proceedings would be ensured by the public prosecutor, however the provision of such help is not within the area of the prosecutors' responsibility.<sup>18</sup>

Also the ombudsman is able to provide legal assistance, however the office receives more complaints from the convicts or prisoners than from the victims.<sup>19</sup> Legal aid can be received also from NGOs, but they do not have sufficient resources to meet the wide range of needs of every person in necessity of assistance and over a long period.<sup>20</sup> Particular help can and could be

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<sup>14</sup> In their binding regulations, each local government can specify more favourable conditions for the recognition of a family (person) as needy, including such family (person) who has debt liabilities.

<sup>15</sup> Persons who have obtained the status of a victim within the criminal proceedings.

<sup>16</sup> Kronberga I., Judins A., Zavackis A. *Noziedzīgos nodarījumus cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā* [Meeting the Needs of Crime Victims: Support for Victimization Prevention in Latvia]. Riga: PROVIDUS, 2013.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> Interview with a representative from the Ombudsman's Office, 21.06.2013. Not published.

<sup>20</sup> For instance, the resource centre for women "Marta" provides a wide range of services: assistance of a social worker, lawyer, psychotherapist, as well as the specialist in coaching.

received also from the persons directing the proceedings, such as answering the victims' questions, informing the victims about their rights, explaining the proceedings and giving advice for further actions. In fact, at the moment the amount of such help depends directly on the wish and ability of the person directing the proceedings to explain the criminal procedural issues that are important to the victim in an understandable way. The CPL should expand the responsibilities of the person directing the proceedings including not only the duty to inform the victim about his or her rights but also to provide a detailed extraction from the regulatory enactments that define the victims' rights and to explain these extractions in an understandable and simple language, ensuring clear and unambiguous message about the on-going actions and further activities.<sup>21</sup>

All in all, the victim is often left on his/her own – mostly, the victim has to ensure the defence of his/her rights on his/her own accord, and the assistance by a qualified lawyer is available only if the victim seeks for it actively.<sup>22</sup> State ensured legal aid should be ensured not only after the initiation of the criminal proceedings but also before it in particular cases. Moreover, the criteria of assigning legal aid should be reviewed, disclaiming the formal status of a needy or low-income person as recognised by a local municipality, instead allowing the person directing the proceedings to evaluate the financial situation of the person in each individual case. Not being lawyers, victims often do not have a clear understanding about their criminal procedural and victim's rights and the procedures of executing these rights. Legal assistance, provided by a qualified lawyer, ensures detailed information for the victim about the nuances of the criminal proceedings and the possibility to execute the rights provided for by law. Besides, it creates more sense of security – the victim feels that he/she is not alone with his/her sufferings and pains in the criminal proceedings and there is a person competent in legal matters, ready to help him/her. Lack of sufficient legal support creates a risk – not all victims are able to afford an attorney but without counselling and assistance in legal document preparation they do not know where to turn to and how to act in order to, firstly, be heard, secondly, execute his or her defence, thirdly, obtain psychological and other types of support.<sup>23</sup>

### **3.4. Balance between the right to state ensured legal aid for the victims and the accused**

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<sup>21</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumus cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Rīga: PROVIDUS, 2013.

<sup>22</sup> Ibid.

<sup>23</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumus cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Rīga: PROVIDUS, 2013.

There is a disbalance between the right to state ensured legal aid for the victims and the accused. Each person regarding whom an assumption or allegation has been expressed that such person has committed a criminal offence does not need the status of a needy or low-income person in order to receive state ensured legal aid and the financial situation of the person is evaluated in each individual case, the situation may be even better than for acquiring the status of a needy or low-income person. Moreover, in cases specified by law the participation of a defence counsel is mandatory.

#### **4. The available types and amount of state ensured legal aid**

##### **4.1. The first moment when the victim may receive state ensured legal aid**

The victim has a possibility to receive state ensured legal aid in case of initiated criminal proceedings. Criminal proceedings can be initiated if a procedurally authorised official acquires conviction that there are real grounds for believing that a criminal offence has been committed, and if the message contains information about a possible criminal offence that can be disclosed only with the use of the resources and methods of criminal proceedings. Therefore, the first moment when a person may receive state ensured legal aid is the moment of the initiation of criminal proceedings and the person directing the proceedings has already made decisions about the recognition of the person as the victim in the criminal proceedings and about the assignation of state ensured legal aid.

##### **4.2. Stages of criminal proceedings when the victim may receive state ensured legal aid, and amount thereof**

After making the decisions about the initiation of criminal proceedings and the assignation of legal aid, the aid is provided until the termination or completion of the criminal proceedings (entering into effect of the court adjudication). Legal aid is not available in the stages of the execution of the court decision and the convict's serving of the punishment. The state ensures the following legal aid in criminal proceedings: preparation of the procedural document in the stage of pre-trial proceedings and litigation, and the representation in pre-trial proceedings and court hearing.

##### **4.3. State ensured legal aid while requiring state compensation and participating in restorative justice measures**

Settlement with the perpetrator and the acquisition of the state compensation are victim's rights. In accordance with Section 108, part 3 of the CPL, the provider of legal aid has the right to participate in all procedural actions that take place with the participation of the victim. Therefore, legal aid can be provided during the settlement procedure if it is performed within the criminal

proceedings, however, in practice, there are only few cases of the sort<sup>24</sup>. It is related to the poor accessibility of legal aid and the fact that the participation of the legal aid provider does not play a significant role in the process of settlement. In accordance with Section 13 of the State Probation Service Law, the State Probation Service ensures the possibility for the victim and the person who has committed a criminal offence to engage voluntarily in the process of mediation. The State Probation Service provides the organisation of the settlement procedure free of charge not only within the criminal proceedings but also before the initiation of the criminal proceedings, as well as after the imposing of the punishment on the guilty party.

According to the law “On State Compensation to Victims”, the victim is not eligible for legal aid when applying for the state compensation. This law regulates the procedures by which the compensation shall be paid to the victim by the Legal Aid Administration. It is not performed in accordance with the procedures of the criminal proceedings but with the procedures of the administrative proceedings. One of the most frequent reasons for the refusal of the state compensation for the victims of crime is the missed term for the submission of the request. The law specifies that the request shall be submitted within one year after the day when a person has been recognised a victim or has been acquainted with the facts that ensure the person with the right to submit it. Very often the persons directing the proceedings fail to inform the victim about his or her right to request the compensation. Victims receive the information about the possibility to obtain the compensation only at the court.<sup>25</sup>

#### **4.4. Length of the provision of state ensured legal aid**

The regulatory enactments do not provide for a minimum or maximum length for the state ensured legal aid, unless the standing of the victim changes in the criminal proceedings and the criteria for the assignation of state ensured legal aid fail to be further satisfied.

#### **4.5. Language of the provision of state ensured legal aid**

In all stages and types of the criminal proceedings, the victim has the right to participate in the criminal proceedings using the language that he or she understands, and, if necessary, using the assistance of an interpreter free of charge (CPL, Section 97).

#### **4.6. Exemption from payment of the state fee or reimbursement thereof**

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<sup>24</sup> Interview with a representative from the State Probation Service, 02.07.2013. Not published.

<sup>25</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumos cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Rīga: PROVIDUS, 2013.

No state fee is to be paid for criminal proceedings, whereas in civil proceedings, if the victim requests compensation from the perpetrator of the crime for the pecuniar losses and moral injury in accordance with civil legal procedures, the victim is discharged from the state fee (CPL, Section 350, part 4). Moreover, in accordance with Section 367 of the CPL, the victim has the right to receive compensation for procedural expenditures – the compensation to cover travel expenses that are related to arriving at the place of the performance of a procedural action and return to the place of residence, payment for accommodations, as well as the sum that corresponds to the amount of an average work remuneration for the term wherein the victim did not perform the work in connection with the participation in the procedural action.

## **5. State ensured legal aid for special groups of victims**

The legal framework on legal aid specifies only two groups of victims – minors and needy adults. In addition, assistance is provided for the persons who are testifying in criminal proceedings or participate in the disclosure, investigation or adjudication of a serious or particularly serious crime, if the victim is recognised under special protection in accordance with the Special Protection of Persons Law.

## **6. Institutional structure and capacity of the state ensured legal aid system**

### **6.1. The structure of the system and place in the victim support system**

In Latvia, there is no established system of victim support that would envisage and ensure assistance to the victims. The establishment of such system is encumbered by the lack of financial resources.<sup>26</sup> Latvia has problems with the protection of the victim from being threatened by the offender and the preclusion of repeated (secondary) victimisation. The victim survey indicates to four main reasons for the victims' dissatisfaction with the criminal proceedings, namely: (1) the remaining sense of unfair result for the victims after the termination of the proceedings; (2) the victims are not satisfied with the punishment imposed on the offender; (3) the sense of security is not regained; (4) the dissatisfaction with the outcome of the criminal proceedings due to the failure to obtain compensation for the crime committed.<sup>27</sup> Therefore, the shortage in the accessibility of legal aid is only one of the problems in the victim support system.

### **6.2. Public foundations for ensuring legal support to victims**

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<sup>26</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumus cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Riga: PROVIDUS, 2013.

<sup>27</sup> Ibid.

State ensured legal aid is covered from the state budget resources. In Latvia, there are no special public foundations that would ensure legal aid for victims. Only several NGOs<sup>28</sup>, within particular projects or on the basis of a contract with a state institution, provide legal aid in addition to the aid specified in the CPL.

### **6.3. Regional peculiarities and problems in ensuring legal aid**

The territory of Latvia and the number of population is rather small with a strong trend of centralisation, therefore regional problems are not typical. In several regions the level of victims' ignorance is higher and there are fewer attorneys who could provide legal aid. It is a deficiency but it does not threaten the provision of legal aid in general.

### **6.4. Necessity for general and special training for state institutions**

Training is needed for the officials from state institutions that come into contact with the victim. Until now, the attention has been insufficiently turned towards the persons working with victims, in particular, victims of violence. The persons directing the proceedings – police officers, prosecutors, judges – often demonstrate particular empathy for the victim, however, the victim in the criminal proceedings is considered not as a person to whom harm has been done by the crime and who therefore is in need for assistance, but rather as a source of information that can be used to obtain evidence in the criminal proceedings. Both in the legislation and in the practical work of the persons directing the proceedings the rights of the victims are recognised and satisfied, however, executing the victim's rights are not always evaluated positively by the persons directing the proceedings because the work with the victim means additional work load and time for the official. Criminal proceedings that are oriented only to the disclosure of the crime and imposing the punishment on the offender need a victim who can testify and thus provide evidence for finding and convicting the perpetrator, whereas the suffering and needs of the victims, as well as intentions to meet those needs are not always understandable to the person directing the criminal proceedings therefore sometimes they are regarded as factors encumbering the criminal proceedings. Although the law indicates to the necessity of satisfying the victim's interests and ensuring the possibility to execute his or her rights, the work with the victim and attempts of helping the victim are not considered the duty of the person directing the proceedings.<sup>29</sup>

### **6.5. Efficiency and transparency of the state ensured legal aid system**

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<sup>28</sup> For instance, society "Patvērums „Drošā māja”" [Shelter "Safe House"], "Resursu centrs sievietēm society „Resource Centre for women „Marta”", society „Krīžu un konsultāciju centrs „Skalbes” [Crisis and consultation centre "Skalbes"].

<sup>29</sup> Kronberga I., Judins A., Zavackis A. *Noziedzīgos nodarījumos cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā* [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Rīga: PROVIDUS, 2013.

The main problems are related directly to the establishment of the victim support system in general; within the system, legal aid is only one of its elements. If the person directing the criminal proceedings performs his or her duties decently and professionally, the necessity for legal aid in the criminal proceedings decreases. Unfortunately, in practice there are quite many situations when, if the victim has a representative attorney who is confident in all the stages of the criminal proceedings and consequences of their execution, the progress of the criminal proceedings is faster. In a way, it serves as a disciplinary measure for the person directing the criminal proceedings.<sup>30</sup> Therefore, legal aid is fundamentally significant for the provision of the victim's rights, at the same time enhancing the efficiency of the whole criminal proceedings.

Today, the victim has to ensure the defence of his or her interests very much on his own accord. State ensured legal aid is available only to low-income people. Free of charge legal aid should be ensured to all victims who are involved in the criminal proceedings, and at least one free of charge consultation should be ensured to those who are ignorant of acting in particular situations, for instance, reporting – whether and where to report, who to report to, how to submit a report etc. Legal aid should be ensured also to those victims who are involved in the proceedings as witnesses.<sup>31</sup>

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<sup>30</sup> Interview with a representative from the State Police, 18.07.2013. Not published.

<sup>31</sup> Kronberga I., Judins A., Zavackis A. Noziedzīgos nodarījumos cietušo vajadzību nodrošinājums: atbalsts viktimizācijas prevencijai Latvijā [Meeting the Needs of Crime Victims: Support for Victimisation Prevention in Latvia]. Riga: PROVIDUS, 2013.

## State authorities involved in providing legal aid to victims of crime

Name of entity	<b>State Police (Valsts policija)</b>
Postal address	Ciekurkalna 1st line 1, k – 4, LV – 1026
Telephone	+37167075212
E-mail	kanc@vp.gov.lv
Website	<a href="http://www.vp.gov.lv/">http://www.vp.gov.lv/</a>

Name of entity	<b>State prosecutor 's office (Ģenerālprokuratūra)</b>
Postal address	Kalpaka Boulevard 6, Riga, LV-1801
Telephone	+371 67044400
E-mail	gen@lrp.gov.lv
Website	<a href="http://prokuratura.gov.lv">http://prokuratura.gov.lv</a>

Name of entity	<b>Ministry of Justice (Tieslietu ministrija)</b>
Postal address	Brivibas Boulevard 36, Riga, LV-1536
Telephone	+371 67036801
E-mail	tm.kanceleja@tm.gov.lv
Website	<a href="http://www.tm.gov.lv/lv/">http://www.tm.gov.lv/lv/</a>

Name of entity	<b>Legal Aid Administration (Juridiskās palīdzības administrācija)</b>
Postal address	Pils laukums 4, Riga, LV-1050
Telephone	+371 67514200
E-mail	jpa@jpa.gov.lv
Website	<a href="http://www.jpa.gov.lv/">http://www.jpa.gov.lv/</a>

Name of entity	<b>Latvian Council of Sworn Advocates (Latvijas Zvērinātu advokātu padome)</b>
Postal address	Brivibas Boulevard 34, Riga, LV-1050
Telephone	+371 67358487
E-mail	adv-pad@latnet.lv
Website	<a href="http://www.advokatura.lv/">http://www.advokatura.lv/</a>

**NGOs involved in providing legal aid to victims of crime**

Name of entity	<b>Society "Shelter "Safe House"" (Biedrība "Patvērums „Drošā māja”")</b>
Postal address	Lacplesa street 29 - 3, Riga, LV-1011
Telephone	+371 67898343
E-mail	drosa.maja@apollo.lv
Website	<a href="http://www.patverums-dm.lv/">http://www.patverums-dm.lv/</a>

Name of entity	<b>Society „Resource Centre for women „Marta”" (Biedrība „Resursu centrs sievietēm „Marta”")</b>
Postal address	Matisa street 49 – 3, Riga, LV-1009
Telephone	+371 67378539
E-mail	centrs@marta.lv
Website	<a href="http://marta.lv/">http://marta.lv/</a>

Name of entity	<b>Society „Crisis and consultation centre “Skalbes” (Biedrība „Krīžu un konsultāciju centrs „Skalbes”)</b>
Postal address	Kungu street 34, Riga, LV - 1050
Telephone	+371 6 7222922
E-mail	skalbes@skalbes.lv
Website	<a href="http://www.skalbes.lv/">http://www.skalbes.lv/</a>