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Croatia¹

Victimology, Victimisation (Typology) & Victim Protection

*Anna-Maria Getoš Kalac, Sunčana Roksandić Vidlička &
Zoran Burić*

1. Introduction

Victimology, just like criminology,² has a long history but a rather poor tradition in terms of the substantial scientific content in Croatia. As far back as 1985, Croatia/Zagreb hosted the World Society of Victimology's 2nd Symposia on Victimology,³ and Zvonimir Paul Šeparović of the Zagreb Faculty of Law was one of its founders and a true pioneer in victimology, both internationally and at home. He was the 2nd President of the World Society of Victimology (WSV) from 1985 until 1988 and holds the WSV's Hans von Hentig Award (2000).⁴ In terms of substantial scientific victimological content, and among many of his other relevant publications, Šeparović's monograph "Victimology" has to be pointed out.⁵ Unfortunately, even in this introductory section it has to be noted that there was little if any reception of Šeparović's rich victimological work in Croatia among the relevant scientific community that would result in following the path he set for a fruitful Croatian victimology, or even broadening its scope to a full-fledged stand-alone discipline outside

¹ The research for this publication has been conducted within the framework of the Installation Research Project titled "Croatian Violence Monitor: A Study of the Phenomenology, Etiology, and Prosecution of Delinquent Violence with Focus on Protecting Particularly Vulnerable Groups of Victims", funded by the Croatian Science Foundation (UIP-05-2017-8876). Additional information is available online at www.violence-lab.eu.

² For a complete analysis and review of history and development with current state of art and new lines of research in Croatian criminology; see Getoš 2009; 2011; Getoš Kalac & Bezić 2017; Getoš Kalac & Karlović 2014.

³ World Society of Victimology 2019b. Additional information is available online at www.worldsocietyofvictimology.org/about-us/history-and-overview.

⁴ World Society of Victimology 2019c. Additional information is available online at www.worldsocietyofvictimology.org/about-us/wsv-honors-list.

⁵ Šeparović 1985.

the framework of criminology and criminal law. Like in many other countries of the Balkan region, and very similar to the history and development as well as current state of art in criminology, frequently it all comes down to one or two pioneering scholars that try to innovate and advance the field. And these few scholars per country are predominantly rooted at law faculties with a primary (but not exclusive) interest in criminal law.⁶ With the exception of a few Balkan countries, like Slovenia or Serbia, both victimology as well as criminology in more general terms, still have to develop in terms of a critical mass of scholars, scientific content and institution-alisation in order to be regarded as nationally established disciplines. Croatia is no exception in this regard.

There are, however, continuous victimological efforts in Croatia to be mentioned, especially the Postgraduate Course on Victimology, Victim Assistance and Criminal Justice held annually at the Inter-University Centre in Dubrovnik/Croatia.⁷ With its 34th edition, the course has proven to have become a tradition. However, the involvement of Croatian scholars (and students), although well documented, is still far from “significant” and again reflects a weak scholarly interest in victimology in Croatia. So, in spite of early on involvement and contribution to victimology’s overall development, only a handful of victimological studies have been conducted in Croatia, and even today victimological research is lacking in Croatia. There are, however, some key players, projects and victimologically relevant findings to be presented in more detail throughout this paper.

Looking at victimisation in Croatia and available data in this regard, the overall situation is highly unsatisfactory. However, based on police statistics on victims and injured/damaged persons of criminal offences from 2010 until 2018, it will be possible to provide basic insights into criminal victimisation in Croatia. This includes major findings on the prevalence, incidence and trends in crime victimisation, distribution by gender, age and type of offence, as well as a first victim typology for Croatia. The paper will also use alternative sources of data to official victimisation statistics (interviews with key players from criminal justice and victim protection) with the aim of assessing the practical aspects of victim protection. Eventually, based on these analyses, it will be possible to highlight further avenues of future research, as well as identify normative and practical challenges.

In the last decade, a lot has been done in terms of improving the position of victims of crime in the Croatian criminal justice system regarding the normative level. Victims have, for the first time, entered the provisions of the Croatian Criminal

⁶ Balkan Criminology 2019. Additional information is available online at <http://balkan-criminology.eu/en/network/>.

⁷ World Society of Victimology 2019a. Additional information is available online at www.worldsocietyofvictimology.org/wsv-events/victimology-courses/europe-dubrovnik-croatia.

Procedure Act (hereinafter CPA)⁸ as separate procedural subjects with specific procedural and extra-procedural rights. The victims of intentionally committed crime with elements of violence have the right to compensation based on the Crime Victim Compensation Act (hereinafter CVCA).⁹ The Croatian Criminal Code (hereinafter CC)¹⁰ has defined the term victim as a physical person (not a legal person) who by an unlawful act has been inflicted physical or mental pain, emotional suffering, has suffered damage to his/her property or against whom a serious violation of human rights and fundamental freedoms has been committed. Regarding the provisions of the CC, when determining the type and range of punishment, the court shall take into account the offender's relationship to the victim and efforts to compensate for the damage. This relationship is also very relevant, at least on the normative level, for imposing more lenient punishment, suspended sentence, conditional release and remission of punishment. The process of normative recognition of specific interests of victims of crime in the Croatian criminal justice system has been strongly influenced by the process of Croatian accession to the EU. At the same time, the process of establishing the Croatian victim-support system has also begun. Although the system is established, a lot still needs to be done for its services to be accessible to all victims of crime in Croatia. Despite extensive reforms undertaken on the normative level, recognition of victims of crime and their rights is still challenging in everyday practice. The whole process requires not only normative changes, but even more fundamental changes in the attitudes of major criminal justice actors in Croatia, namely police officers, prosecutors, defence attorneys, and judges.

2. About Croatia – Victimologically Relevant Facts and Figures

In order to place the victimological analysis in its overall crime and criminal justice context, it is necessary to first provide some basic facts and figures. Croatia does not fit the profile of a European high crime country, nor does it have a conventional crime problem, just as the rest of the countries of Southeast Europe (hereinafter SEE).¹¹ Overall, crime rates are generally low and below the European average, as are murder rates,¹² whereas there is a rather stable trend detectable when it comes to the total of adults convicted for criminal offences (exception: war-time-drop), as *Figure 1* shows.¹³ And just as in the rest of the SEE region, the challenge in

⁸ Criminal Procedure Act, Law No. 7609, 03.07.2009, Official Gazette 76/09.

⁹ Crime Victim Compensation Act, Law No. 8008, 07.01.2008, Official Gazette 80/08.

¹⁰ Criminal Code, Law No. 12511, 01.01.2013, Official Gazette 125/11.

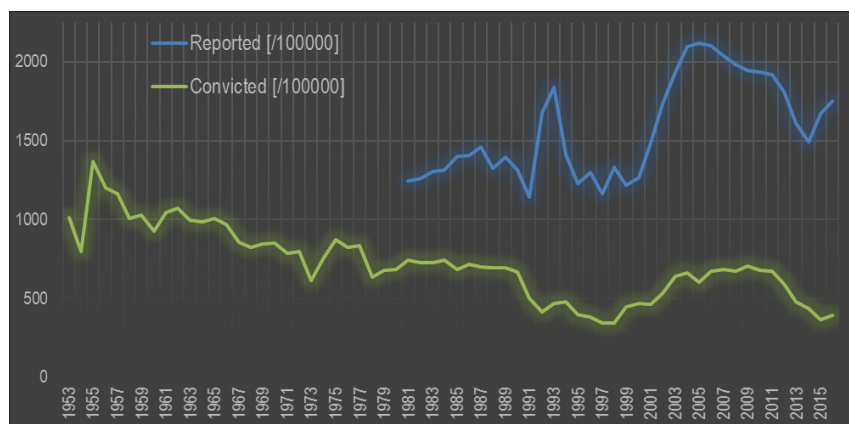
¹¹ United Nations Office on Drugs and Crime 2008.

¹² Aebi *et al.* 2017, p. 33.

¹³ Getoš & Bezić 2017.

Croatia is not crime in general, but rather specific types of non-conventional crime (e.g., corruption and trade in influence,¹⁴ organised crime, etc.) and the conditions acting as their facilitators (e.g., the crime-conflict and the crime-politics nexus).¹⁵ This indirectly gives a first sense of the victimisation in Croatia when compared to other European countries, especially when it comes to violent street crime, which as such is moderate, as is the likeliness of becoming the victim of a robbery, assault or murder in Croatia.

Figure 1 Reported and Convicted Adults for Criminal Offences in the Period 1953–2016



Source: Croatian Bureau of Statistics 2019.

So far, Croatia has not been a country attracting significant immigration and has mainly been a country of transition in the context of the migration crises, whereas the immigration occurring relates to immigrants from Croatia's SEE neighbouring countries. A far bigger issue is the high and rising trend in emigration from Croatia towards other EU countries, mainly Germany, amounting up to a total of approximately 200,000 emigrants in the past four years only (that is approximately a 5% loss in population).¹⁶ This might also be connected to the increase in persons of Croatian (and regional) citizenship suspected for organised crime in Germany.¹⁷ This emigration trend from Croatia towards the EU, taken together with other demographic factors (especially negative natural population growth trends), as well as low levels of urbanisation (outside the big cities) with most of Croatia's territory being loosely populated and more rural than urbanised, might not only explain Croatia's low lev-

¹⁴ Roksandić Vidlička 2017a; 2017c.

¹⁵ Tarantini 2016.

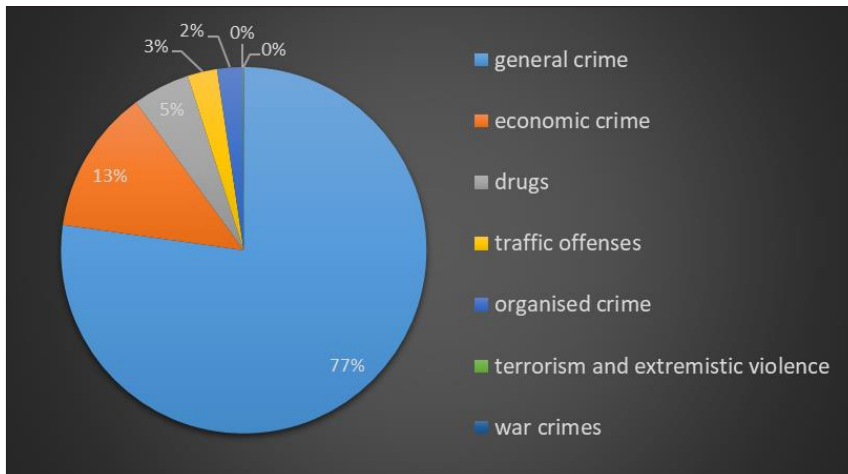
¹⁶ Podgornik 2017.

¹⁷ Bundeskriminalamt 2016, pp. 16–17.

els of street crime and related victimisation, but also dramatically change the crime structure and related victimisation in forthcoming decades.

The crime picture in Croatia, when analysed not based on the offences' legal, but their criminalistic qualification, used by police to typologies crime, is presented in *Figure 2*.

Figure 2 Recorded Criminal Offences According to Criminalistic Classification in 2016



Source: Ministry of the Interior 2017.

Being a post-conflict and war-affected country, as well as still heavily affected by the social, economic and political transition, Croatia faces an ongoing struggle with rule of law and good governance, which is naturally also reflected in its criminal justice system. Although clearly positioned as one of the countries that are advancing well in its SEE context, Croatia still lags behind its western EU neighbours and the EU in general (see for example the Fragile State Index's comparative analysis of indicators on human rights and rule of law, state legitimacy, factionalised elites, group grievances or public services).¹⁸ During the past decade, the Croatian criminal justice system had to face several huge reforms, or more accurately complete novelties, covering both big areas of society's basic repressive mechanisms for dealing with crime, criminals and their victims – the criminal procedure as well as the penal reaction. In 2008, a new CPA¹⁹ came into force, but then the Croatian Constitutional Court assessed a rather large share of its

¹⁸ Fund for Peace 2019.

¹⁹ See Law No. 12511.

provisions to be unconstitutional²⁰ in 2013. Year 2013 brought numerous changes to the CPA.²¹ Again, as of December 1st 2017, major changes have been applied.²² In short – from having an investigative judge as the main actor in the investigation phase (prior to 2008), Croatia moved to having a public prosecutor as the master of the investigation (2008 until 2017), and finally now ended up at transmitting the greater role to the police, which were given a new mandate to formally interrogate suspects (post 2017). Given the provisions have only recently been adopted, it is yet to be seen how this will work in practice. Since police informal interrogation of a suspect has been abolished, there is a fear that the efficiency of the prosecution will be reduced.²³ Almost overlapping with these novelties was the enacting of a completely new CC²⁴ as of January 1st 2013, and the confusion this created in relation to the question of applying the more lenient law for criminal offences committed prior to the enactment of the new CC.²⁵

Other major justice system reforms also relevant for the criminal justice sector have rather recently taken place. The most notable of all in this context is surely the reform of the judiciary in 2015. It resulted in drastically decreasing the number of judiciary bodies (mainly courts) so that as of 2015 there are now ‘only’ 15 county courts and 22 municipal courts (criminal and misdemeanour) left in Croatia,²⁶ compared to the prior 21 county, 115 municipal and 27 misdemeanour courts.²⁷ The main goal (although many more goals are proclaimed in the relevant strategic documents) of the reform has surely been to rationalise and upgrade the efficiency of the justice system’s organisation. In light of Croatia’s current population (slightly over 4 million)²⁸ this downsizing

²⁰ Burić 2014; Đurđević 2012; U-I-448/2009, Constitutional Court of the Republic of Croatia (2012).

²¹ Criminal Procedure Act, Law No. 14513, 01.01.2013, Official Gazette 145/2013; Đurđević 2013.

²² Criminal Procedure Act, Law No. 7017, 01.12.2017, Official Gazette 70/2017; Đurđević 2013. An important part of these changes refers to the position of victims of crime, not only in the criminal procedure but in the Croatian legal system in general; see Burić 2015.

²³ There has been no analysis of the results of the prosecutor’s investigation, but it has to be mentioned that a working group for the new CPA is in the process of establishing and that one of the ideas is to revert to the old system of investigative judges; see Law No. 7017.

²⁴ See Law No. 12511.

²⁵ In terms of crime statistics, it has to be noted that the new CC has excluded drug offences from the chapter of crimes against values protected by international law and included them in the chapter of crimes against peoples’ health, and thus combined the drugs offence with substances prohibited in sport. The change in positioning drug offence in the health chapter results in a large shift in crimes from one to the other chapter; see Law No. 12511.

²⁶ Ministry of Justice of the Republic of Croatia 2019b.

²⁷ United Nations Office on Drugs and Crime 2010, p. 101.

²⁸ According to the most recent population estimate: 4,174,300; see Croatian Bureau of Statistics 2017.

of the courts seems reasonable, especially when taking into account that the majority of people live in large and mid-sized cities. However, due to Croatia's rather particular geographical shape, it is challenging to rationalise judiciary bodies without leaving whole regions of the country simply 'cut-off'.

On a last contextual note, it has to be pointed out that Croatia, compared to the rest of the EU, is rather worse off when it comes to employment, economy, population trends, etc. Croatia has one of the lowest employment rates in EU28 (61.4% in 2016) – only Greece, and non-EU member states Turkey and Macedonia are worse off.²⁹ When looking at the 2016 list of European countries by GDP per capita, Croatia is at the very bottom as well.³⁰ Most problematic factors for doing business in Croatia and thus undermining economic development and growth are inefficient government bureaucracy, policy instability, tax regulations, corruption, and tax rates.³¹ These socioeconomic factors thus have a notable impact on illegal markets as well as the shadow economy, especially since the indicated problematic factors reveal that in order to do business in Croatia one has to either work within corrupt practices or move along with one's business rather slowly (or not at all).

These conditions, together with the current situation in the criminal justice sector, are only some of the most relevant contextual settings, which have to be taken into account when analysing and assessing crime and victimisation in Croatia, especially when mentally or actually trying to compare findings with those from other countries, where the contextual setting might be significantly different.

3. Croatian Victimology

As already briefly touched upon in the introductory part, Croatian victimology has yet to arrive at the level of a nationally recognisable scientific discipline. Currently, it may best be described as an integral part of Croatian criminology, which in itself has witnessed a revival and meaningful development only a few years back. Although the accomplishments in this regard, as well as Croatian criminology's impact on the national, but even more regional scientific setting through its "Balkan Criminology",³² are truly astonishing (given the short time span), it is still far away from a nationally recognisable scientific discipline. When it comes to victimology, such a scientific "take-off" is not even in sight (yet). Before analysing the current state of art in Croatian victimology, it has to be stressed that there is obviously a huge difference between victims' rights movements, victim

²⁹ Eurostat 2017.

³⁰ International Monetary Fund World Economic Outlook 2016.

³¹ According to the Global Competitiveness Index 2017–2018, Croatia has been ranked 74th out of 137; see World Economic Forum 2017.

³² Balkan Criminology 2019.

organisations, victim policies and legislation, victim programs and victimology as a scholarly discipline, characterised first and foremost by sound methodology and scientific approach to the subject of interest: the victim and the process of victimisation, as well as individual and societal coping mechanisms and strategies. When discussing “victimology” in the framework of this paper, the term relates to the scientific study of the how and why of criminal victimisation, including its individual and societal reactions. In this regard, victimology is almost non-existent in Croatia, or at least not recognisable as a specialised and developed area of research (within or closely related to Croatian criminology). However, there are traces of victimological research scattered throughout the Croatian research scene, but their occurrence and quality vary largely, whereas many of the works are primarily focused on crime or offending or even totally different disciplines (e.g., stomatology and identification of victims of war crimes), whereas victimological aspects are not their focus.

When it comes to the Croatian victims’ rights movement, it is worth mentioning the Croatian Society of Victimology (hereinafter CSV), founded in 1991. As a non-profit NGO, in a scientifically and application-oriented manner, it aims at studying and following occurrences and causes of human victimisation, strives to provide victims’ legal protection, assistance and support to victims of crime and abuse of power; particularly follows and investigates the problems of victims of war, violence and human rights breaches, domestic violence, ecology, traffic, work-related, natural and other disasters, victims in the legal system, administration, health-sector, schools and other public services; investigates the victimisation of children, women, elderly, minorities and other victims.³³ A review of the CSV’s aims shows that it has taken a broad approach to victimology, that does not limit itself ‘only’ to victims of crime, but covers the whole spectrum of human victimisation/suffering, regardless of its man-made origin and (criminal) causation. Although also aimed at the scientific study of victimisation, in practice the CSV predominantly acts as a victim organisation, focusing mainly on victims of war and the abuse of power.

Besides the CSV, which has at least a proclaimed aim of scientifically investigating victimisation, there are no comparable nation-wide players following such goals. Numerous governmental and non-governmental organisations assist victims (of crime) in general but they also sub-specialise according to the age or gender of victims or the type of victimisation. There is also a national free phone-hotline for victims of crime and misdemeanours aimed at providing them with information and advice in Croatian and English. Victims’ organisations acting on the national level are listed on the Croatian Government’s web page (with contacts), which also provides a listing of all victim and victim rights’ organisations according to the geo-

³³ Croatian Society of Victimology 2019.

graphical distribution by county. *Table 1* shows the main national victim assistance organisations/programs with working hours (implicitly pointing towards funds and relevance in national context), whereas *Table 2* (see *next page*) provides for a count of organisations/programs by county.

Table 1 List of National Victim Assistance Organisations and/or Programs Provided Publicly by the Croatian Government

Name of organisation	Working hours
National Call Centre for Victims of Crimes and Misdemeanours	Working days: 08.00–20.00
National Call Centre for Missing Child Reporting	Every day: 00.00–24.00
Brave Phone for Children	Working days: 09.00–20.00
Brave Phone for Parents	Working days: 09.00–20.00
SOS Hotline for the Suppression of Trafficking in Human Beings	Every day: 10.00–18.00
Female Counseling Centre for Victims of Violence Autonomous Women's House Zagreb	Every day: 11.00–17.00
SOS Phone for Women and Children victims of Violence Women's Help Now	Every day: 00.00–24.00
Free Legal Aid for Victims of Domestic Violence B.a.B.e.	Working days: 09.00–15.00
Centre for Victims of Sexual Violence – Women's Room	Working days: 10.00–17.00
Psychological Help Psychological Centre TESA	Working days: 10.00–22.00
Blue Phone	Working days: 09.00–21.00
Free Legal Aid – Law Clinic of the University of Zagreb Faculty of Law	Working days: 10.00–12.00, Wednesdays and Thursdays: 17.00–19.00
Centre for States of Crisis and the Prevention of Suicides at the Hospital of Zagreb	Every day: 00.00–24.00

Source: Ministry of Justice of the Republic of Croatia 2019a.

The data presented in *Tables 1* and *2* demonstrate that there is in fact a very strong, i.e., impressively well-numbered victims' rights movement in Croatia, as well as broad national and local assistance-coverage provided by numerous NGOs and governmental agencies (primary social services and health institutions) that are addressing a broad range of victim profiles, from mobbing all the way to domestic violence and war crimes. When looking at the basic indicators of the geographical distribution of victim assistance organisations throughout Croatia, it immediately becomes clear that there is an even distribution that follows the relative size of the main cities in the different counties, with Zagreb City and County clearly dominating. This makes sense since Croatia is rather centralised in terms of government institutions so that many of the organisations seated in Zagreb are also acting as

Table 2 Count of Victim Assistance Organisations and/or Programmes by County Provided Publicly by the Croatian Government

County	Number of victim assistance organisations and/or programmes
Grad Zagreb i Zagrebačka županija	85
Primorsko-goranska županija	39
Splitsko-dalmatinska županija	36
Sisačko-moslavačka županija	23
Istarska županija	21
Osječko-baranjska županija	20
Dubrovačko-neretvanska županija	16
Zadarska županija	16
Varaždinska županija	13
Vukovarsko-srijemska županija	13
Bjelovarsko-bilogorska županija	12
Ličko-senjska županija	12
Karlovačka županija	11
Krapinsko-zagorska županija	11
Šibensko-kninska županija	11
Međimurska županija	10
Virovitičko-podravska županija	10
Brodsko-posavska županija	8
Koprivničko-križevačka županija	8
Požeško-slavonska županija	7
Total	382

Source: Ministry of Justice of the Republic of Croatia 2019a.

national organisations. However, most of the national organisations/programs (*Table 1*) provide for little if any meaningful data about the incidence, prevalence or types of victimisation in their annual reports, let alone analytical investigations into victimisation in Croatia.

Obliging all of the approximately 400 victims' rights organisations and agencies to a uniform data collection mechanism when they deal with victims of crime and misdemeanours should be considered. The value of such a database would be considerable, whereas its scientific and application-oriented feasibility should provide for the basic empirics to start developing victimology as a scientific discipline, as well as creating the preconditions for an evidence-based victim protection policy.

Specific national research projects dealing with or at least partially focusing on victims of crime and victimisation are scarce. The Croatian components of the Balkan Epidemiological Study on Child Abuse & Neglect (BECAN study)³⁴ and the International Self-Reported Delinquency Study (ISRD3)³⁵ are definitely worth mentioning with regards to their findings on self-reported victimisation. Both research projects have been conducted within the framework of the University of Zagreb's Faculty of Law scientific research activities. In line with this academic research, a project funded by the Croatian Science Foundation has started in 2018 and should provide empirical data and sound knowledge about violent victimisation in Croatia.³⁶ A study into the protection of rights and support to victims/witnesses of domestic violence conducted by the 'Women's Room' in cooperation with the Governmental Office for Gender Equality in 2010 is also of interest to our analysis.³⁷ On the governmental level, the Ministry for demographics, family, youth and social policy has started to become proactively engaged when it comes to domestic violence and violence against women and children. It has recently published the (far overdue) guidelines for media reporting on domestic violence,³⁸ but also seems to collect and occasionally provide for basic facts and figures about domestic violence-related victimisation.³⁹ In its annual reports (summaries available in English), the Ombudsman for Children regularly provides data on child victimisation as well as protection of the rights of children as victims and witnesses in criminal procedures.⁴⁰ On its webpage, the Ombudsman for Children also hosts all the relevant protocols of procedure in cases where children are victims of domestic violence, youth violence, abuse and neglect, and sexual violence.⁴¹ The aforementioned Ministry also provides for a collection of relevant legal sources as well as the national strategy for the protection from domestic violence 2017–2022.⁴² The strategy also includes basic data on victimisation (e.g., victims of homicides 2013–2017 by gender and victim-offender relationship; victims of assault; victims of family violence, etc.).⁴³ The data will

³⁴ Institute of Child Health 2019.

³⁵ Northeastern University 2019.

³⁶ Violence Research Lab 2019.

³⁷ *Mamula & Dijanić Plašć* 2014.

³⁸ Ministry of Demographics, Family, Youth and Social Policy 2018.

³⁹ Dnevnik.hr of 20.04.2018; *Obiteljsko nasilje: Svakih 15 minuta netko u Hrvatskoj trpi neki oblik nasilja, uloga skloništa presudna* [Domestic violence: Every 15 minutes someone in Croatia suffers some form of violence, the role of shelter is crucial]; <https://dnevnik.hr/vijesti/hrvatska/skup-o-zrtvama-obiteljskog-nasilja-presudna-uloga-sklonista---514411.html> [12.09.2019].

⁴⁰ Ombudsperson for Children 2019b.

⁴¹ Ombudsperson for Children 2019a.

⁴² Ministry of Demographics, Family, Youth and Social Policy 2019.

⁴³ Ministry of Demographics, Family, Youth and Social Policy 2017.

be presented in *section 4.2*, together with data from the previously listed projects/reports. However, even at this early point it has to be stressed that the poor quality of the “analysis” provided in the Strategy, aimed at detecting the “current victimisation situation”, is probably the best indicator of the poor state of art in Croatian victimology and lack of empirically-based (or at least well informed) victim protection policy creation. Basically, data are presented out of the overall context, lacking at least the appearance of an objective analysis, but rather serving as a numerical justification of past policy decisions.

Authors worth mentioning in the context of Croatian victimology, besides *Zvonimir Šeparović*, include, but are not limited to, *Mladen Singer*,⁴⁴ *Marina Ajduković*,⁴⁵ *Ksenija Turković*,⁴⁶ *Velinka Grozdanić*,⁴⁷ *Irma Kovčo Vukadin*,⁴⁸ *Dalida Rittossa*,⁴⁹ *Vesna Bilić*,⁵⁰ and *Mirjana Radetić-Paić*.⁵¹ However, none of the above, besides *Zvonimir Šeparović*, might be understood as actual victimologists or even criminologists *stricto sensu*.

4. Victim Protection Through Criminal Justice with Special Focus on Procedural and Material Criminal Law

Until recently, the term “victim” (*žrtva*) has been almost unknown in the two most important pieces of criminal justice legislation in Croatia: the CC and the CPA. The term used to identify the person against whom a criminal offence has been committed and who has suffered harm as a result of a criminal offence was “the injured person” (*oštećenik*). These two terms have a lot in common, as they both relate to the person who has suffered harm as a result of a criminal offence.⁵² During the last decade, the situation in the Croatian criminal justice legislation changed. Now, both the CC and the CPA use both terms: the victim and the injured person.

The CC only provides the definition of the victim by determining that it is a natural person who has suffered physical and mental health consequences, pecuniary damage or a substantial violation of his/her fundamental rights and freedoms as a

⁴⁴ *Singer* 2005.

⁴⁵ *Ajduković & Marohnić* 2011.

⁴⁶ *Turković* 2002.

⁴⁷ *Grozdanić* 2015.

⁴⁸ *Kovčo Vukadin* 2014.

⁴⁹ *Rittossa* 2016.

⁵⁰ *Bilić* 2013.

⁵¹ *Radetić-Paić* 2010.

⁵² *Burić* 2011, pp. 495–497.

direct consequence of the criminal offence. The victim of a criminal offence shall also mean the spouse, common-law spouse, life partner or informal life partner, descendant, and if there are no, ancestor and sibling of the person whose death is the direct consequence of the criminal offence and the person whom the latter was required by law to maintain.⁵³ This definition follows, although not completely, the definition of victims as defined in the Art.1. 1. Recommendation Rec(2006)8,⁵⁴ but with one important addition. It is broader with the following wording “serious violation of human rights and fundamental freedoms.”⁵⁵ On the other side, the CPA provides for a definition of both terms – the injured party and the victim. A term victim is defined with the same wording as in the CC.⁵⁶ The injured person, pursuant to CPA, is a victim of a criminal offence and the legal person to whose detriment the criminal offence was committed, which participate as the injured person in the proceeding.⁵⁷ If we analyse the definitions provided by the CPA, we can conclude that the legislator wanted to draw a line between these two terms. Pursuant to that delineation, the term victim is primarily an extra-procedural term, while the term injured person is connected with the willingness of the victim to play a more active role in criminal procedure, and thus this term, unlike “victim” also includes legal persons.

Legal persons are excluded from the definition of victims, both in the CC and in the CPA.⁵⁸ However, it is clear that legal persons can also ‘suffer’ harm as a result of a criminal offence. In limiting the concept of victims to natural persons, Croatia followed the opinion of Court of Justice of EU (hereinafter: CJEU)⁵⁹ that repeatedly confirmed, when addressing the preliminary ruling questions on the interpretation of the Framework Decision 2001/220/JHA (FD),⁶⁰ that the concept of a victim for the purposes of the FD does not include legal persons who have suffered direct harm by violations of the criminal law in a Member State. However, it must be noted that the

⁵³ See Article 87 (The meaning of terms is the Criminal Code) of the Law No. 12511.

⁵⁴ Victim means a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a member state. The term victim also includes, where appropriate, the immediate family or dependents of the direct victim; see Article 1 (Definitions) of the Recommendation Rec(2006)8 of the Committee of Ministers to member states of assistance to crime victims, Recommendation no. 20068, 14.06.2006.

⁵⁵ *Turković et al.* 2013, p. 128.

⁵⁶ See Article 87 (The meaning of terms is the Criminal Code) of the Law No. 12511.

⁵⁷ See Article 202 (The meaning of legal terms) of the Law No. 7017.

⁵⁸ *Burić* 2011, pp. 392–393.

⁵⁹ CJEU, C-467/05, Court of Justice of European Union (2010).

⁶⁰ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Directive No. 2012/29/EU, 14.11.2012, Official Journal of the European Union 315/57.

EU Member States may choose to apply the standards of victim protection also to legal persons.⁶¹

Although the term victim, as previously stated, has been unknown to the CPA, this does not mean that the victim was completely left out of the criminal justice processes. Quite the contrary. In the Croatian criminal justice system, a victim of crime, through the institution of an injured person, traditionally enjoyed a very strong procedural position. As underlined by *Krapac*,⁶² former Yugoslavia's rather liberal CPA of 1976 contained a whole array of provisions concerning the victim's role in the criminal process and these provisions were later taken over by the Croatian legislation.⁶³ The victim of a criminal offence has, therefore, been present in the Croatian criminal legislation and in the criminal justice system in general, even long before it became recognised "verbatim", about a decade ago.

The process, which has been ongoing in the last two decades, and which resulted in the inauguration of the victim as a separate procedural subject in criminal proceedings in Croatia, could be described as the result of two factors. The first one was the Homeland War and the need to establish mechanisms for the effective prosecution of war crimes. In order to do this, it was necessary to devote more attention to the protection of needs and legitimate interests of victims of crime, since it was impossible to effectively prosecute these grave offences without the participation of victims as witnesses in the criminal procedure. The second process was the harmonisation of Croatian legislation with European standards in the area of victims' protection. Besides the standards established in the Council of Europe, standards developed in the law of the European Union were a primary consideration. The current position of victims of crime in the Croatian criminal justice legislation reflects the standards deriving from the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Furthermore, the provisions of CC, the purpose of which is to grant special protection to victims of certain crimes, followed the provisions of the Council of Europe Convention on

⁶¹ European Commission 2013, p. 9.

⁶² *Krapac* 2002, p. 156.

⁶³ For example, a victim, acting as the injured person in the criminal proceedings, had the right to ask for compensation of damages from the accused, and, in most cases where the public prosecutor decided not to institute or to discontinue the procedure, the injured person had the right to act as prosecutor in the case. In those cases, where the public prosecutor was representing the case, an injured person had the right to act next to the public prosecutor and to undertake various procedural actions in order to promote his/her procedural interests. There were also measures in place used to safeguard victims from secondary victimisation during the criminal procedure. However, these measures were primarily construed as measures for vulnerable witnesses and not as measures for victims; see *Tomašević & Pajčić* 2008.

preventing and combating violence against women and domestic violence, even before the later was ratified by the Croatian parliament.

Looking at the misdemeanour legislation in Croatia, namely the provisions of the Misdemeanour Act,⁶⁴ it becomes apparent that it does not use the term victim. It still only uses the term injured person. The inauguration and the promotion of the term victim in the criminal justice legislation has not been followed by the same development in the misdemeanour legislation. However, this does not mean that a victim of a misdemeanour does not enjoy the same rights as a victim of a criminal offence. On the contrary, to the extent to which misdemeanour proceedings can be considered criminal proceedings within the meaning of the standards developed in the jurisprudence of the European Court for Human Rights, victims of misdemeanours should enjoy the same rights as the victims of criminal offences. This is further confirmed by the rule, which requires that the rules of criminal procedure should be applied, *mutatis mutandis*, in misdemeanour procedure, as well as by the possibility to apply the provisions of the Directive on the victims of crime directly in misdemeanour proceedings in Croatia. Special legislation, which regulates the position of domestic violence within the framework of misdemeanour justice, grants specific rights to victims of such offences. These rights are comparable to the rights of victims of crime in criminal proceedings to a very high degree.

4.1 General Overview of Victim Protection Through Criminal Policy

The main piece of national legislation that regulates the position of victims of crime is the CPA. The first Croatian CPA that specifically referred to victims of crime (and not to injured persons) and that contained a specific list of rights for victims of crime was the CPA from 2008. The biggest novelty of this Act with regard to the position of victims of crime was that it did not only regulate the rights in connection with their participation in criminal procedure (in the role of an injured person or a witness) but also extra-procedural rights of victims of crime, such as the right to access victim support services, notwithstanding the fact whether the victim participates in the criminal procedure or not.⁶⁵ Besides general rights for all victims of crime, special rights were introduced for vulnerable categories of victims of crime: victims of offences punishable by five years of imprisonment or more, children victims of crime and victims of sexual offences. Further development of the CPA led to stronger recognition and protection of victims of crime. This is especially true for amendments that were introduced in the Act in 2017. The amendments introduced were significant and they related to victims of crime to a large extent, due to Croatia's need to transpose the provisions of the Directive establishing minimum standards on

⁶⁴ Misdemeanour Act, Law No. 107/07, 24.04.2009, Official Gazette 107/07.

⁶⁵ Burić 2011, pp. 495–497.

the rights, support and protection of victims of crime into its national legal order. By those amendments, Croatia has transposed the Directive and it could be stated that the conformity with the provisions of Directive is largely achieved.

Earlier the same year, 2008, another piece of legislation important for victims of crime was adopted in the national parliament: the Act on Monetary Compensation to Victims of Criminal Offences.⁶⁶ Its application was postponed until the day of Croatian accession to the European Union. This Act was the result of the harmonisation of Croatian law with the demands arising out of European Union law, more specifically from the provisions of the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. This Act regulated the right of victims of violent offences to gain monetary compensation for the harm suffered by the criminal offence, not from the offender, but the State.⁶⁷

The new Croatian CC, which was adopted in 2011, and entered into force on 1st January 2013, also represented a shift in the legislative treatment of victims of crime. It is the first Croatian CC that gives primacy to the term “victim” over the term “injured person”, and it is also the first Croatian CC that defines the victim of crime.⁶⁸

Besides these pieces of national legislation, which generally regulate the position of victims of crime, some statutes give special rights to certain categories of victims of crime. Two statutes need to be mentioned here: the Act on Protection from Domestic Violence⁶⁹ and the Act on Rights of Victims of Sexual Violence during Armed Aggression on Republic of Croatia in Homeland War.⁷⁰

Moreover, there are many other laws and by-laws that regulate the position of victims, like the Juvenile Courts Act⁷¹ and Act on the Police Powers and Duties.⁷² As underlined, Croatia has mostly transposed the Directive and it could be stated that the conformity with the provisions of Directive is largely achieved, if not directly by the CPA or CC, then at least by implementing these acts. However, the implementation of certain rights is not achieved as will be explained in this article.

⁶⁶ Act on Monetary Compensation to Victims of Criminal Offences, Law No. 702-01/08-01/02, 02.07.2008, Official Gazette 80/08.

⁶⁷ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, Directive No. 2004/80/EC, 06.08.2004, Official Gazette 261/15.

⁶⁸ See Article 89 (The meaning of terms is the Criminal Code) of the Law No. 12511.

⁶⁹ Act on Protection from Domestic Violence, Law No. 022-03/16-01/134, 07.07.2017, Official Gazette 70/17.

⁷⁰ Act on Rights of Victims of Sexual Violence during Armed Aggression on Republic of Croatia in Homeland War, Law No. 022-03/14-01/88, 18.06.2015, Official Gazette 64/15.

⁷¹ Juvenile Courts Act, Law No. 740-02/96-01/02, 01.01.1998, Official Gazette 111/1997.

⁷² Act on Police Powers and Duties, Law No. 7019, 01.08.2019, Official Gazette 70/19.

4.2 Protecting and Empowering Victims Through Criminal Procedure

As already stated, the CPA is a statute that regulates not only the position of victims in criminal procedure but their status in the Croatian legal system generally. Article 43, in general fashion, defines rights of victims of crime. The following rights are: access to victim support services; efficient psychological and other professional assistance and support of the victim support system; protection from intimidation and retaliation; protection of the dignity of the victim when testifying; to be heard without unjustified delay after the complaint with regard to a criminal offence has been made and to be further heard only insofar as this is necessary for the purposes of the criminal proceeding; to be accompanied by a person enjoying his/her confidence when taking part in any acts; to be subject to a minimum number of medical interventions and only where strictly necessary for the purposes of the criminal proceedings; to file a motion for prosecution and a private action pursuant to the provisions of the Criminal Act; the right to participate in the criminal proceeding as an injured party; the right to be informed of the dismissal of the criminal complaint and of the state attorney dropping the criminal charge, and the right to take over criminal prosecution in lieu of the state attorney; to be informed by the state attorney of the acts performed as a result of his/her complaint and the right to complain to a senior state attorney; to be informed without unjustified delay, at his/her request, of the release from custody or the investigative prison, the defendant having fled or the convicted person having been released, and of the measures taken for the purposes of his/her protection; to be informed, at his/her request, of any decision finally terminating a criminal proceeding and any other rights provided for by law.⁷³

Besides general rights for all victims of crime, the CPA also regulates rights of specific categories of victims of crime: victim of a criminal offence punishable by imprisonment for more than five years who has suffered severe harm as a result of a criminal offence,⁷⁴ victim of an intentional violent crime,⁷⁵ children victims of crime,⁷⁶ victims

⁷³ Law No. 7017.

⁷⁴ He/she is entitled to the professional assistance of an advisor appointed at government expense when bringing a civil claim; see Law No. 7017.

⁷⁵ He/she is entitled under a special act to compensation from the state budget; see Law No. 7017; Law No. 702-01/08-01/02.

⁷⁶ Child victim of a criminal offence is, in addition to the rights enjoyed by all victims, entitled to: an attorney-in-fact appointed at government expense, the confidentiality of personal information and the exclusion of the public; see Law No. 7017.

of sexual criminal offences and human trafficking,⁷⁷ and victims with special protection needs.⁷⁸

Recent changes to the CPA have introduced a mandatory procedure of individual assessment of every victim. The purpose of this procedure is to enable the application of mechanisms that safeguard that all victims and especially the most vulnerable ones are not exposed to secondary victimisation through their participation in criminal proceedings. Such procedure is foreseen by the provisions of the Directive establishing minimum standards on the rights, support and protection of victims of crime. The biggest challenge Croatian authorities encountered in transposing those provisions of the Directive into the national legal system was the determination of the authority competent to conduct the individual assessment procedure. In the end, it was decided that this procedure should be conducted by the authority that is interrogating the victim (police officer, public prosecutor or a judge) in cooperation with authorities, services and institutions of the victim support system.⁷⁹

4.3 Victim Protection by the Croatian Criminal Code

As underlined above, the CC contains provisions throughout the whole Code that are oriented toward special protection of vulnerable victims. The CC devotes special protection of victims through the construction of its criminal offences, e.g., already following the recent, not yet ratified Council of Europe's Convention on preventing and combating violence against women and domestic violence (hereinafter: Istanbul Convention).⁸⁰ The CC introduced a new qualifying circumstance for aggravated murder that is in line with the concept of protecting all victims: the murder of a person who is especially vulnerable due to his/her age, a severe physical or mental

⁷⁷ He/she is, in addition to the rights enjoyed by all the victims, entitled to: counseling services at government expense before being interrogated, an attorney-in-fact appointed at government expense, be interrogated at the police and the state attorney's by a person of the same sex and that in case of any further interrogation he/she be interrogated, where possible, by that same person, refuse to answer any strictly private questions not related to the criminal offence, demand to be questioned via an audio-video link, confidentiality of personal information and demand that the hearing be closed to the public; see Law No. 7017.

⁷⁸ He/she is, in addition to the rights enjoyed by all the victims, entitled to: counseling services at government expense before being interrogated, be questioned at the police and the state attorney's by a person of the same sex and that in case of any further questioning he/she be questioned, where possible, by that same person, refuse to answer any strictly private questions not related to the criminal offence, demand to be questioned via an audio-video link, confidentiality of personal information and demand that the hearing be closed to the public; see Law No. 7017.

⁷⁹ Law No. 7017.

⁸⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence, 11.05.2011; <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>.

disorder or pregnancy.⁸¹ This provision, unlike what was prescribed before the CC, enhanced protection to all particularly vulnerable victims, not only to children and pregnant women, but to all other persons who are vulnerable due to their age (seniors), or because of illness or severe physical or mental disruption. This trend, providing enhanced protection to all victims that are particularly vulnerable because of special characteristics, which has been present in European legislation, and Croatia, after 2013, when this Code came into force, is no exception to this rule.⁸²

The CC also introduced a number of new criminal offences that are protecting vulnerable victims. Based on the provisions of the Istanbul Convention, namely Article 34, *stalking* became a criminal offence, as did sexual intercourse without consent. By that, *rape* became an aggravated offence. As proscribed in Article 36 of the Istanbul Convention, Croatia took, in drafting the CC in 2011, the necessary legislative measures to ensure that the offence is aggravated when committed against a vulnerable victim or against a close person.⁸³ Moreover, forced marriage is a criminal offence under the criminal offence *trafficking in person* (Article 106). Even *female genital mutilation* became a separate offence, defined in Article 116. *Forced abortion* (Article 117) and *forced sterilisation* are also punishable (later *explicite* if committed as a war crime or under bodily injury or medical malpractice). *Sexual harassment* became a new offence, regulated in Article 156 of the CC.⁸⁴

Regarding sentencing, the Article 47 of CC regulates that, when deciding on the type and extent of the punishment, the court, based on the degree of guilt and the purpose of the punishment, shall assess all the circumstances that affect the type and scope of the sentence being more lenient or more severe (mitigating and aggravating circumstances), including the conduct after the perpetration of the criminal offence and compensation for damage. That also refers to provisions regulating the reduction of the penalty.⁸⁵ The punishment provided for a particular criminal offence may be exempted, or the sentence reduced if there are particular mitigating circumstances, in particular if the perpetrator is reconciled to the victim, if he/she has fully or partially compensated for the damage caused by the offence, or seriously attempted to compensate for that damage, and the purpose of punishment can be achieved with

⁸¹ See Article 111 (Aggravated murder) of the Law No. 12511.

⁸² This is also characteristic for the recent Council of Europe instruments, like the Convention on the Protection of Children from Sexual Exploitation and the Convention on the Prevention and Combating of Violence against Women and Family Violence that both the vulnerability of the victim due to the specific circumstances as a qualifying circumstance.

⁸³ The term is defined, as a family member, former marital or extra-marital partner or same sex partner and person living in the same household; see Article 87 (The meaning of terms in the Criminal Code) of the Law No. 12511.

⁸⁴ Law No. 12511.

⁸⁵ See Article 47 (Sentencing) of the Law No. 12511.

such a mild punishment.⁸⁶ The court may therefore exempt from the punishment a perpetrator if the perpetrator attempted to eliminate or reduce the consequences of an offence committed by negligence and to compensate for the damage caused to him, and when the perpetrator of the criminal offence punishable by imprisonment for one year was reconciled with the victim and reimbursed the damage. Regarding the conditional release, when deciding on a proposal to grant conditional release, the court will assess the relation of the perpetrator to the perpetrated crime and assess the behaviour toward the victim.⁸⁷

Based on the aforementioned, three cases of sentence mitigation are foreseen in the CC: when the law explicitly stipulates so; when there are particularly mitigating circumstances, particularly if the perpetration has reconsolidated with the victim, and the compensation has been paid or the perpetration gave serious effort to reduce the suffered harm, or there is a special agreement between the state attorney's and the perpetrator (similar provisions are found in foreign laws, e.g., German Criminal Code⁸⁸ or Polish Criminal Code⁸⁹).

Furthermore, additional victims' protection is given by prescribing different types of special obligations that enhance the protection of victims, including repairing the damage caused by the criminal offence and paying a certain amount of money into an account of a public institution, to support humanitarian or charitable causes, or into a fund for compensation to victims of criminal offences, if this is appropriate in view of the offence committed and the personality of the perpetrator.⁹⁰ As usual in criminal codes, the Croatian CC contains security measures deemed to directly protect victims, such as prohibition from approaching a person and removal from a shared household.⁹¹

4.4 Protecting Victims Through Other Normative Frameworks

4.4.1 Victim Support System in Croatia

Croatia is still in the process of establishing its Victim Support System (hereinafter VSS). Although major cities do have effective VSS, it is clear that the system is not equally effective throughout the country. The VSS in Croatia is composed of state bodies and non-governmental actors. With regard to the state-part of the VSS in

⁸⁶ See Articles 48 (Mitigation of sentence) and 50 (Remission of punishment) of the Law No. 12511.

⁸⁷ See Article 61 (Parole revocation) of the Law No. 12511.

⁸⁸ German Criminal Code, Law No. BGBl.IS.3799, 10.10.2013, Official Gazette I p 3799.

⁸⁹ Polish Criminal Code, Law No. 6101997, 06.06.1997, Official Gazette 06/97.

⁹⁰ See Article 62 (Types of special obligations) of the Law No. 12511.

⁹¹ See Articles 73 (Prohibition from approaching a person, harassing or stalking) and 74 (Removal from shared household) of the Law No. 12511.

Croatia, it is headed by a special body within the Ministry of Justice, the Independent Office for Support to Victims and Witnesses, that is in charge of coordination, harmonisation and supervision of the work of departments for support to victims and witnesses that operate in courts. Besides that, the independent Office has a leading role in the institutionalisation of VSS in Croatia, it promotes inter-institutional cooperation in the field and it governs the strategic development of VSS. Departments for Support to Victims and Witnesses exist in seven county courts (Zagreb, Rijeka, Split, Osijek, Vukovar, Sisak, Zadar). The role of the department is to provide emotional support, practical information and information on rights to victims and witnesses.⁹²

NGOs are a very important part of Croatian VSS, especially in the following areas: victims of war, victims of sexual and family violence, victims of human trafficking, children victims of crime. NGOs establish and run shelters for victims of domestic violence, primarily women and children. Here, it is possible to see the difference depending on the area of the Republic of Croatia. During the interviews, it was confirmed that, for instance, the Split-Dalmatia County has less than 10 available beds for victims of violence.⁹³

Recent research has shown that there are a lot of problems with regard to the regional coverage of the VSS in Croatia.⁹⁴ This refers both to those parts of VSS that belong to the governmental sector, as well to those that belong to the non-governmental sector. At this moment, Departments for Support to Victims and Witnesses exist only in seven county courts and the majority of work is done by Zagreb's Department. There are none on municipal or misdemeanour courts. However, in some areas, the departments established at county courts also provide their services to municipal and misdemeanour courts established on the territory of their jurisdiction. The presence of non-governmental organizations that are a part of VSS in non-urban areas is also scarce.⁹⁵ Although scarce, it is still very important, as they are the only carriers of VSS in the areas where there are no county courts.

4.4.2 Compensation to Crime Victims

Victims have different avenues in order to accomplish compensation of damages caused by a criminal offence. They can ask for compensation of damages from the offender either in the framework of criminal proceedings or in the framework of civil proceedings. The first avenue is regulated by the provisions of Articles 153–162 of the CPA. In order to file a motion for compensation of damages in the criminal procedure, the victim needs to take over the role of an injured party in criminal

⁹² Burić & Lučić 2017.

⁹³ Burić & Lučić 2017.

⁹⁴ Burić & Lučić 2017.

⁹⁵ Burić & Lučić 2017.

proceedings. Furthermore, such a motion shall be decided upon in criminal proceedings, unless deciding on it would significantly protract the criminal procedure. Such a motion can relate to any demand that can be made in a civil action.⁹⁶ Such a motion can be decided only if the defendant has been found guilty. In that situation, the motion can be fully or partially awarded, or the victim (injured party) can be referred to make such a motion in a civil action. If the court does not find the defendant guilty at the end of the proceedings, the victim (injured party) shall be referred to make such a motion in a civil action.⁹⁷ The victim can always decide to ask for compensation of damages in the framework of civil proceedings, and thereby use the second avenue for compensation of damages from the offender.

The victim can ask for compensation of damages not only from the offender but also from the state. This procedure is regulated by the Act on Monetary Compensation to Victims of Criminal Offences.⁹⁸ Pursuant to that Act, victims of intentional violent offences committed on the territory of the Republic of Croatia after July 1, 2013, can ask for compensation of damages caused by the criminal offence directly from the state. This possibility is reserved only for victims who are citizens of Croatia or the other Member States of the European Union.⁹⁹ Special situation with regard to the compensation of damages exists in relation to victims of sexual offences committed during the Homeland War and is regulated in the special act – Act on Rights of Victims of Sexual Violence during Armed Aggression on Republic of Croatia in Homeland War.¹⁰⁰

4.4.3 Victim-Offender Settlements

The CPA foresees two situations where the approval of the victim is necessary in order to dispose of a criminal case. One of those situations is where the public prosecutor has the possibility not to start criminal proceedings or to drop criminal charges in relation to minor offences, if the defendant is willing to fulfil a certain obligation. It is an out of court settlement between the public prosecutor and the defendant. However, approval of the victim is a necessary precondition in order to reach such a settlement. Among various obligations that the defendant may fulfil as a condition for settlement, a number of them are oriented towards the victim and offer the possibility to remedy the situation caused by the criminal offence or to compensate the damages.¹⁰¹ Another situation is foreseen within the procedure for the rendering of a judgement that is based on an agreement between the parties. For certain criminal

⁹⁶ Law No. 7017.

⁹⁷ Law No. 7017.

⁹⁸ See Law No. 702-01/08-01/02.

⁹⁹ *Bukovac-Puvača* 2013.

¹⁰⁰ See Law No. 022-03/14-01/88.

¹⁰¹ Law No. 7017.

offences (against life and limb, and against sexual freedom, punishable by more than 5 years imprisonment), such a judgment can only be rendered where the public prosecutor has also gained the approval of the victim.¹⁰²

4.4.4 Restorative Justice Services

Restorative justice services are not well developed in Croatia. However, there are two procedures that can be regarded as restorative justice schemes. The first one is in the CPA and it refers to the peace councils. This procedure is foreseen only for criminal offences for which criminal prosecution is undertaken not by the public prosecutor *ex officio*, but by the victim of the criminal offence – in this situation called the private prosecutor. Therefore, this situation only applies to a very small number of criminal offences, mainly criminal offences against the honour and reputation of a person or minor bodily injury. A judge may, after a private indictment has been raised and received at the court, decide to refer the victim and the accused to a peace council, if such a council exists at the territory of the court and if both parties reside at that territory. The purpose of the referral is to try to reach a reconciliation. The judge also determines a deadline within which such a reconciliation needs to take place. If no reconciliation has been achieved, the criminal procedure resumes.¹⁰³ The second procedure, which is more developed in practice, is foreseen by the Juvenile Courts Act.¹⁰⁴ It is the procedure of mediation through an out of court settlement, where the offender and the victim meet in order to remedy or compensate consequences of the criminal offence, with the mediation of a third, neutral, person. This procedure is applicable only in relation to criminal offences committed by juvenile offenders.¹⁰⁵

Although usually not considered as part of the restorative justice service in Croatia, one must underline that the CC contains an important provision that, in the opinion of the authors, should be more frequently used in the Croatian criminal justice system. As stipulated earlier, the court may exempt a perpetrator from the punishment if the perpetrator attempted to eliminate or reduce the consequences of an offence committed by negligence and to compensate for the damage caused to victim, or when the perpetrator of the criminal offence punishable by imprisonment for one year was reconciled with the victim and reimbursed the damage.¹⁰⁶

In any case, further research is necessary on the need to include and develop the most adequate restorative justice measures in the Croatian criminal justice system.

¹⁰² Law No. 7017.

¹⁰³ Law No. 7017.

¹⁰⁴ See Law No. 740-02/96-01/02.

¹⁰⁵ Miroslavljević, Koller-Trbović & Lalić-Lukač 2009.

¹⁰⁶ See Article 50 (Remission of punishment) of the Law No. 12511.

Therefore, one can conclude that, except for the two above mentioned procedures, Croatia has not yet developed restorative justice models.

5. Croatian Victimisation Reality and Preliminary Typology

This section will first provide an overview of the data sources on victimisation in Croatia with an assessment of their actual and potential usefulness in terms of victimological research. The analysis focuses on publicly available official statistics, reports and data collection mechanisms. It also takes into account the sources of existing victimological research. The second part focuses on (officially) registered victimisation (mainly police statistics, but also a victimisation survey) and analyses the data in terms of prevalence, incidence and trends in crime victimisation, as well as distribution by gender, age and type of offence. In the next step, the third part of this section, the prior quantitative descriptions and analysis will be supplemented using a more qualitative approach to determining victimisation. Here, findings from interviews with key actors from the criminal justice system will enable to deepen the understanding of victimisation. The findings based on using both these approaches, the quantitative and the qualitative, will be the grounds for delivering a preliminary victim typology.

5.1 Data Sources on Victimisation in Croatia

When analysing crime in general and based on publicly available official crime and criminal justice statistics in Croatia, the Croatian Bureau of Statistics (hereinafter CBS) is a highly valuable source of data. Their annual statistical reports on adult, juvenile and legal persons reported, accused and convicted for criminal offences and misdemeanours are extremely detailed in terms of breakdowns and very timely, as they are usually published on-line within less than one year (even 6 months) after the year of coverage. In addition to these regular publications, the CBS also provides thematic analyses (e.g., domestic violence, corruption, criminal victimisation of children and juveniles, drug abuse) and is currently also participating in the pilot for the new EU-wide survey on gender based violence, interviewing women and men about their experiences of violence. The current version of the survey questionnaire contains a wide range on victimologically relevant items, covering socio-demographics, as well as sexual harassment at work, (non) partner violence, former and current partner violence and background, stalking, violence in childhood, awareness about victim protection rights and services, as well as general victimisation (non-violent).¹⁰⁷ Croatia has also participated in the 2012 EU Agency

¹⁰⁷ Additional information is available online at [https://circabc.europa.eu/sd/a/5ffc3f71-38ae-4b7f-a998-73a1dfeff8ed/Questionnaire%20for%20pilot%20%20survey%20VER2\(0\).pdf](https://circabc.europa.eu/sd/a/5ffc3f71-38ae-4b7f-a998-73a1dfeff8ed/Questionnaire%20for%20pilot%20%20survey%20VER2(0).pdf).

for Fundamental Rights' (hereinafter FRA) survey on the violence against women, which asked 42,000 women in EU-28 about their experiences of physical, sexual and psychological violence, sexual harassment, stalking and violence in childhood, the findings of which will be presented in *section 5.2*.¹⁰⁸ There is also a CBS thematic study into "potentially lost years of life" that contains basic data on violent deaths during 2000–2004 (see *section 5.2* for findings). However, when it comes to victimisation data, the CBS does not regularly publish any data or conduct definite victimisation surveys. The idea of conducting a Crime Victimisation Survey appeared on the CBS's publication agenda even back in 2008 but was never realised. So far, no victimological study has ever been conducted and published by the CBS, whereas the two studies that might appear to provide some victimological insights (domestic violence 2007–2010; criminal victimisation of children and juveniles 2001–2006) also focus on the perpetrators, rather than the victims, while covering the situation from over a decade ago. CBS statistics on beneficiaries and services of social care regarding the domestic violence victimisation are also worth mentioning as they provide basic figures on numbers of children and youth as beneficiaries of social services related to cases of domestic violence. Overall, in Croatia, there are no comprehensive and publicly available official (criminal) statistics, which focus on the number and socio-demographic characteristics of victims and situational characteristics of victimisation.

The most comprehensive and publicly available official statistics, which contain at least basic victimisation data and are thus up-to-date, are the police statistics. The police collect statistical data on all reported perpetrators, victims and the offences as such. The Ministry of Interior's Department for strategical planning, analytics and development compiles annual reports on basic security indicators that contain victimisation data useful for analysing the incidence, type and basic variables of victimisation in Croatia (the data covering 2010–2018 are analysed and presented in *section 5.2*).

Finally, there are scientific papers and monographs or PhDs that also deal with victimologically relevant subtopics in Croatia (victims of war, domestic violence, violence in schools, intimate partner violence, etc.), with some of them containing analyses of original empirical victimisation data. However, their quality varies tremendously and, due to the strong publication focus on victims of war (World War I and II, as well as the Homeland War in Croatia) and the former state repression, useful victimological research publications are difficult to identify (at least on the general topic-level and without searching for all the different sub-topics).

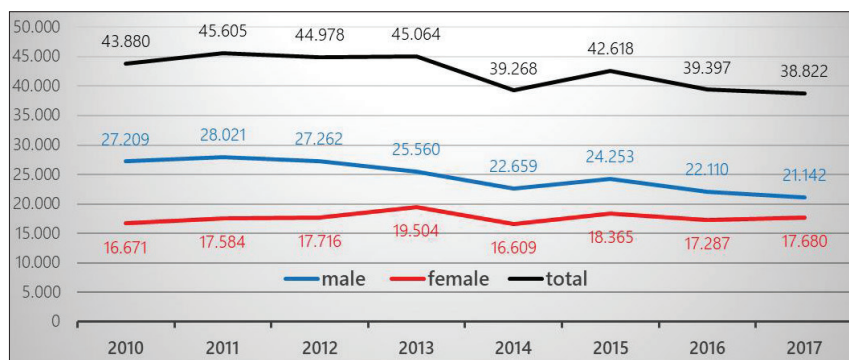
¹⁰⁸ FRA European Union Agency for Fundamental Rights 2014.

5.2 Victimisation Realities – Prevalence, Incidence, and Trends

5.2.1 Victimisation in General and by Type of Offence (Groups)

Based on official police statistics,¹⁰⁹ which are currently the only publicly available source of basic victimisation data, it is clear that the number of victims in Croatia has been slightly, but steadily decreasing during the past 8 years (*Figure 3*).¹¹⁰ Whereas this slight decrease is well reflected when it comes to male victims, the situation is not as clear when looking at female victims. In this regard, there even seems to be a slight increase. The noticeable one-time increase in female victims in 2013 is the result of the new CC, which includes a new criminal offence, failure to reimburse wage. Only in 2013, a total of 1.182 female victims had been reported as victims of this offence (compared to 44 male victims). In the following years, the number of female victims for this single offence decreased considerably, while the male-female victimisation ratio clearly shifted towards male victims.¹¹¹

Figure 3 Victimisation Trends Overall and by Gender 2010–2018



Source: Ministry of the Interior 2011–2018.

Looking at victims by offence type, the majority of victims are victims of property crime (*Figures 4 and 5*), as expected. This is a constant feature of victimisation with a share of property crime victimisation in overall victimisation by type of offence rather constantly around 60% during 2010–2018. This applies for male, as well as female victims (*Figure 4*).

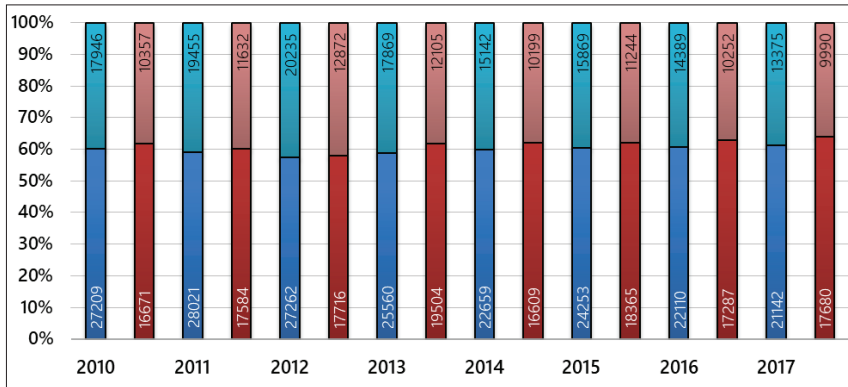
The two predominant property offences (2010–2018), amounting to more than 4/5 of all offences, are aggravated theft and theft. Aggravated theft, although more

¹⁰⁹ Ministry of the Interior 2010–2018.

¹¹⁰ The police statistics on victimisation contain data on natural as well as legal persons.

¹¹¹ Victims of failure to reimburse wage in 2016: 292 males, 102 females; 2017: 212 males, 118 females; see Ministry of the Interior 2017; 2018.

Figure 4 Share of Property Crime Victimization (Dark) in Total Victimization (Light) by Gender 2010–2018

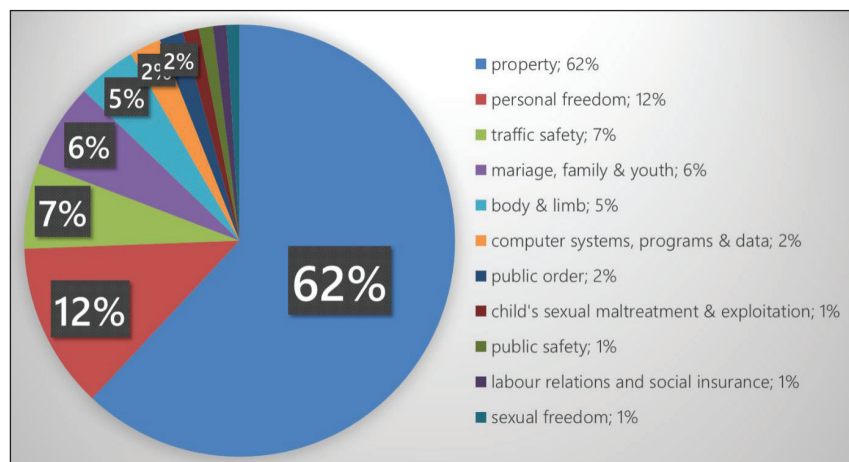


Source: Ministry of the Interior 2011–2018.

* Blue colour – male; Red colour – female.

frequent than theft during 2010–2016, slowly started dropping whereas theft remained rather constant, until the two changed places in 2016–2018, making theft the leading offence for victimisation (for both males and females). There is a notable declining trend not only when it comes to the severity of property crime related victimisation, but also to its frequency (especially in the past few years). The overall victimisation drop in 2014 (*Figure 3*) is also attributed to a drop in property crime victimisation. In 2014, there were almost 5,000 fewer victims of property crime than in the previous year(s), or to be more exact, 25,341 in 2014 compared to 29,974 in 2013. The numbers of adults and juveniles reported for offences against property crime were analysed, in order to exclude as a potential cause of this huge decrease in recorded victims of property crime a change in “counting/registering” victims of crime by the police or a simple error. Indeed, the number of reported perpetrators of property crime also significantly decreased (from 39,503 in 2013 to 34,802 in 2014), whereas the share of unknown perpetrators remained around 75% and the share of juveniles between 4–5% so that none of these factors might explain the drop. Further investigation into the drop in property crime should be of general criminological but also victimological interest since it affects approximately 60% of victims in Croatia.

Shifting the focus away from property crime as a cause of victimisation, in 2017 the next big group concerns victims of criminal offences against personal freedom (12%). The single leading offence in this group is threat (over 90% in 2017), with an almost equal distribution amongst male and female victims (*Figures 4 and 5*). In the group of victims of offences against traffic safety (7%) the most common single offence leading to victimisation is causing an accident in road traffic (97% in 2017), with the majority of victims being male (60%). Interestingly, when looking

Figure 5 Victims by Offence type in 2017 (Without “Other”)

Source: Ministry of the Interior 2018.

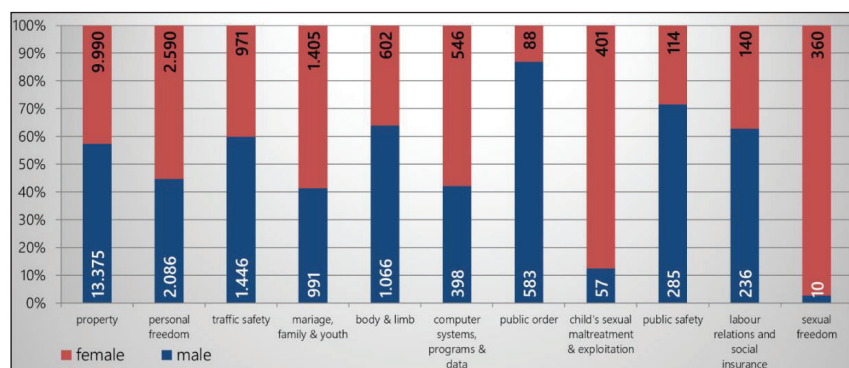
at reported adult persons¹¹² for this offence in 2017 (total without unknown perpetrators: 1,302), the gender distribution also favours male perpetrators, but with a far more obvious ratio of 80:20. The stereotype of women being worse drivers than men might still be true but, at least in Croatia, women cause fewer criminal traffic accidents, with their share in victims of traffic accidents being twice as high as their share in perpetrators of this offence.

The next big group of victims owes their victimisation to an offence against marriage, family and youth (6%). Here the majority of victims, as one might expect, are females (almost 60%). The most frequent offence in this group is the violation of child's rights (almost 50%), followed by failure to provide maintenance (25%), and family violence (almost 25%). Whereas the gender distribution of victims is rather equal for the violation of child's rights and the failure to provide maintenance, when it comes to family violence the vast majority of victims (over 80%) are female. Since a large share of family/domestic violence in Croatia is not 'handled' through criminal law procedure, but rather through misdemeanour proceedings, as these proceedings are far more convenient for the police and provide for a lower level of suspects' rights, making it far easier to immediately remove the perpetrator from the domestic environment, the victimisation as appearing in the police crime statistics is undoubtedly only a smaller part of the whole phenomenon of victimisation by domestic violence. Only in 2017, there were 10,592 registered misdemeanours against the Act on protection against domestic violence, compared

¹¹² In 2017, only 17 juveniles had been reported for committing the offence of causing an accident in road traffic; see Ministry of the Interior 2018.

to only 94 registered perpetrators of the criminal offence of domestic violence (90 of them male). A more thorough investigation into the issue of delineation between domestic violence criminal offences and misdemeanours is desperately needed, especially when taking into account that 94 perpetrators are responsible for the victimisation of 554 victims. The fact that the police uses misdemeanour proceedings extremely frequently when it comes to domestic violence indicates that there might be much room for improvements in the criminal procedures related to domestic violence.

Figure 6 Victims by Gender Distribution within Most Frequent Offence Types in 2017 (Without “Other”)



Source: Ministry of the Interior 2018.

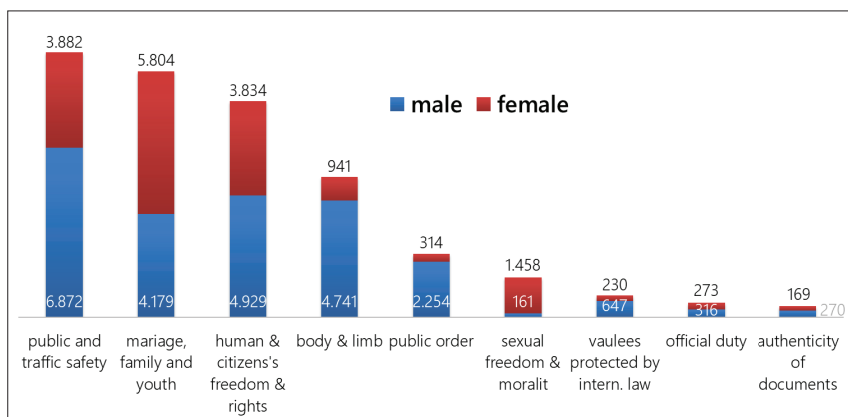
The remaining groups of victims in 2017 by type of offence are related to offences against body and limb (5% share in overall victimisation, most frequent single offences: 45% bodily injury and 40% grave bodily injury), computer systems, programs and data (2%, most frequent single offence: 99% computer fraud), public order (2%, most frequent single offences: 34% coercion against an official person and 23% attacking an official person), child's sexual maltreatment and sexual exploitation (1%, most frequent single offences: 40% sexual maltreatment of a child younger than fifteen years of age and 33% abuse of children in pornography), public safety (1%, most frequent single offence: 97% endangering life and property by dangerous public acts or means), labour relations and social insurance (1%, most frequent single offence: 88% failure to reimburse wage), and sexual freedom (1%, most frequent single offences: 30% lewd acts, 27% prostitution, 18% sexual intercourse without consent and 18% rape) (Figure 6).

5.2.2 Victimisation and Gender

The magnitude of victimisation by different types of offence groups (without property crime), as well as by gender distribution, shall be presented in order to get a sense

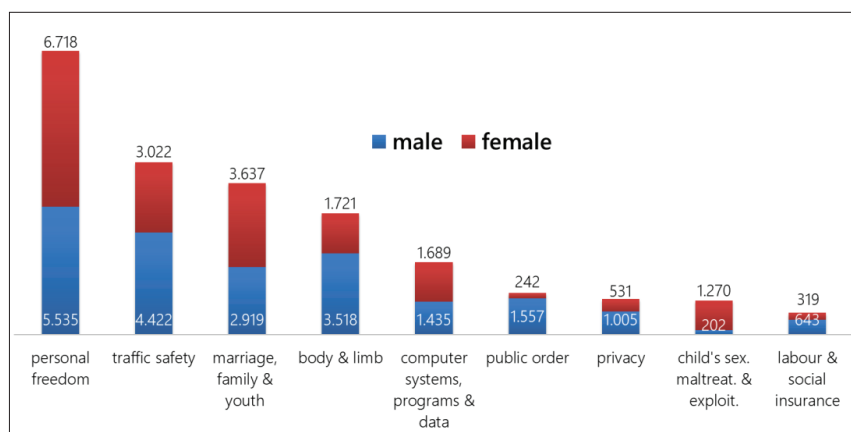
of the overall victimisation during 2010–2018. This is done separately in *Figures 7* and *8*, for the periods 2010–2013 and 2015–2018 respectively. One should keep in mind that the new CC also introduced new headings, creating the need to differentiate between the “Old CC” and the current “New CC” when analysing crime and victimisation statistics prior to 2013. The single figures are provided for both 3-year periods by type of offence and by gender.

Figure 7 Total Victims 2010–2013 by Offence Types Based on “Old CC” and Gender (Without Property Crime and “Other”)



Source: Ministry of the Interior 2011–2014.

Figure 8 Total Victims 2015–2018 by Offence Types Based on “New CC” and Gender (Without Property Crime and “Other”)



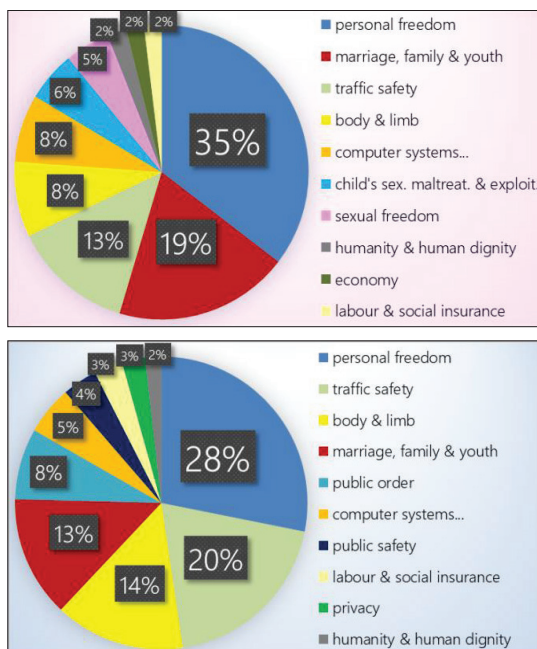
Source: Ministry of the Interior 2016–2019.

When looking for continuities and changes in the victimisation data due to the enactment of the new CC offence, significant normatively induced changes become apparent with the changes in offence groupings (*Figures 7 and 8*). Before briefly discussing these, it has to be noted that there are also obvious continuities, especially when it comes to victimisation by offences against body and limb (assault), against public order (obstruction), against marriage, family and youth (violation of child's rights; failure to provide maintenance; family violence) and against traffic safety (causing a traffic accident). Here the normative change had little if any impact on the victimisation data. However, the situation is far more complex when looking at those chapters of the CC that are completely new or considerably revised compared to the previous CC. To start with the easier ones: the offence group "against human and citizen's freedom and rights" in essence (and in terms of interpreting victimisation data) became the new offence group "against personal freedom", where the continuity is established through the offence of threat. Threat remains the single most frequent offence and cause of victimisation in both CCs. A sort of 'novelty' in the CC refers to the group of offences against computer systems, programs & data (leading offence: computer fraud), which as such did not exist in the "Old CC", although computer fraud was, of course, punishable even before the enactment of the "New CC". This change follows new technical developments and causes of victimisation, without breaking continuity with prior victimisation data, but rather pointing towards the growing incidence of computer fraud as a source of victimisation in Croatia. The situation is quite similar regarding the new offence groups against privacy (the leading offence is the unauthorised use of personal data) and against labour relations and social insurance (the leading offence is the failure to reimburse wage). The interpretation of changes in victimisation data due to normatively induced changes is most complex when it comes to the "old" chapter of offences against sexual freedom and morality and the "new" chapter of offences against child's sexual maltreatment and exploitation. Put far too simplistically, but probably making it most easy to comprehend, the old chapter of offences against sexual freedom and morality was 'split up' by the new CC into the chapters of offences against sexual freedom and against child's sexual maltreatment and exploitation. This means that sexual offences against children have now not only legally, but also victimologically, become a separate and easily detectable (statistical) category, whereas sexual offences against all other persons (adults as well as helpless persons, etc.) continue to exist. Comparing the data presented in *Figures 7 and 8*, it becomes obvious that the majority of offences in the "old" group of offences against sexual freedom and morality were in fact committed against children, now in the 9th place on the list of the top 10 leading offence types causing victimisation in Croatia.

Finally, when it comes to the impact of gender on victimisation, then the incidence of victimisation by type of offence group (and without the impact of property crime) displays itself very unequally among men and women, as was already presented. However, the difference in gender-related victimisation becomes much more obvious when looking at the 10 most frequent offence groups separately for men and women (*Figure 9*). While men are most likely to become victims of threats, traffic accidents and

assaults, followed by offences against marriage, family and youth (most likely boys), women are most likely to become victims of threats, domestic violence and traffic accidents, only then followed by assaults, computer frauds and sexual victimisation.

Figure 9 Male (Blue) and Female Victims (Pink) by 10 Most Frequent Offence Types in 2017 (Without Property Crime and “Other”)



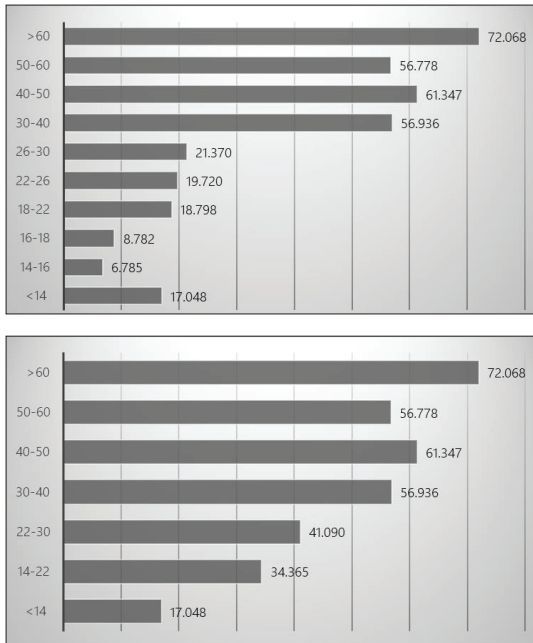
Source: Ministry of the Interior 2018.

5.2.3 Victimisation and Age

In the framework of analysing the age distribution among registered victims in Croatia, data are presented using the ‘source age groups’, as defined within the police statistics, as well as “adjusted age groups”. The “source groups” are used since they contain a much more detailed insight into the prevalence of children and young people as victims, whereas the “adjusted groups” are used for comparing the prevalence and trends of victimisation among different age groups, but without the misleading visual impact of the source groups’ unequal age intervals (Figure 10).¹¹³

¹¹³ Although the age groups have been adjusted, the intervals are not equal, since the source intervals allowed only for an approximate, not a complete adjustment.

Figure 10 Total Number of Victims by Age Distribution within Different Age Groups 2010–2018 (1. Source Age Groups; 2. Adjusted Age Groups)



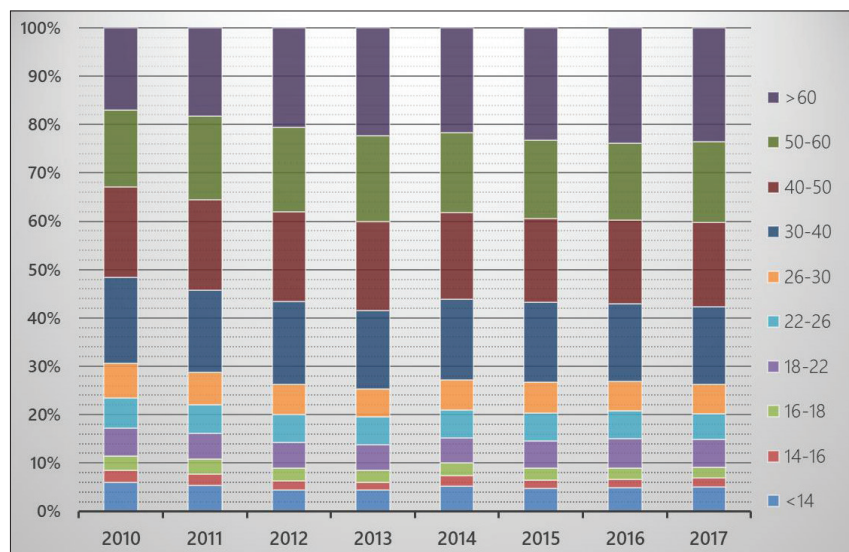
Source: Ministry of the Interior 2011–2019.

Analysing the structure of victimisation in Croatia based on age, it immediately becomes clear that there are no unexpected anomalies of fluctuations, neither in movements of trends nor in the share of different age groups in total (*Figure 11*). Basically, there is a clear, slowly, but steadily moving rise in the share of older victims (over 60 years of age), whereas the majority of victims in Croatia (more than 50%) is well over 40 years old. Young people (16–26 years of age) participate in victimisation with less than 15% and children (less than 16 years of age) with a share of well below 10%.

Looking at the same data, but now distributed in adjusted age groups (*Figure 12*), we see a slight declining trend in all age categories and a noticeable rise in the number of elderly victims above the age of 60. These trends are closely interlinked with Croatia's demographics (natural ageing-out of the population in combination with work-emigration of the younger and mid-aged population) and well reflected in a declining trend in crime in Croatia.

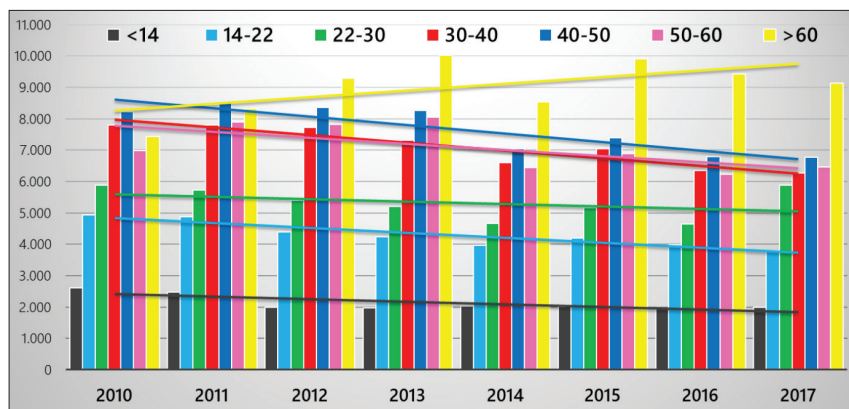
Focusing on victimisation trends of children and young people (*Figure 13*), the same slightly declining trend appears again. However, interestingly the age group of young adults (between 18 and 22 years of age) displays more of a stable

Figure 11 Victims by Age Distribution 2010–2018 (Source Age Groups)



Source: Ministry of the Interior 2011–2019.

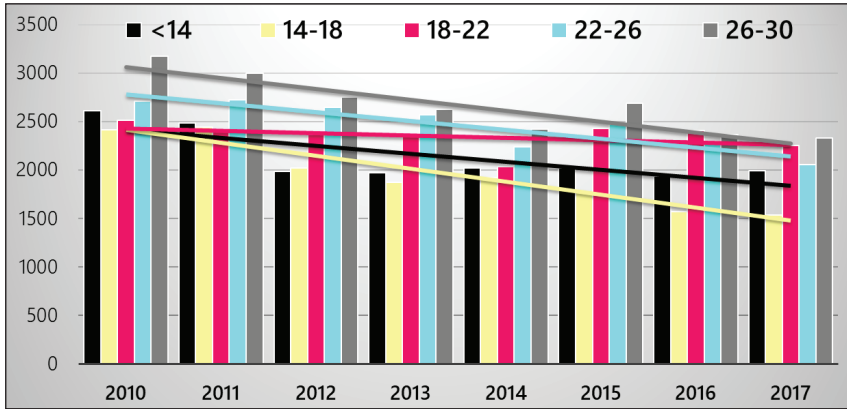
Figure 12 Victims by Age Distribution 2010–2018 (Adjusted Age Groups with Linear Trends)



Source: Ministry of the Interior 2011–2019.

trend with an almost unnoticeable decline that does not fit the other age groups' decline. A further and more detailed investigation into this anomaly would be needed in order to determine the causes of rather persistent and unchanging victimisation of the group of young adults. Since the only drop in victimisation

Figure 13 *Victimisation Trends of Children and Young People 2010–2018 (Adjusted Age Groups with Linear Trends)*



Source: Ministry of the Interior 2011–2019.

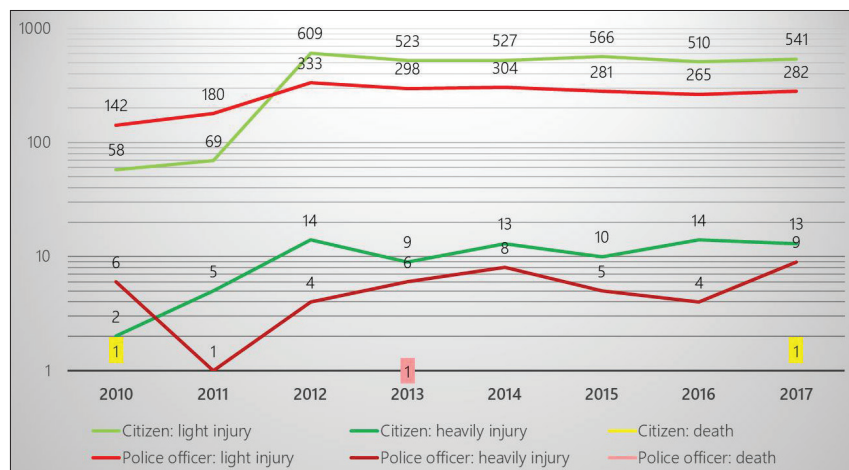
incidents in this age group appears in 2014, it is very unlikely that any of it can be explained by impacts of the new CC. Looking at data on the victimisation by type of offences and age groups might potentially provide for first hints on the probable causes.

5.2.4 Violent Victimisation by Police and Against Police

The last point of discussion, relevant in terms of violent victimisation in Croatia, deals with the issue of police victimisation and victimisation by police (Figure 14, see next page). Although the incidence of such types of victimisation appears not to be too dramatic, it should be noted that, when it comes to police-related victimisation, the number of citizens injured by the police is almost twice as high as the number of police officers injured by citizens. There is also a detectable drastic rise in the incidence of both types of victimisation in 2012. It is very unlikely that in 2012 the police, as well as citizens, simply started attacking each other much more frequently than in 2010 or 2011. The only plausible explanation for the drastic increase seems to be the enactment of a new Act on the Police.¹¹⁴ But exactly how and why these normatively induced changes to victimisation data, due to the new Act on the Police, occurred remains a mystery (for now).

¹¹⁴ Act on the Police, Law. No. 011-01/11-01/41, 23.03.2011, Official Gazette 34/11.

Figure 14 Policing-Related Injuries and Deaths among Citizens and Police Officers 2010–2018



Source: Ministry of the Interior 2011–2019.

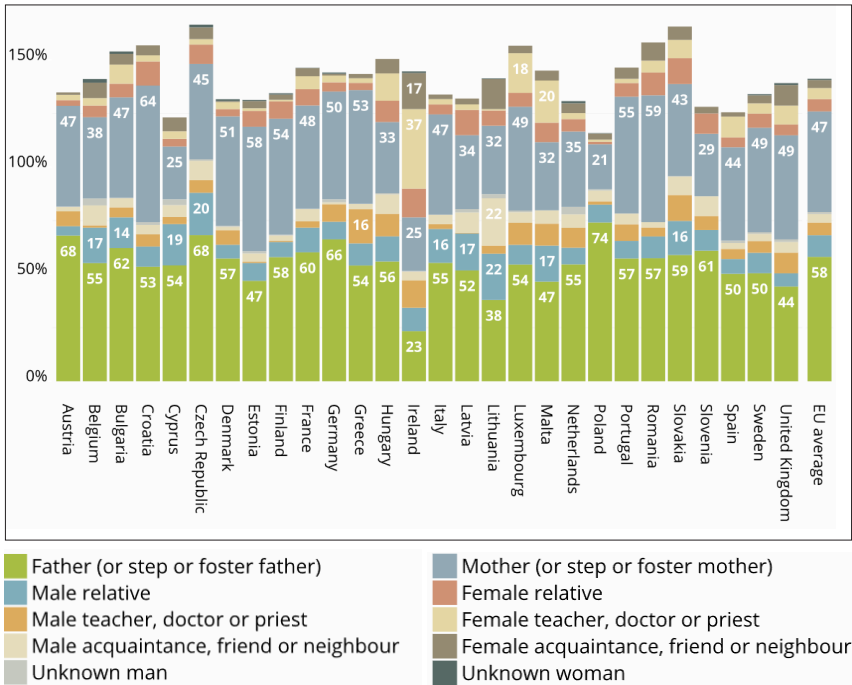
5.2.5 Violent and Sexual Victimization of Women

Shifting our focus away from the official police statistics and towards victimisation surveys, the incidence of violence against women in Croatia shall be analysed. Croatia successfully participated in the 2012 FRA gender-based violence against women survey (1,505 completed interviews).¹¹⁵ Some of the more interesting findings (in the EU comparative perspective) shall be presented and briefly discussed. When looking at childhood violent victimisation of women in Croatia (see Figure 13), it is highly interesting to see that, compared to other countries, the majority of perpetrators were not male, but female (72%), with mothers accounting for as much as 64% of the perpetrators.¹¹⁶ Looking at the data of respondents by age groups and using it to determine the trend in violent physical childhood victimisation by mothers and female perpetrators, it becomes clear that this is a fairly stable “Croatian tradition”, rather than a past or more recent trend. Overall, in terms of violent physical childhood victimisation, Croatia finds itself among the few countries that are above the EU average (Figure 15).

¹¹⁵ FRA European Union Agency for Fundamental Rights 2014, p. 24.

¹¹⁶ Ireland also shows a rather unique pattern in terms of gender and type of perpetrator when compared to other EU countries; see FRA European Union Agency for Fundamental Rights 2014.

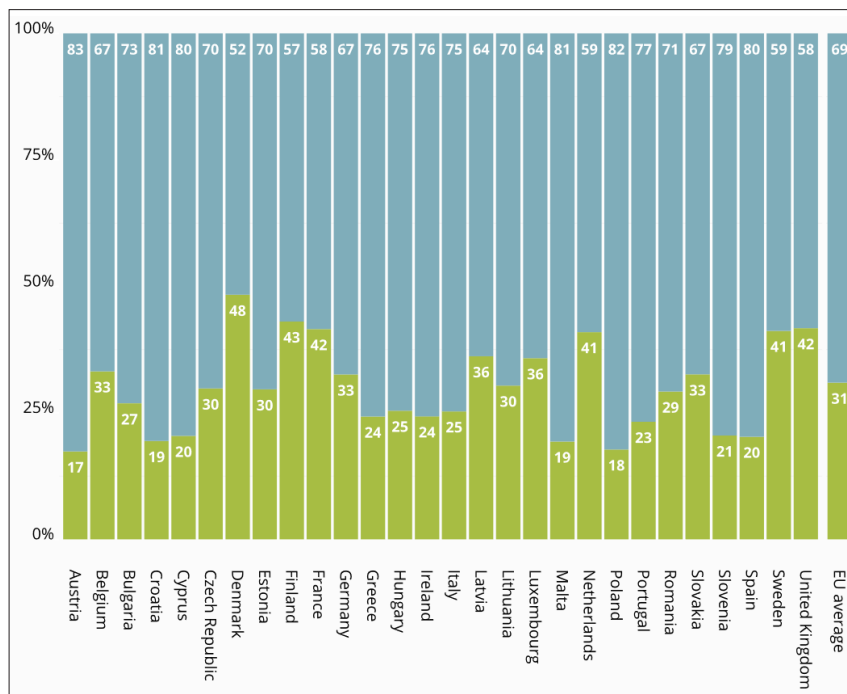
Figure 15 Physical Violence before the Age of 15 by an Adult Perpetrator, by Gender and Type of Perpetrator*



Source: FRA European Union Agency for Fundamental Rights 2014.

* In the FRA survey, physical violence before the age of 15 was asked about as follows: Before the age of 15 how often did an adult who was 18 years or over the following to you: 1) Slap or pull you by the hair so that it hurt, 2) Hit you very hard so that it hurt, 3) Kicked you very hard so that it hurt, 4) Beat you very hard with an object like a stick, cane or belt, and 5) Stabbed or cut you with something? For each type of violence women could indicate whether this had taken place “never”, “once” or “more than once”. In the FRA data explorer, the results are presented in two categories which correspond to women who had experienced any of the listed forms of physical violence (category “yes”) and women who had never experienced any of them (category “no”), see FRA European Union Agency for Fundamental Rights 2014.

Croatian high levels in violent physical childhood victimisation of women initially point towards generally higher levels of violent physical victimisation after the age of 15. Although this would be a logical assumption, the data in Figure 16 show that this is clearly not the case (Figure 16). On the contrary. Croatia displays rather low levels of violent physical victimisation after the age of 15, and with 19% is positioned well beneath the EU average (31%). The issue of whether the perpetrator is a partner or non-partner does not play a significant role (partners: 12%, EU average: 20%; non-partners: 11%, EU average: 20%).

Figure 16 *Physical Violence by a Partner or a Non-Partner after the Age of 15*

Source: FRA European Union Agency for Fundamental Rights 2014.

Looking at sexual violence against women,¹¹⁷ Croatian victimisation levels are again well beneath the EU average. The same goes for levels of fear of violent and/

¹¹⁷ In the FRA survey, concerning sexual violence, women were asked a set of questions: Since you were 15 years old / In the past 12 months, how often has someone:

- 1) Forced you into sexual intercourse by holding you down or hurting you in some way,
- 2) Apart from this, attempted to force you into sexual intercourse by holding you down or hurting you in some way,
- 3) Apart from this, made you take part in any form of sexual activity when you did not want to or were unable to refuse,
- 4) Or have you consented to sexual activity because you were afraid of what might happen if you refused?

With regard to each form of sexual violence, women could indicate that they had experienced this “never”, “once”, “2–5 times” or “6 or more times”. In the FRA data explorer, the results are presented for respondents who have experienced these forms of violence at least once (category “yes” – combination of “once”, “2–5 times” and “6 or more times”) and respondents who have never experienced them; see FRA European Union Agency for Fundamental Rights 2014.

or sexual victimisation, avoiding places or situations due to fear of being physically or sexually assaulted, stalking victimisation or victimisation through sexual harassment. In sum, based on the data (and especially in EU comparison), women in Croatia display low levels of violent physical and/or sexual victimisation, fear of such victimisation, avoiding behaviour, etc. In light of all the data and analyses, the only detected anomaly relating to high levels of violent physical childhood victimisation with predominantly female (same-sex) perpetrators becomes even more interesting and should be further explored, especially by taking a close look at Croatian methodology, e.g., in terms of questionnaire translation, and survey implementation, in order to exclude these as plausible causes of the detected anomaly.

5.3 Actual Victimisation – Key Actors’ Assessments

As stated earlier, in July 2017, the Croatian Parliament voted on changes in the CPA, the main instrument for transposing the Directive 2012/29/EU into national law. Another measure relevant for the transposition of this Directive is the Act on Domestic Violence, prescribing the rights of victims of domestic violence, which came into force on 1st January 2018. Supporting the victims of crime, or the institutionalisation of support activities, is rather new to Croatian society. There has been an intense development during the last ten years. Currently, the system is a combination of services provided by various institutions and organisations, general and specialised, governmental and non-governmental, dedicated to protecting the rights and interests of victims of crime. To obtain comprehensive information on the implementation of victims’ rights in practice, interviews were conducted with a specialised judge on juveniles at the municipality court in Zagreb, representatives of the police in Zagreb, a representative of the Victim Support Department at the County Court in Zagreb, a representative of the NGO providing support to victims of crime in Split and the Dalmatian area, a representative of the NGO specialised in protection of victims of domestic violence. According to the interviews, stakeholders noted that the geographical availability of victim support services varies greatly in Croatia. Another major issue that became apparent after the interviews is the lack of systematic training provided to practitioners dealing with victims. Moreover, the training is principally voluntary and, according to the stakeholders, the practitioners have not shown a strong interest in it. This potentially affects the overall compliance with the Directive. Additionally, based on the interviews but also based on the available reports of the NGOs and the provided materials (leaflets on victim’s rights) that are aimed to help the victims understand their rights, it could be noted that just providing the victims with the leaflets is not enough for the victims to fully understand their rights. This is even more present when, e.g., the police neither recognise the crime that has been committed toward the victims nor the special rights victims have due to specific crimes that entitle them to have special rights based on their status of vulnerability. It has been reported that the police often do not recognise that a victim is, for example, the victim of hate crime. Due to the inability to recognise and acknowledge

the elements of hate crime, the victim is often not assessed as such and, therefore, special rights are not given to this victim.¹¹⁸ Consequently, the data gathered on the actual victimisation in Croatia cannot be deemed as complete.

5.4 Preliminary Croatian Victim Typology

The question of victim typologies has been an integral part of victimology since its very start, dating back to 1948 and *Hans von Hentig's* typology of victims based on the degree to which victims contribute to causing the criminal act,¹¹⁹ or *Benjamin Mendelsohn's* 1956 typology of criminal victims,¹²⁰ as well as *Stephen Schafer's* 1968 typology, focusing on both social characteristics (*von Hentig*) and behaviours (*Mendelsohn*), placing victims in groups based on how responsible they are for their own victimisation.¹²¹ The basic idea behind these and the more recent victim typologies is to better understand and investigate crime-related victimisation with the ultimate goal of identifying type-specific, as well as type-overarching predictors of victimisation. In light of the apparent lack of victimologically relevant empirical data needed for constructing such a country-specific victim typology, a promising first approach to victimisation in Croatia is to focus on victims' vulnerabilities to criminal victimisation in Croatia's socioeconomic, historical and geographic context. This obviously includes the following groups:

- 1) women and girls;
- 2) children;
- 3) refugees, internally displaced persons and immigrants;
- 4) national, ethnic and religious minorities;
- 5) disabled persons;
- 6) elderly persons;
- 7) lesbian, gay and transgender people;

¹¹⁸ V-START 2018.

¹¹⁹ *Von Hentig* classified victims into 13 categories depending on their propensity for victimisation: 1) young; 2) females; 3) old; 4) immigrants; 5) depressed; 6) mentally defective/deranged; 7) the acquisitive; 8) dull normal; 9) minorities; 10) wanton; 11) the lonesome and heartbroken; 12) tormentor; and 13) the blocked, exempted, and fighting; see *Daigle* 2011.

¹²⁰ *Mendelsohn's* typology consists of six categories: 1) completely innocent victims; 2) victims with minor guilt; 3) voluntary victims; 4) victims guiltier than the offender; 5) victims who alone are guilty; and 6) the imaginary victims; see *Mendelsohn* 1956.

¹²¹ *Schafer* identified seven categories and labelled their levels of responsibility as follows: 1) unrelated victims – no responsibility; 2) provocative victims – shared responsibility; 3) precipitative victims – some degree of responsibility; 4) biologically weak victims – no responsibility; 5) socially weak victims – no responsibility; 6) self-victimising – total responsibility; and 7) political victims – no responsibility; see *Schafer* 1968.

- 8) institutionalised persons
(children and youth; elderly; mentally ill; detainees and prisoners; suspects);
- 9) war veterans' family members; and
- 10) men and boys.

Clearly, the typology is preliminary and not exhaustive, awaiting for an empirical testing and further adjustment to the phenomenology of victimisation in Croatia.¹²² The typology's categories shall be briefly discussed in light of victimisation incidences, trends and types as presented earlier.

Women and girls as a special type of victims owe their vulnerability to their gender, which is particularly relevant when it comes to sexual violence, sexual abuse and harassment or stalking, but also forced prostitution or begging in relation to organised crime and trafficking in human beings. Croatia is a rather conservative and very patriarchal society in many aspects, which still very much determines the role women and girls play and are expected to play. Especially when looking at domestic violence, where female victims are over-represented, it is interesting to note that, despite an existing criminal law framework, the overwhelming majority of cases is dealt with through misdemeanour proceedings, rather than criminal ones. There is obviously a strong impact of practical issues related to police work and prosecution, but such frequent use of a far more lenient prosecution framework (and sanctions) is very likely also linked to the perceived 'normality' of a certain degree of domestic violence in Croatia by the relevant authorities, basically the police. It would be interesting to compare typical cases of domestic violence prosecuted through the misdemeanour as well as the criminal procedure in Croatia and then conduct a comparative analysis with similar cases from other European countries with similar double-track systems, but a less conservative and patriarchal societal setting. Currently, the frequent usage of the misdemeanour system is almost exclusively explained using the "practicality" argument when it comes to prosecuting domestic violence.

Children under the age of 14 (and, when it comes to the CC, also under the age of 15)¹²³ are more vulnerable due to their dependence on adult persons and their lack of the ability to ensure respect and fulfilment of their rights themselves. Thus, more often than not, those who victimise them are in fact their guardians. In many

¹²² The design of a full-fledged typology of criminal victimisation together with its empirical testing and further development is an integral and prominent part of the research project "Croatian Violence Monitor: A Study of the Phenomenology, Etiology, and Prosecution of Delinquent Violence with Focus on Protecting Particularly Vulnerable Groups of Victims", funded by the Croatian Science Foundation (UIP-05-2017-8876). Additional information available online at www.violence-lab.eu.

¹²³ CC protects children under age of 15 proscribing their special protection by criminal offences of sexual abuse and exploitation of the child where the age limit of 15 years was set as the threshold; see Law No. 12511.

ways, their particular vulnerability comes close to that of disabled and elderly persons, as well as institutionalised persons, with the difference being the degree of awareness of their rights and ability to enforce these rights independently of their “guardians”. However, children are obviously also a special group in terms of violent and sexual victimisation, as well as neglect, since a whole group of criminal offences and misdemeanours specifically regulates their criminal victimisation. A special topic, which has received little if any scholarly attention in Croatia, relates to (sexual) abuse and harassment of children perpetrated by members of the clergy. While in many countries the Catholic Church has initiated self-lead or outsourced independent investigations into (sexual) abuse and harassment of children perpetrated by members of their clergy in the past decade,¹²⁴ there has been no such initiative by the Croatian Catholic Church. The issue remains a total taboo, still waiting to be addressed by Croatian researches as well as the Church.

Refugees, internally displaced persons and immigrants as a particularly vulnerable group of victims have been present in Croatia long before the ongoing European migration crisis and date back to the armed conflicts following the violent breakup of Yugoslavia. Since then, Croatia, as well as other countries in the region, had to face huge waves of refugees and internally displaced persons who, more often than not, were also the victims of (war) crimes. This group has not only experienced victimisation in past times, but continues to be particularly vulnerable to future victimisation, e.g., when resettling to their places of pre-conflict origin, or within the framework of still ongoing and prospective criminal investigations and proceedings related to war crimes.

National, ethnic and religious minorities owe their vulnerability to their individual and group affiliation to certain national, ethnic and religious entities, which may have a minority or majority status, depending on the local, regional and national context. The Sinti and Roma, who are particularly vulnerable to victimisation, represent a special case. The particular vulnerability of this groups has been recognised in Croatia and is (among other activities) given special attention within data collection and assessment activities of the Government’s Office for Human Rights and Rights of National Minorities through the activities of the Working Group for the Monitoring of Hate Crimes. The Working Group is comprised of experts from the non-governmental sector (academia and NGOs), as well as representatives from the police, prosecution, courts and the Office of the Croatian Ombudsman. Based on participation in the Working Group’s meetings,¹²⁵ especially based on the insights into data collected on hate crime cases on the grounds of nationality, ethnicity, gender, sexual orientation, etc., it appears that the incidence, as well as the severity of

¹²⁴ Additional information available online at https://www.ebfr.de/html/content/praevention_und_hilfe_bei_missbrauch.html?t=qk54v542jfb2jnj9m2vus7v17&tto=a78702f9&&.

¹²⁵ *Getoš Kalac* has been appointed a member of the respective working group for the past several years.

such hate crimes that have come to the attention of the authorities, is rather low. However, it is safe to assume that the issue of dark figure plays an important role here and that the officially recorded incidents most likely are merely a fraction of criminal victimisation.

Disabled persons and elderly persons have briefly been mentioned, but it is safe to assume that their position and related vulnerability in Croatia is particularly concerning. The assessments on their victimisation are almost impossible due to the lack of normative safeguards and, even in cases, these are in place, due to practical difficulties in effective oversight of institutions and natural persons providing care to these groups. Social work experts have characterised the sector as a ruthless “business” that is largely left without actual oversight and control, little mechanisms for sanctions, and virtually no chance to detect harassment and abuse by social workers. With the growing share of elderly persons in Croatia’s population, this is definitely one of the areas where thorough investigation and normative,¹²⁶ as well as practical improvements, are urgently needed. The situation is very similar when it comes to institutionalised persons, where the challenge is even greater, due to the difficulties in access to these persons and insight on their living conditions and treatment from outside the institutions in charge of “caring” for them.

The group of lesbian, gay and transgender people has been recognised as a particularly vulnerable group, subject to discrimination, as well as instances of violent victimisation. In contrast to many of the other mentioned vulnerable groups, these have meanwhile managed to form a strong interest group in Croatia with supporting and promoting activities. This vulnerable group is also at the attention of the aforementioned work of the Government’s Office for Human Rights and Rights of National Minorities.

A group that is rather neglected in terms of vulnerability to victimisation in Croatia is comprised out of war veterans’ family members. Although much attention has been given to former military personnel that participated in Croatia’s Homeland War, especially with respect to the post-traumatic stress disorder, extremely high incidence of suicides, and frequent substance abuse, little is known about how these and other long-term impacts of military engagement have affected their families. Over the years there have been several cases of severe violence with war veterans as perpetrators (most frequently ending in their suicides), indicating that treatment and care might be suboptimal, with many problematic aspects, such as many of the veterans still in possession of registered as well as illegal firearms. It would be highly interesting to get a closer look at domestic violence with a particular focus on the victimisation of war veterans’ family members.

¹²⁶ Roksandić Vidlička & Šikoronja 2017.

The last group, which is usually excluded from any listings of particularly vulnerable victim groups, but which is, however, the predominantly victimised one, concerns men, and, based on gender, also boys. Their specific vulnerability can be found in risk-prone behaviour, which makes them appear much more frequently not only on the victimising but also on the victimised side. Based on this phenomenological frequency, this group constitutes a separate victimological group and, as such, deserves special attention.

6. Public Discourses About Victims and Victimisation, Victim Rights and Protection

In the last couple of years, public and media discourse on victims and victimisation in Croatia has been strongly oriented towards victims of domestic violence, especially women. It may be argued that society has become more susceptible to violence in general, although the incidence and severity of (violent) victimisation are clearly dropping, as in most other European countries. This leads to a situation where domestic violence is no longer considered, not only legally but also from the point of view of the general public, a private family matter, but an important social, legal and political matter. The society often, especially in cases of hideous crimes, views the position of the victim of a crime and its family as unsatisfactory in the framework of the national criminal justice system. In that context, public and media discourse becomes dominated by voices of those who ask for a more efficient, severe and victim-oriented criminal justice. Croatia has also been experiencing a very interesting social development in the last couple of months with regard to the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The ratification of this Convention has become a major political battlefield between those interest groups who saw the Convention as a Trojan horse of gender ideology and those who saw it as an instrument whose ratification is necessary in order to improve prevention and suppression of violence against women and domestic violence. The Convention was finally ratified, despite strong opposition from the Catholic Church, which has a very prominent role in Croatian society. This also raises a concern about the general awareness and attitudes towards a sincere implementation of the provisions of the Istanbul Convention. As previously explained, many of the Convention's provisions have already been incorporated in the CC back in 2011, long before the discussion about its ratification escalated.¹²⁷

Until recently, special protection of victims of war-related sexual violence represented a very present topic in Croatia's victim-narratives, especially given the fact that this category of war victims never got special recognition of their status, contrary

¹²⁷ See the Law No. 12511.

to other victims of war. Only after conducting the UNDP's Study on the assessment of the number of sexual violence victims during the Homeland War on the territory of the Republic of Croatia, and publishing a special policy paper on optimal forms of compensation and support to victims,¹²⁸ which led to a new law, this topic is no longer considered as one of the main topics in the area of victim protection in Croatia's social arena. However, the implementation of this law does require further research.

The public might have become more aware of the problem of hate crime, especially against the LGBT (Lesbian, Gay, Bisexual and Transgender) community and other minorities, as public discourse intensified during the last decade or two. However, it is difficult to assess whether the public discourse simply reflects the heightened sensitivity of relevant NGOs, governmental bodies and the media on the topic of hate crimes, or if it really reflects a changed awareness in society. The question is rather interesting and should be further investigated but, based on expert opinion, it seems to be much more likely that the media discourse is not an accurate reflection of the public discourse or even societal attitudes towards minority rights and their protection.

7. Expert Assessment and Constructive Criticism with Suggestions for Improvement

Croatia has transposed the Directive 2012/29/EU to a large extent but there are still some important issues that are affecting the complete implementation of the Directive on victim protection. When analysing legislation, we have noticed that there is practically no restorative justice mechanism in Croatia and it is, in our opinion, long needed. Furthermore, the lack of systematic training provided to practitioners dealing with victims points to the need for implementing training in a more systematic way. This would lead to a broader understanding of the importance of individual assessment of victim's rights in criminal proceedings. This would also help the police identify the crimes better, which would have repercussions on the rights that victims have. This is especially visible in the identification of committed hate crimes. On the level of implementation, it is important to have enough staff and funds to effectively implement Victim Support Services, The Victim Support Service, as established at the Zagreb's County Court, could serve as a role model for all institutions established with the aim to enhance victims' rights. Although this Service is helping all stakeholders, they are simply not able to serve as the main centre for the whole of Croatia since they were established for a much narrower jurisdiction. Moreover, special attention to victims of economic violence is needed in Croatia.¹²⁹ This is

¹²⁸ United Nations Development Programme 2013.

¹²⁹ *Roksandić Vidlička* 2017b.

especially true due to the fact that the criminal offences resulting from privatisation and ownership transformation are not yet resolved. The same occurs with victims of war profiteering. This being underlined, the Balkan Criminology Group plans to further engage in researching the identified weak points in the area of victim protection in Croatia. Moreover, further research is necessary on the need to include and develop the most adequate restorative justice measures in the Croatian criminal justice system.

8. Conclusions

Victimology has a long history, but a rather poor tradition in terms of the substantial scientific content in Croatia. Croatian victimology has yet to rise to the level of a nationally recognisable scientific discipline. However, there is a strong presence of victim rights movements, organisations, victim protection policies and legislation. Under the influence of international law and especially criminal law of the EU, the legal position of victims of crime has been gradually becoming stronger. The peak of this development has been characterised by the adoption of an EU Directive-conform legislation on victim protection, which came into force in December 2017. When looking at the development of victim-centred legislation in Croatia, one can identify two tendencies influencing this process. The first one relates to the strengthening of mechanisms, which enable the victim to cope with the consequences of a criminal offence more easily. It is the basis for the recognition of victimisation – recognition of a status of a victim of a criminal offence, followed by the establishment of different extra-procedural and procedural rights that protect the victim from repeated and secondary victimisation. Moreover, access to the compensation of damages caused by criminal offences is guaranteed, as well as access to victim support services. The second tendency relates to the strengthening of the legal position of the victim in criminal proceedings. This position guarantees the transformation of a victim from a passive participant in criminal proceedings, most often as a witness, to an active procedural participant who is given different procedural rights that enables the victim to promote his/her own interests in criminal proceedings. Croatian CC puts an emphasis on victim protection by introducing new offences and aggravated circumstances when the victims are vulnerable. Regarding victimisation in Croatia and in light of the apparent lack of victimologically relevant empirical data needed for constructing such a country-specific victim typology, a promising first approach, used in this article, was to focus on victims' vulnerabilities to criminal victimisation in Croatia's socioeconomic, historical and geographic context. Police statistics are the most comprehensive and publicly available official statistics that contain at least the basic victimisation data and are thus up-to-date. Based on these statistics, the following groups of victims were identified: 1) women and girls; 2) children; 3) refugees, internally displaced persons and immigrants; 4) national, ethnic and religious minorities; 5) disabled persons; 6) elderly persons; 7) lesbian, gay and transgender

people; 8) institutionalised persons (children & youth; elderly; persons with mental disabilities; detainees and prisoners; suspects); 9) war veterans' family members; and 10) men and boys.

Moreover, special attention should be given to victims of economic violence in Croatia especially due to the fact that the criminal offences resulting from privatisation and ownership transformation are not yet resolved. Therefore, a special typology should be created to analyse victims of those crimes. The same occurs with victims of war profiteering. Taking all the above mentioned into consideration, additional endeavours will be necessary in order to establish victimology as an independent scientific discipline in Croatia. The focus of this discipline might be on those categories of victims, which may be considered the most vulnerable, having in mind the specific Croatian context. Besides victims of violent crimes, women and children victims of crime, minority groups that are most likely to become victims of crime, special attention should also be devoted to elderly people since Croatian population is becoming older.¹³⁰ In addition, victims of economic crime deserve more attention. Due to the transition from one economic system to the other in the 1990s, Croatian society is still struggling with the consequences of economic crimes that occurred during the process of privatisation and ownership transformation. Croatia has still not found an appropriate way to efficiently address those violations and compensate the victims of those crimes (transitional economic crimes).¹³¹

9. Summary in Croatian

Viktimologija ima dugu povijest, ali nedovoljno razvijenu tradiciju u pogledu sistematiziranih znanstvenih sadržaja u Hrvatskoj. Hrvatska se viktimologija još nije podigla na razinu nacionalno prepoznatljive znanstvene discipline iako su hrvatski znanstvenici stvarali Svjetsko viktimološko društvo. Međutim, prisutna je snažan pokret za jačanje prava žrtava, organizacija, politika i zakona o zaštiti žrtava. Pod utjecajem međunarodnog prava, a posebno kaznenog prava EU, pravni položaj žrtava kaznenih djela postupno jača. Vrhunac tog razvoja obilježilo je donošenje svobuhvatnog zakonodavstva o zaštiti žrtava u skladu s Direktivom EU, koje je stupilo na snagu u prosincu 2017., iako su i brojni zakoni daleko prije toga vremena sadržavali odrebe o zaštiti prava žrtava. Kada se razmatra razvoj zakonodavstva usmjerenog na zaštitu žrtava u Hrvatskoj, uočavaju se dvije tendencije. Prva se odnosi na jačanje mehanizama koji omogućuju žrtvi da se lakše suoči sa posljedicama kaznenog djela. Temelj za to je priznavanje činjenice viktimizacije – priznanje statusa žrtve kaznenog djela, nakon čega slijedi uspostava različitih izvanpostupovnih i postupovnih prava koja žrtvu štite od ponovljene i sekundarne viktimizacije. Štoviše, zajamčen

¹³⁰ Roksandić Vidlička & Šikoronja 2017.

¹³¹ Roksandić Vidlička 2017.

je pristup naknadi štete prouzročene kaznenim djelima, kao i pristup službama za podršku žrtvama. Druga tendencija odnosi se na jačanje pravnog položaja žrtve u kaznenom postupku. Ova pozicija jamči transformaciju žrtve iz pasivnog sudionika u kaznenom postupku, najčešće kao svjedoka, u aktivnog procesnog sudionika kojem se pružaju različita procesna prava koja omogućuju žrtvi da promiče svoje interese u kaznenom postupku. Hrvatski kazneni zakon stavlja naglasak na zaštitu žrtava uvođenjem novih kaznenih djela, često kvalificiranih, kada su žrtve ranjive. Što se tiče viktimizacije u Hrvatskoj i s obzirom na očigledan nedostatak viktimološki relevantnih empirijskih podataka potrebnih za izgradnju specifične tipologije žrtava, novi pristup, korišten u ovom članku, bio je usmjeravanje na ranjivost žrtava na kaznenu viktimizaciju u hrvatskom socioekonomskom smislu te povijesnom i zemljopisnom kontekstu. Kako je policijska statistika najopsežnija i javno dostupna službena statistika koja sadrži barem osnovne podatke o viktimizaciji i ažurna je, služila je kao temelj za utvrđivanje sljedećih skupina žrtava: 1) žene i djevojke; 2) djeca; 3) izbjeglice, interno raseljene osobe i imigranti; 4) nacionalne, etničke i vjerske manjine; 5) osobe s invaliditetom; 6) starije osobe; 7) lezbijske, gej i transrodne osobe; 8) institucionalizirane osobe (djeca i mladi; starije osobe; osobe s duševnim smetnjama; zatočenici i zatvorenici; osumnjičeni); 9) članovi obitelji branitelja; i 10) muškarci i dječaci. Nadalje, posebnu pozornost hrvatski stručnjaci i znanstvenici trebaju posvetiti žrtvama gospodarskog kriminala u Hrvatskoj, posebice zbog činjenice da kaznena djela proizašla iz pretvorbe i privatizacije još nisu riješena. Stoga bi trebalo stvoriti posebnu tipologiju za analizu žrtava tih zločina. Isto se događa i sa žrtvama ratnog profiterstva. Osim žrtava nasilnih zločina, žena i djece žrtava zločina, manjinskih skupina koje najvjerojatnije postaju žrtve zločina, posebnu pažnju treba posvetiti i starijim osobama s obzirom na činjenicu da hrvatsko stanovništvo postaje sve starije. Pored toga, žrtve gospodarskog kriminala zaslužuju više pozornosti. Zbog prelaska s jednog gospodarskog sustava na drugi tijekom 1990-ih, hrvatsko se društvo još uvijek bori s posljedicama gospodarskih zločina koji su se dogodili tijekom procesa privatizacije i vlasničke transformacije. Hrvatska još uvijek nije pronašla odgovarajući način za učinkovito rješavanje tih kršenja i naknadu žrtava tih zločina (tranzicijska gospodarska kaznena djela). Uzimajući u obzir sve gore spomenuto, bit će potrebni dodatni naponi za uspostavu viktimologije kao neovisne znanstvene discipline u Hrvatskoj. Fokus ove discipline mogao bi biti na onim kategorijama žrtava, koje se mogu smatrati najugroženijima, imajući u vidu specifični hrvatski kontekst. Ovo poglavlje predstavlja korak u tom smjeru.

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