



## **Case study regarding the setting up of a victim support service**

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**Experiences from Poland**

**2013**



**Country report has been compiled by Crime Victim Support Centre at the “SOS for the Family” Association in Szczecin, the Polish Crime Victim Support Association “Subvenia Victima”**

**Authors:**

**Olga Brażkowska – pedagogue, director of the Crime Victim Support Centre in Szczecin; PhD student at the University of Szczecin**

**Kamila Dębińska – pedagogue, coordinator of the Crime Victim Support Centre in Dobra, member of District Interdisciplinary Teams for Domestic Violence Prevention in the towns of Dobra and Kołbaskowo; PhD student at the University of Szczecin.**

**Ewelina Gawenda – psychologist in the Crime Victim Support Centre in Szczecin**

**Jacek Toporowski – legal adviser, court referendary at the District Court in Słupsk, Chief Specialist in the Department of International Cooperation and Human Rights, and Crime Victim and Mediation Assistance Department in the Ministry of Justice.**

**Tomasz Piechowiak – coordinator of the Crime Victim Support Centre in the Westpomeranian District, President of the Polish Crime Victim Support Association “Subvenia Victima”**

**Preparation of answer to question 5 was assisted by District Police Headquarters in Szczecin and by Ms Renata Karwowska - Westpomeranian District Council in Szczecin**

**Translated by: Marzena Piechowiak – English teacher, translator and interpreter; International Project Coordinator at the “SOS for the Family” Association**

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**Project director – Ilona Kronberga**

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- 1. Please describe the existing victims support services in your country?**
- a. Please provide short background of its founding date, development, funding, institutional base, service provider, political support and the interrelation with the criminal justice system, if any?**
- b. Please describe the different services available for crime victims in your country.**
- c. What are the strong and weak aspects of the victims' support system in your country?**

**1a**

In answer to this question, we will present the Crime Victim Support Network programme and Crime Victim Support Centres operating within its structure as an example of a national solution connecting the Ministry of Justice, non-governmental organizations and state institutions (e.g. the police, the prosecutor's office, the judiciary) providing assistance to victims of crime.

On 1 August 2008, in order to prevent victimization and provide support for victims of crime, the Polish Ministry of Justice, by implementing the European Council Framework Decision 2001/220/JHA of 15 March 2001, as well as European Council Recommendation No R (85)11 on the position of victims in the criminal proceedings and European Council Recommendation No R (87)21 on assistance to victims and the prevention of victimization, entered into an agreement with the European Commission for financing a project called Crime Victim Support Network.

Currently, the Polish Crime Victim Support Network comprises 15 Crime Victim Support Centres operating throughout the country. There is one Centre in each province. In order to ensure wider availability, some of the Centres established their branches in the districts in which they operate. After creating the Network basis, action aimed at its strengthening is being taken. On 16 December 2011 the Ministry of Justice signed an agreement for a grant with the European Commission concerning the implementation of project "The Strengthening and Development of Crime Victim Support Network in Poland" within the Criminal Justice programme. The implementation was commenced in January 2012. The planned results of the Project include: establishing branches of each Centre, cooperation with other EU member states, training of volunteers, members of the justice system and law enforcement and other occupations to work with victims of crime.

On 1 January 2012 the Victim and Postpenitentiary Assistance Fund was enacted. It is a special state fund, accumulating resources mainly from compensatory damages and benefits awarded against perpetrators of crime. The principle of spending the Fund's resources are open competitions, out of which emerge subjects capable of providing free of charge assistance to victims. In accordance with the financial plans, the Fund has at its disposal the amount of approximately 12 million zlotys (approx. **2 884 476 EURO**) annually to be spent on subsidies, and about 2-3 million zlotys (approx. **480 746 – 721 119 EURO**) for financing information campaigns, research, training

seminars, conferences, printing of publicity materials, or activities aimed at creating the crime victim support network.

The national database of subjects providing assistance to victims is practically solely based on the activity of non-public subjects. State institutions such as the police, health care services, the prosecutor's office or the judiciary should not be mentioned here, as they provide support for victims as one of their routine activities.

Apart from the Victim Support Centres comprising the Network, the assistance to victims is offered by other NGOs. Some of them, however, specialize in assistance to particular categories of victims, e.g. children, women, road accident casualties, etc.

The NGOs operating within the scope of crime victims do so on the basis of the law on associations and the Fund act. The funding of assistance activities provided by the Fund is based on the provisions of executive Penal Code and the executive resolution to article 43 of the resolution.

Legal basis:

1. UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 29 November 1985,
2. Council of Europe Convention on the Compensation of Victims of Violent Crime of 1983
3. European Council Recommendation No R (85)11 of 28 June 1985 on the position of victims in the criminal proceedings
4. European Council Recommendation No R (87)21 on assistance to victims and the prevention of victimization.
5. European Council Framework Decision 2001/220/JHA of 15 March 2001 on the position of victims in the criminal proceedings

## **1b**

Victim Support Centres offer the following services:

- free of charge legal counselling for victims of crime and their family members,
- free of charge psychological counselling together with psychological support, for victims of crime and their family members,
- support for volunteers working as co called victim's guardians,
- running a database of institutions offering specialist assistance for particular categories of victims of crime and providing detailed information on the possibility of obtaining specialist assistance,
- establishment of creating crime victim support networks in a district area of a particular Centre (regional /local networks),
- cooperation with Victim Support Centres in other districts of Poland, comprising the Polish Crime Victim Support Network,

- cooperation with the police, the judiciary, local government, social services, schools, hospitals and non-governmental organizations, church institutions and others within the scope of providing assistance to victims of crime.

Since 2012, Victim Support Centres have extended their range of assistance services to victims by implementing tasks included in article 11 Ministry of Justice Directive of 3 January 2012 on Victim Support and Post-penitentiary Assistance Fund:

- covering the costs of health service, medical products, including orthopedic objects
- covering the costs of secondary or vocational education;
- covering the costs of temporary accommodation;
- financing temporary surcharges to current rent obligations ;
- adapting a victim's flat or house to meet their needs;
- covering public transport expenses or covering the cost of transport connected with obtaining benefits and regulation of issues mentioned in points 1–7;
- covering the costs of meals or food vouchers.

References:

[www.pokrzywdzeni.gov.pl](http://www.pokrzywdzeni.gov.pl)

Ministry of Justice Directive of 3 January 2012 to establish a Victim Support and Post-penitentiary Help/Aid Fund

**1c**

**Weak aspects:**

- uneven support on a national basis (in some provinces the activity is extensive and far-reaching, in others only the head Centre operates and to a subjectively limited extent),
- basing the assistance practically solely on NGOs (if no reliable subject offers support, there is no top-down possibility of financing assistance in a given area),
- a short period of the Network operations – not completely uniform development project; the emerging principles of competition organization for subsidies from the Assistance Fund,
- insufficient numbers of subjects providing assistance, as well as their frequent focusing on narrowed down activities – legal and psychological assistance

### **Strong aspects:**

- creating a basis on which it is possible to construct local subjects which may become leaders in their area,
- establishment of the Network and the ensuing uniform operating standards of the Victim Support Centres and methods of providing assistance; communication and mutual support of assistance institutions,
- establishment of the Assistance Fund possessing significant financial resources (despite only a year's operation period) which are solely aimed at financing assistance to victims,
- support offered to the Centres and their activities by the Ministry of Justice (e.g. supporting local initiatives of the Centres, study visits abroad, etc)
- establishment of the Polish Victim Support Association "Subvenia Victima"

### **3. In which cases victims of crime can apply for state compensation, and how the amount is calculated?**

#### **a. is the mechanism considered effective and friendly to victims?**

#### **b. Are there any downfalls?**

The issues of compensation are regulated in the Polish legal system by the act of Parliament of 7 July 2005 on state compensation which victims of some purposeful crimes are entitled to (O.J. No. 169, item 1.415; currently referred to as State Compensation Act, hereinafter SCA, awarded to victims of specified crimes). The regulation introduces terms on the basis of which it determines the conditions of awarding the compensatory benefit and the range of recipients. Subjectively and objectively entitled to compensation are the following:

- the victim, defined as a natural person who, as a result of intentional crime, committed with the use of violence, has died or suffered bodily injury or impairment of health defined in article 156 § 1 or article 157 § 1 of the penal code (health injury of minimum duration exceeding 7 days),
- the nearest person, i.e. a spouse or domestic partner of the victim, ascending, descending, a person in a relationship of adoption, who at the moment of the crime was dependent on the victim who died as a result of the crime.

SCA places restrictions on its use e.g. the territorial range determining entitlement to compensation – the crime must be committed in the area of the Republic of Poland to the detriment of a Polish citizen or a citizen of another member state of the European Union (SCA, article 4).

Compensation is adjudicated by a district court in the area of residence of the entitled person, on his or her request (SCA, article 8 section 1). A formal

condition to award compensation is the initiation or refusal to initiate criminal proceedings in enumerated cases (SCA, article 7 section. 1) constituting part of a catalogue of article 17 of the Polish Penal Code (hereinafter PPC): when the perpetrator is not punishable, when the defendant has died, when the perpetrator is not subject to the jurisdiction of the Polish criminal courts, when there was no required permission for prosecution or prosecution request coming from an authorized person (unless the law provides otherwise) or when there is another circumstance exempting the prosecution. Compensation is also not awarded when the case was dismissed, when the crime was not committed or there is a lack of sufficient data to justify a suspicion of committing the crime, when the act does not contain signs of an offense or the law provides that the perpetrator has not committed a crime, when the social danger of the act is negligible, when criminal proceedings for the same offense by the same person have been validly completed or proceedings initiated earlier are under way, when there is no complaint submitted by an authorized prosecutor and when an acquittal was passed for reasons provided in article 17 § 1 n. 1 and 2 PPC (the crime was not committed or there is a lack of sufficient data to justify a suspicion of committing the crime, when the act does not contain signs of an offense or the law provides that the perpetrator has not committed a crime (SCA, article 7 section 2).

The compensatory benefit is restricted to the amount of 12.000 zlotys (SCA, article 6). It is calculated on the basis of findings made during court proceedings allowing the determination of the loss of earnings (or other means of support), medical and hospitalization expenses and funeral expenses on condition that the entitled person (the victim or the closest person) cannot obtain the covering of lost earnings, other means of support or the above mentioned expenses from the perpetrator or perpetrators of the crime, from insurance, from social welfare, or from other source or title, irrespective of whether the perpetrator or perpetrators of the crime have been found, indicted or convicted (SCA, article 3 and 5).

The assessment of whether the mechanism is effective and friendly to victims is highly debatable. The literature on the subject (e.g. Bieńkowska, Mazowiecka – “State compensation awarded to victims of certain crimes”, Wolters Kluwer, 2011) mentions a number of disadvantages of the regulation, the most significant of which seem to be the following:

- restriction of the objective range of the act (exclusion of crimes committed by a perpetrator who is certified insane),
- restriction of the subjective range of the victims (narrowing down the definition of the closest person compared to the definition used for the purposes of criminal proceedings – the definition omits siblings, relatives of line or degree, and the spouse of a person in a relationship of adoption),
- restriction of the subjective range of the act to persons of Polish or EU citizenship, whereas Council Directive [2004/80/EC](#) of 29 April 2004 relating to compensation to crime victims (hereinafter the Directive) only points to the place of residence of the entitled person in one of

the EU Member States,

- no exemption of applicants from incurring the costs of litigation,
- lack of regulations concerning subjective restrictions provided for in article 8

European convention referring to compensation for crime victims on account of the victim's or the applicant's conduct before, during or after the crime, his involvement in organised crime or his membership of an organisation which engages in crimes of violence, if an award or a full award would be contrary to a sense of justice or to public policy (although it is worth mentioning that the Republic of Poland has never ratified or signed the convention),

- restriction of the compensatory benefit to 12.000 zlotys, and only after proving damages, which seems a gross disproportion compared to the rights of offenders e.g. to medical treatment and rehabilitation in penitentiary institutions. To the best of our knowledge, the amount of the compensatory benefit in Poland is the lowest among EU member states),

- the non-trial procedure is rather complicated (although its advantage is the possibility of making a ruling based on documents).

Another important issue is a particularly low public awareness of compensation, largely resulting from the failure of the authorities to provide information on the rights awarded by the regulation of 7 July 2005.

The analysis of statistical data shows that both the numbers of applications to courts and compensatory benefits awarded are highly insufficient (especially compared with almost 1 million proceedings instituted by the police in 2012)

Years	Application	Awarded compensatory benefits
2006	329	232
2007	251	272
2008	148	174
2009	164	135
2010	161	175
2011	131	142
1st half of 2012	80	64

A consequence of these data are low amounts of compensatory benefits paid from the State Treasury resources (maximum approx. 250,000 zlotys annually).



To sum up, there is a considerable number of critical opinions pointing out deficiencies of the act, its complexity and non-compliance with the Directive. However, there are also comments on the basis of which it could be concluded that SCA is quite effective. We are inclined to agree with the critics and we call for a quick amendment which will deal with all the drawbacks of the current regulation.

**4. How victims support services can contact victims of crime and vice versa? Is there a proactive mechanism on behalf of state that reaches out to victims, assesses their individual needs and offers them support they need? How effective is this model? Are there any down falls?**

In Poland there is no comprehensive proactive mechanism of reaching out to victims of crime. A mechanism of proactive character has been legally regulated in the area of prevention against domestic violence, where an amendment made in 2010 to the act of 29 July 2005 on countermeasures against domestic violence, imposed an obligation on the Council of Ministers to issue a directive defining the rules of the "Blue Card" procedure. The "Blue Cards" procedure enables services to reach persons who are alleged to be victims of domestic violence. An anonymous notification or suspicion is sufficient for the procedure to be initiated. Subsequently, a victim is invited to a meeting, during which he or she is interviewed, receives support and information about available forms of protection and assistance. The person is given a specially prepared brochure (the same brochure applies in the whole area of Poland) "Blue Cards – B", which describes the issue of domestic violence, the rights of victims of domestic violence, obligations of particular institutions (the police, public prosecutor's office), when the perpetrators of domestic violence can be prosecuted, what a victim can do, where to go, the addresses of local institutions providing assistance to victims of domestic violence. This is an example of practice and legal regulations, which covers one category of victims of crime. Our Crime Victim Support Centre has observed a positive change, namely that increasing numbers of victims of crime are referred to us by various institutions (police, public prosecutor's office, welfare centres).

Victims of crime can contact Crime Victim Support Centers in person, by telephone, by post, or by email. Crime Victim Support Centres cooperate with institutions (the judiciary, public prosecutor's office, the police, welfare centres) and organizations, where potential victims of crime may obtain information about the possibility of using assistance offered by the Centres.

Reaching out to victims of crime is also performed by means of providing information about the currently existing centres, services, social benefits to local communities and the general public in the form of social campaigns, websites, posters and leaflets.

In 2000 the Ministry of Justice initiated the idea of celebrating "Victim Support Week", which is aimed at raising awareness of the needs and rights of victims of crime. The idea is connected with the International Day for Victims of Crime celebrated on 22 February. In Poland this date was also established the Day for Victims of Crime, in accordance with the act of Parliament of 12 February 2003.

In February 2009, a Polish informative website [www.pokrzywdzeni.gov.pl](http://www.pokrzywdzeni.gov.pl) was established. The website provides information on the rights of victims of crime, Crime Victim Support Centres operating in Poland, "A Victim's Guide" and a database of institutions and nongovernmental organizations providing victims of crime with psychological support and legal advice in each province of the country.

In conclusion, a proactive mechanism of reaching out to victims of crime is not legally regulated (there are regulations only in the area of prevention against domestic violence). Having made a number of study visits, and having learned about the experience and good practice of other European countries, we firmly believe that the development of such a mechanism in Poland is high priority.

## **5. Please describe the role of medical institutions (hospitals, doctors) in identifying potential crime victims:**

### **a. Is there practice of reporting case of victimization to police; social service; compensations agency, victims' support services or other?**

Despite the fact that it is incumbent on the representatives of healthcare system to adhere to doctor-patient privilege (article 40 § 1 of Medical Profession Act), there are circumstances exempting of this duty, e.g. when it poses a risk to life or health of the patient or other persons (article 40 § 2 of Medical Profession Act). Analogous regulations apply to nurses and midwives.

According to article 304 of Polish Penal Code § 1. *Anyone who has heard of an offense prosecuted ex officio has a social duty to notify the public prosecutor or the police.* It is an obligation on all citizens, but as a social obligation is not subject to any legal sanctions. Moreover, § 2 of the article states that government and municipal authorities which, in connection with his activities, became aware of a crime prosecuted ex officio, are obligated to immediately report the crime to the prosecutor or the police and to undertake the necessary action until the arrival of an authority responsible for prosecuting criminal offenses or pending by the competent authority of the relevant order, to avoid blurring the traces and evidence of crime. This article also applies to medical institutions.

Below there are recent statistical data which we received from District Police Headquarters in Szczecin concerning crimes and events reported to the police by medical services in the area of the Westpomeranian Province in 2012:

1. Doctors – 5
2. Emergency ambulance service – 17
3. Hospitals – 0

In the field of domestic violence prevention there are additional separate legal regulations concerning reporting of suspected offence. The Domestic Violence Prevention Act of 29 July 2005, amended on 10 June 2010, imposes immediate obligation of reporting suspected domestic violence by persons performing official or professional duties (article 12). This obligation also applies to medical institutions

Other important provisions of the health care obligations (in particular: doctors, nurses, midwives, school hygienists, medical rescuers) in taking institutionalized action in cases of domestic violence are regulated by the Government Order of 13 September on the "Blue Cards" Procedure. Under the "Blue Cards" procedure the health care

system worker gives each person as to whom there is a suspicion of being affected by domestic violence, information on how to obtain assistance and support and the right to obtain free medical certificate to establish the cause and type of injuries related to domestic violence. In addition, the Act and the Regulation imposes a duty of initiating and pursuing the “Blue Cards” procedure on social welfare workers, municipal committees on alcohol problems, the police, educational system and health services. At this point, such an obligation is imposed on doctors, nurses and paramedics - representatives of the health professions are obliged to set up “Blue Cards”. This procedure covers all activities undertaken and performed by representatives of social welfare, municipal committees on alcohol problems, the police, educational system and health services, in connection with the existence of reasonable suspicion of domestic violence. An example of good practice is, imposed by the Ministry of Health Directive of 22 October 2010 (O.J. of 2010 No 201 item 1334), a uniform type of certificate in Poland, which GPs are obligated to issue free of charge at the request of a patient who is a victim of crime. The certificate must contain a description of the patient's condition, with particular emphasis on bodily injury and its possible causes.

It should be emphasized that above mentioned legal regulations on the duties of health service only refer to prevention of domestic violence. Our experience and the statistics show that, despite such precise regulations, the participation of doctors and other health service workers in the “Blue Cards” procedures is slight. For example, in 2012 in the Westpomeranian province (5th biggest of 16 provinces in Poland) out of 2,193 Blue Cards (signifying a suspected incidence of domestic violence) only 14 were set up by medical institutions.<sup>1</sup>

Research of the Ministry of Labor and Social Policy also confirms that health services set up Blue Cards least frequently, perhaps due to the relatively short time since the provision that health service representatives are required to initiate the procedure (formerly “Blue Cards” procedure was launched only by the police). The table below presents data obtained from 1592 interdisciplinary teams from Poland for 2012.

Authorized institution	The estimated total number of forms "Blue Cards – A" forms
Police	26 401
Organizational units of social welfare	6 951
Education	835
Municipal committee of alcohol problems *	583
Health service	268

*N=1592, interdisciplinary teams implementing “Blue Cards” procedure in 2012 <sup>1</sup>*

*\* The municipal committee on alcohol problems is the body which may comprise experts in prevention of alcohol problems, who are representatives of various institutions, including the police, JOPS, education and health care system.*

<sup>1</sup> Data obtained from Renata Karwowska - regional coordinator of National Program of Domestic Violence Prevention. The Blue Card statistics for 01.01.12 - 30.11.2012 based on information from chairpersons of interdisciplinary teams referred by the county coordinators

It should be noted, that the initiation of the “Blue Cards” procedure is not identical to reporting the crime to law enforcement agencies. Therefore, it cannot be concluded that health care system plays a completely insignificant role in reporting crimes.

The issues of reporting crime by representatives of medical services are usually further regulated by internal procedures. Here is an example procedure in a case of suspected crime committed on a child:

1. In a situation when symptoms of child abuse are observed during medical examination of a child who is hospital patient or outpatient, the doctor or nurse makes an entry in internal documentation of the symptoms of child abuse and the information obtained from the child and parent or guardian.
2. The doctor or nurse gives the obtained information to his/her superior (manager of the clinic, senior registrar or ward sister).
3. The superior submits an application for an insight into the situation of the family to the family and juvenile court and/or notification of suspected crime to the prosecutor's office.
4. In the event of a direct threat to the life and health of the child, the doctor or nurse calls the police.
5. The doctor may decide to keep the child in hospital if he/she considers that the return home would expose the child to harm. If such a decision is made, the doctor is obligated to

Representatives of health care system in connection with the nature of their professional duties (school nurses, GPs, hospital staff) have tremendous possibilities to identify abused children. Protection children against crime is regulated by article 572 of the Code of Civil Procedure.

§ 1. Anyone who is familiar with an event justifying the initiation of criminal proceedings is obliged to notify the Family Court.

§ 2. The obligation referred to in § 1 is imposed primarily on the registry offices, courts, prosecution offices, notaries, debt collectors, local authorities and government, the police, educational institutions, social carers, and organizations and institutions involved in the care of children or the mentally handicapped.

2. Based on a handbook, "If you suspect that a child is abused. Guidance for professionals obligated to intervene in cases of violence against children "issued by the Nobody's Children Foundation

**6. This research is grounded in restorative justice values and philosophy as a holistic response to crime at the same time remaining a healthy critical perspective. Could you please describe what restorative justice practices are available in your country and who provides them?**

**a. Please provide any statistics if available.**

**b. How are they perceived by society and other law enforcement agencies?**

**c. What other practices there are for community involvement?**

**d. Are there any forms of collaboration between restorative justice and victims support services, please describe?**

In Poland, a widely available practice of restorative justice is mediation. It is used both in judicial and non-judicial practice. The non-judicial mediation comprises a number of mediation centres, providing mediatory assistance in solving disputes on business activity terms. There are no available records on their activity.

Within the scope of criminal and juvenile proceedings, mediation is financed by the State Treasury. In spite of this, it is very rarely used as a substitution for court proceedings [1,3].

**a) Statistics – the number of cases referred to mediation in courts[1,4]**

Year	Economic cases	Family cases	Civil cases	Criminal cases
2006	256	127	1448	5052
2007	258	155	1399	4178
2008	210	216	1455	3891
2009	540	340	1842	3714
2010	848	1440	2196	2541
2011	1429	1688	3750	6386
2012 (1st half)	1196	1224	1297	2339

Of nearly 1.300.000 criminal cases received by regional and district courts in the first half of 2012, only in 2339 cases the dispute was referred to mediation. Although this constitutes an increase of 20% compared to the previous year, it is still significantly less than 1% of the total of cases.

In the cases referred to mediation, this proves to be an extremely effective means to resolve the conflict. According to data from the criminal and juvenile proceedings for the years 2008-11, in 2008, an agreement was reached in 65.6% of cases referred to mediation, in 2009 in 67.4% of cases, and in 2010 in 89.5% of cases. Similarly, in juvenile proceedings in 2008 the percentage of agreements was 85.4%, in 2009: 87.4%, and in 2010: 75%.

These values point to rather low popularity of mediation, but on the other hand to its considerable effectiveness.

Information on how restorative justice practices – in this case mediation - are perceived by the general public is presented e.g. in the results of studies by Research Institute for Public Opinion Research Centre of 2011.

A total of 1.500 surveys were conducted. The study analyzed the current state of public awareness of alternative means of resolving disputes. The results were as follows:

The non-judicial means of solving disputes, i.e. mediation, or arbitration were familiar to 43% of the respondents. However, these terms were unfamiliar to more than a half of respondents (54%).

The percentage of respondents who had heard of the non-judicial means of solving disputes increased with higher level of education (from 19% among respondents with primary education to 66% among respondents with university education). The inhabitants of the biggest cities had heard of the non-judicial means of solving disputes more often than others (53%).

Of 645 respondents who had heard of the non-judicial means of solving disputes:

- a) 59% of respondents thought that mediation was a voluntary and confidential process of solving a dispute, 24% defined it as a conciliatory conversation. Other definitions were selected by no more than 5% of the respondents..

- b) The higher the education level, the larger the percentage of the respondents who defined mediation as a voluntary and confidential process of solving a dispute (from
- c) 36% of respondents with primary education to 71% among university graduates). The definition was also more common among youngest respondents (68%).
- d) According to 75% respondents, a mediator is a neutral person, facilitating reaching an agreement to the parties of a dispute. 10% considered a mediator to be imposing a solution on the parties at variance. 7% thought that a mediator was only responsible for the organizational aspects of mediation.
- e) The neutral and facilitating role of a mediator in solving disputes was accepted by higher educated respondents (from 50% of respondents with primary education to
- f) 85% among university graduates). This role of a mediator was more often accepted by the inhabitants of the biggest cities (81%)
- g) 40% did not know how to reach a mediator. 29% thought that a mediator was appointed by a court ruling.
- h) 62% - 88% of the respondents expressed positive opinions on mediation. The advantages of mediation were most frequently noticed in the fact that it takes into consideration the interest of both parties of a dispute (88%), it facilitates understanding of the parties behavior (87%), their mutual decisions (87%), and the fact that it makes it possible for them to express their feelings and opinions in a peaceful and accepting atmosphere (86%)
- i) Opinions on the importance of settlement made through a mediator are divided. 25% of the respondents were not able to answer whether a settlement made through a mediator was equivalent to a court's decision. 39% thought they were not synonymous, 36% thought they were synonymous.
- j) 63% of the respondents had heard of conciliatory agreements, 35% were not familiar with the term.
- k) In case of a dispute or a claim, 39% of the respondents would go to court, 38% to a mediator, whereas 23% did not know where to go [8]

### 6c)

Due to the limited scope of the report we present only the Ministry of Justice activities, which concern the involvement of institutions and communities in mediation.

Social campaigns of information and educational character addressed to:

- the general public,
- the parties of the conflict or dispute,
- professional groups: judges, referendaries, prosecutors, mediators, police officers, probation officers and law corporations.

The first campaigns were initiated in October 2010 and since then they have been run under the general banner of "You have the right to mediation". 500.000 copies of a guidebook entitled "*Will only a court solve a dispute? Mediation and arbitration courts. I am a victim of crime and what now?*" were published. 375.000 leaflets and 3.000 posters providing information about mediation were distributed. The leaflets describe 6 kinds of mediation: criminal, juvenile, family, business, civil and cross-border mediation.

In 2011, television and radio broadcasts promoting family and business mediation appeared (15 and 30seconds' duration) in major national and business channels. Two million brochures on mediation in family, business, civil, juvenile and criminal cases

were distributed. They reached every regional court, provincial police headquarters, mediation centres and crime victim support centres.

In August 2012, a monthly national outdoor campaign promoting mediation was initiated. Nearly 200 billboards and underground boards were put up, and advertisements were placed on the Internet and in the press. Four information sheets on mediation were prepared for parties in the proceedings. They were sent to courts of all levels to be attached to letters sent to parties in particular cases. Information can also be downloaded from the Ministry of Justice website.

**6d) unfortunately**, in Poland, there is no consolidated and highly developed practice of promoting and using restorative justice, but the website of the Polish Mediation Centre ([www.mediacje.org.pl](http://www.mediacje.org.pl)) presents several examples of social projects involving community in the subject of restorative justice.

One of them is a project called *Return home – the use of restorative justice in social integration of juvenile delinquents* aimed at local implementation of the institution of “restorative justice session” also called “restorative justice conference” in three towns: Warsaw, Łódź and a town in the Silesia district. The project is targeted at:

- a) juvenile delinquents, who have been put on probation or placed in a childcare centre or young offenders’ home;
- b) minors from high risk groups, who display signs of moral corruption, particularly those frequently involved in conflicts with peers;
- c) their parents or guardians;
- d) members of local communities who are connected with the above mentioned categories of minors or interested in solving their local community problems or have been affected by juvenile delinquency;
- e) representatives of public institutions and NGOs involved in work with minors [8].

**7. Please describe the awareness level regarding the issue of secondary victimization among law enforcement agencies, NGOs, mass media, victims’ advocacy groups, and larger public.**

**a. Is this issue being addressed on any level?**

**b. Is there any research done regarding the secondary victimization in your country? If yes, what are the key findings and conclusions?**

**c. Are there any practical measures to reduce or prevent secondary victimization, if yes what are they and by whom?**

**d. Can you mention any specific cases that would characterize the secondary victimization of crime victims in your country?**

Secondary victimization in Poland has been insufficiently researched or described. There are no consistent, systemic, multifaceted actions aimed at prevention of secondary victimization among all professions involved in work with victims – police, prosecutors, courts, barristers, social workers, and health service workers. Secondary victimization in our country seems to be mainly connected with:

- lack of victim assistance standards,
- lack of specially trained persons who would be prepared for contact with particular groups of victims (e.g. rape victims, children) in law enforcement agencies and the judiciary
- lack of systemic, efficient education of victim psychology and secondary victimization
- stereotypes concerning victims (especially victims of sexual abuse)

- routine action and practices, faulty trial procedures and lengthy court proceedings which cause additional harm ( at the level of reporting a crime, preliminary proceedings, court proceedings, execution, etc.)
- insufficient access to specialist assistance (eg. psychological assistance for rape victims)
- practically complete lack of assistance for some specific groups of victims (e.g. victims of hate, stalking)
- incidents of persuading a victim to refrain from notification of the crime (frequent experience of assistance organizations, especially assistance to women)

Victims of sexual abuse are particularly at risk. It is confirmed by a document „Situation of rape victims in preliminary proceedings. Report based on monitoring” ed. by B. Zadumińska:

- there are no clear procedures at the police stations or hospitals,
- there are incidents of questioning victims’ credibility, analyzing their lifestyle (their “conduct”), enquiring about circumstances of the rape (if the woman behaved in a provocative way), offloading the blame onto the victim, and comments on the victims behaviour and appearance (sometimes vulgar and sexist)
- not infrequent practice of dismissing the case if the victim refuses to cooperate with law enforcement agencies at some point (despite other significant evidence)

Moreover, secondary victimization is connected with the necessity of submitting a request for prosecution. The police and prosecutors are not in a position to initiate proceedings without a victim’s request. It should be noted that in cases of rape (unlike other crimes) the request cannot be withdrawn.

Another group at particular risk of secondary victimization connected with criminal proceedings are children:

- in accordance with article 185 a and b of the Penal Code, protection against secondary victimization caused by repeated questioning is provided **only** to children who are victims or witnesses of sexual abuse and family crime, who at the time of questioning are under 15 years of age.
- “leaky system” – in practice such children are protected only in criminal proceedings,

On the other hand, there are social campaigns, conferences and training seminars for professionals, aimed at attracting attention to the problem of secondary victimization and its negative effects on the victims. For example, on 22 February 2011 (the Day for Victims of Crime) the General Prosecutor’s Office organized a conference called „Secondary Victimization” in Warsaw. There was also a booklet entitled “Secondary Victimization, genesis, essence and role in the transformation of policy on treatment of victims of crime”.

As a result of many educational actions, opinions on stereotypes are also changing in Poland. Studies repeated at intervals demonstrate that Polish people less and less approve of stereotypes concerning domestic violence, child abuse, and violence against women. Public opinion polls of 2010 show that stereotypes concerning violence against women and men are approved of by a definite minority of respondents.

The most common stereotypes include:

- there is no such a thing as a woman raped by her husband (19%)



- if a husband or male partner occasionally happens to hit a wife or female partner, it is not violence (11%) and if during an argument a husband or male partner insults a wife or female partner, it is quite acceptable n (7%)<sup>2</sup>

Public opinion polls in Poland of 2002:

- 16% claimed that domestic aggression could be justified
- 18% Said that there is no violence without a reason and that it must have caused the victim's behaviour.
- Other practices aimed at prevention of secondary victimization include:
- the above mentioned article 185a and 185b of the Penal Code, which guarantees a child – in principle – only one questioning accompanied by expert psychologist, and audio-video recording of the questioning, also determines zamkniętą list of persons entitled to be present during the questioning
- *“Standards of questioning under-age witnesses pursuant to article 185 a i 185 b of the Penal Code.”* developed by NGO “Nobody’s Children Foundation” and recommended by the Ministry of Justice. One of those standards is the requirement that the questioning should take place in the friendly questioning room,
- so-called institution of child-victim of crime guardian: preparing a child for questioning (education, psychological support, informing about rights). However, it is not a widely available offer, but a grass-roots initiative of some organizations dealing with children.
- certification of friendly questioning rooms for children (although there are some critical comments)
- educational campaigns targeted at law enforcement agencies and justice, conducted by governmental and non-governmental organizations
- platforms, coalitions, studies, publications, councils, etc. lobbying for particular solutions

In addition, there are proposals for legislative changes, eg concerning the crime of rape. There is also a noteworthy document prepared by the Ministry of Justice called “Uniform standards for Centres w Crime Victim Support Network”, concerning the work of the Network of Crime Victim Support Centres (described in Point 1). The standards involve interdisciplinary approach and interinstitutional cooperation as one of the key factors preventing secondary victimization of victims of crime; introduce the assistance of the victim's guardian (e.g. assistance in criminal proceedings).

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<sup>2</sup>[http://www.mpips.gov.pl/gfx/mpips/userfiles/\\_public/1\\_NOWA%20STRONA/Przemoc%20w%20rodzynie/2013/RAPORT\\_Z\\_BADAN\\_FUNKCJONOWANIE\\_ZI\\_GR\\_I\\_REALIZACJA\\_NK.pdf](http://www.mpips.gov.pl/gfx/mpips/userfiles/_public/1_NOWA%20STRONA/Przemoc%20w%20rodzynie/2013/RAPORT_Z_BADAN_FUNKCJONOWANIE_ZI_GR_I_REALIZACJA_NK.pdf)

**8. Please provide information on crime rates in your country. Is there any substantial research on reporting and not reporting crimes and reasons for not reporting?**

**a. Is there a research on the level of latency?**

**b. Is not reporting an issue, are there any initiatives to address that?**

Statistics in Poland demonstrate a systematic decline in crime rates in the majority of registered areas and a higher detectability of crime. Throughout 2012 the police instituted 950.860 preliminary proceedings i.e. 3.1 % fewer than in 2011. There was a very high detectability of offenders. The number of serious crimes has declined substantially (homicides – 119 less, decreased by 17,4%; armed robberies – 266 less, decreased by 18,7%). The total numbers of robberies and muggings were lower by 14.4 % than in 2011 (12.061 preliminary proceedings were instituted). The incidence of assault and battery dropped by 9.2 % (9.721 proceedings instituted). The number of health injuries decreased by 4,8 %, which means that 16.853 proceedings were instituted. There were 7.4% fewer burglaries (105.792 proceedings were instituted), 3.0 % fewer thefts (210.442 proceedings were instituted). The long-term decline of car thefts has remained stable – by 5,3 %. The number of proceedings instituted decreased by 861 and amounted to 15.424.

In 2009 “The Atlas of Crime in Poland part 4” by Andrzej Siemaszko was published. The author conducted a study of the structure of punishable offences in the years 2007-9 (analysis of results is available at <http://www.inp.pan.pl/wydaw/AK31%20Siemaszko.pdf>). The conclusion stated that “in Poland less than half of crimes are reported . [...] In other words, the law enforcement institutions receive information about less than a half of actually committed crimes. By far the most frequently reported are car thefts. Compared to other offences, “other thefts” are reported least frequently – their dark number across the country reaches 60%, and in several provinces even 70%.” According to other data available on <http://www.przegląd-tygodnik.pl/pl/artykul/popraw-sie-policjo>: “In answer to the question why they did not report an offence, 67% respondents mentioned reasons connected with the police. They thought the Police could not catch the perpetrator anyway (26%), that the police would not deal with the case at all (20%), that police procedures would last too long (16%), or that policemen could not be trusted (5%). [...] Other reasons included solving the problem personally (the victim obtained compensation from the perpetration) or the belief that the perpetrator would not be punished even if he was found (which does not reflect badly on the police). Interestingly, as many as 38% of respondents said that the crime they fell victim of was so insignificant that it was not worth reporting. In fact, it was probably not a crime at all, but rather a case of misdemeanor.”

Obviously, a substantial majority of specialists who are knowledgeable about the data on crime acknowledge that the problem exists and ought to be solved. Hence, there are a number of organizational and informational activities (television and radio campaigns, leaflets, posters, information telephone lines and helplines, the Blue Line for victims of domestic violence, Victim Support Centres) whose task is to bring the public closer to officials who are supposed to provide them with support, and offer the available forms of anonymous and free of charge assistance. The growing trust in the justice system, the police and the State has a direct influence on the increase in the numbers of reports and the improved levels of citizens' security and confidence.

**9. Is protection and support for victims of crime a political priority and consequently priority of the criminal justice system? Please elaborate.**

The “500 Days of the Justice System” programme (of 2010) included action connected with dissemination of information about the rights of victims of crime. A low level of public awareness concerning the rights of victims was shown, which results in the victims not always being able to exercise their rights in court proceedings. It was observed that the assistance provided to victims of crime is dispersed. Although there are a lot of organizations offering support to victims of crime, the lack of cooperation between them makes the assistance insufficiently effective. Another factor is not always adequate sensitivity and preparation of different services, which makes the assistance provided to victims of crime sometimes not completely professional. This may result in a feeling of yet another hurt connected with the experienced crime, which causes secondary victimization.

In its social character, the programme was concentrated on raising public awareness. Therefore, a continuation of social campaigns was planned, as well as dissemination of free of charge informational materials concerning the rights of victims of crime. The [www.pokrzywdzeni.gov.pl](http://www.pokrzywdzeni.gov.pl) website was initiated. Centrally, the Ministry of Justice has been implementing the “Crime Victim Support Network” project since 2009. With cooperation of nongovernmental organisations 16 Crime Victim Support Centres were established (currently 15), which provide free of charge legal and psychological assistance. Moreover, with the use of resources of Victim and Post-penitentiary Assistance Fund the assistance activities are extended to other subjects within and beyond the network (currently there has been the 3<sup>rd</sup> competition; for the years 2012-13 a total of approximately 15million zlotys are planned to be spent on assistance activities and subsidies to about 50 subjects).

On 12 February 2013 the Polish government adopted the “Efficient Country Strategy 2020”, prepared with the contribution of the Ministry of Justice. The strategy project included records analyzing the position of victims of crime, yet again with emphasis on improving their protection. Within the social aspect, the awareness-raising activities will be continued (the website, social campaigns, publicity materials), and within the organizational framework – the activities strengthening and developing the network together with the extension of their subjective activity. There are also plans to organize training seminars of professionals (judges, prosecutors, police officers, etc.) within the scope of contacts with victims of crime. At the moment, there is a forthcoming event in the form of the annual National Week for Victims of Crime” (22.02.13 – 02.03.13), which involves institutions all over country (courts of law, prosecutor’s offices, police, legal advisers, barristers, etc.) in providing free of charge civic advice to victims of crime. Assistance to victims constitutes one of priority activities of the government and the justice system now and for the future years.

