

COMPENSATION MECHANISMS FOR VICTIMS OF CRIME
IN CRIMINAL PROCEEDINGS IN THE EUROPEAN UNION

DEVELOPMENT OF COMPENSATION MECHANISMS IN LATVIA

SUMMARY

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1. COMPENSATION MECHANISMS FOR VICTIMS OF CRIME – EXPERIENCE FROM EUROPEAN COUNTRIES

The development of support mechanisms for victims of crime in the European and other countries depends on two components – the criminal law policy defined by the state (a) and in correspondence with the contents of values included therein - selected tools for implementation of the respective policy (b). Nowadays compensation system for victims of crime is not conceived narrowly as a formal right to receive certain financial means, since not all of the damage caused by a crime can be compensated to victims by money. Thus in many countries the compensation mechanism has developed into comprehensive support system for people who have suffered damage from crimes and includes the elements of support in interaction with law-enforcement authorities and other public authorities, local governments' institutions; emotional support immediately after the damage has been inflicted and psychological help; special care for the surviving relatives of a person deceased as a result of crime, especially for children. Introduction of such compensation mechanism reduces detrimental consequences of a crime for many people not only for the person who was the target of the crime. Support for victims of crime includes a package of measures that affects positively the state and the general public on everyday basis and in the long-term with tangible and measurable results. The positive effect is felt by specific people – they are cured of mutilations, after healing they return to the labour market and take care of their children; they are well-raised and educated young adults who further the economic growth of the state instead of becoming offenders or persons living at the cost of the state. The support system for victims of crime is one of preconditions in the development of mentally and physically healthy, sustainable society.

1.1. England, Wales and Scotland¹

The compensation system in Great Britain began its development in 1960s. From 1 April 1996 complete regulatory basis was developed, including general legal regulation in the Criminal Justice Act of 1988² (a); specific legal regulation in the Criminal Injuries Compensation Act of 1995³ (b) and procedural document for accurate application of the aforementioned principles of law – the Criminal Injuries Compensation Scheme of 1996⁴ (c). 8 compensation schemes have been in operation in Great Britain, namely, Scotland, England and Wales, since 1964 – those of 1964, 1979, 1983, 1990, 1995, 2001 and 2012. The last one came into force at the end of 2012⁵.

Under the compensation scheme of 2012 the state guarantees compensation for damage inflicted upon persons, who have suffered from crimes, resulting in damage to their health. It should be noted that according to Great Britain's state compensation

¹ Author's note: in England, Wales and Scotland support measures to victims of crime are provided by certain charitable institutions, for example, in England and Wales: Victim Support - <http://www.victimsupport.org.uk/>, but in Scotland a special institution: Victim Support Scotland - <http://www.victimsupportscotland.org.uk/page/index.cfm> [viewed on 25.02.2013]

² Criminal Justice Act 1988. Available at <http://www.legislation.gov.uk/ukpga/1988/33/contents> [viewed on 14.12.2012].

³ Criminal Injuries Compensation Act 1995. Available at <http://www.legislation.gov.uk/ukpga/1995/53/contents> [viewed on 04.12.2012].

⁴ The Criminal Injuries Compensation Scheme, 1996. Available at <http://ej.uz/hvzb> [viewed on 14.12.2012].

⁵ Criminal Injuries Compensation Scheme, 2012. Available at <http://www.justice.gov.uk/victims-and-witnesses/cica>, [viewed on 19.12.2012].

scheme the amount of compensation awarded depends on the severity of damage suffered by the victim as a result of crime, instead of the severity of crime. According to the scheme victims satisfying the criteria for compensations may apply for compensations in the amount corresponding to damage inflicted upon them from one to 250 thousand Pounds Sterling.

Persons who are victims of violent crimes, nationals of the United Kingdom, who have or have had a legal connection to the United Kingdom⁶, as well as persons, who are victims of human trafficking, persons, who have been assigned the temporary protected status or humanitarian protection or asylum seeker's status **may apply for compensation**. Compensation is paid to victims who are the direct victims of violence; have taken justified risk to prevent a crime; have been traumatised psychologically by witnessing a crime; are relatives of a person deceased as a result of a violent crime; persons who have been materially or physically dependent on such person or are relatives of a person deceased from bodily injuries inflicted upon it as a result of a crime.

CICA (Criminal Injuries Compensation Authority)⁷ is an authority established in 1990 for the purpose of managing compensation schemes. It **is entitled to reject applications** in series of cases related to behaviour of the victim himself/herself before he/she incurred the damage, during it or afterwards – if the victim has a criminal record; if the victim does not cooperate or does not cooperate in a proper manner with the police, namely, fails to provide information or otherwise hinders investigation of the crime. If a minor person has suffered damage while it was a minor, but police was not informed, it is deemed that the application was submitted within the set term of 2 years and it cannot be rejected. CICA undertakes two types of activities to make sure, if the requested compensation is payable, in what amount and to whom – it requests proof from the applicant (a) and gathers and wraps up evidence on its own (b).

In some cases CICA **may request repayment of an awarded compensation from the victim**, if –the victim failed to cooperate with law-enforcement authorities, which resulted in a failure to hold the offender responsible for the crime (a); the victim deliberately provided misleading information to CICA concealing facts which were vital for the case (b); the victim has received compensation for the damage from other sources (c).

Different **forms of compensation** are available depending on the type of damage compensation is intended for – for the inflicted damage; loss of income; paying special expenses; in case of loss of a relative; payment to a child; related to the loss of provider; payment to cover funeral costs.

Taking into account that the victim support system functions in an inter-authority environment (the police, the witness protection service, the prosecution, Her Majesty's Courts Service, the Youth Offending Service etc.) **an inter-authority cooperation framework** must be set, and this is defined by the Code of Practice for Victims of Crime developed and approved based on provisions of the Domestic Violence, Crime and Victims Act of 2004⁸. The Code of Practice for Victims of Crime includes a list of authorities responsible in England and Wales and in certain other territories of Great Britain for provision of the minimum of services to victims of crimes set forth in legislation of Great Britain. The code also describes the procedure

⁶ A guide to the Criminal Injuries Compensation Scheme 2012, Section 4. Available at <http://www.justice.gov.uk/downloads/victims-and-witnesses/cic-a/how-to-apply/cica-guide.pdf> [viewed on 19.12.2012].

⁷ Criminal Injuries Compensation Authority: Account 1998-99, March 29, 2000. Available at <http://www.official-documents.gov.uk/document/hc9900/hc03/0357/0357.pdf> [viewed on 07.12.2012].

⁸ Domestic Violence, Crime and Victims Act, 2004. Available at <http://www.legislation.gov.uk/ukpga/2004/28/contents> [viewed on 07.12.2012].

for submission and consideration of complaints. Creation of a support system for victims of crimes means that one should take into consideration the fact that it is not only integrated into the justice system, but overreaches by far its boundaries encompassing such fields as social security, medical assistance and other support measures. Any changes to the framework of legislative instruments, if they are not balanced out to work in the interests of the victim of crime under the system in general may lead to weakness or insufficiency of the support system, namely, if a group of victims of crime is excluded from the legal aid system, this group of persons cannot participate any more in the other formal processes and receive from the state support it requires and is due. It is reasonable to conclude that support system of victims of crime in one country is a complex system where each component of the system – legal regulation, legal aid, shelters, non-governmental sector and others – is of great significance.

1.2. Northern Ireland

In Northern Ireland the mechanism of the compensation system is managed by **an executive agency**⁹ (hereinafter the agency) **of the Department of Justice** established on 1 April 1992. The agency administrates five compensation schemes ensuring compensation of damage to victims of crimes, who have suffered physical damage and/or material loss as a result of illegitimate actions of other persons. A person who has suffered damage as a result of illegitimate actions of another person is entitled to compensation for the physical and mental damage inflicted upon it, as well as for its material loss.

The support system for victims of crime consists of two parts: ensuring financial compensation to the victim of crime¹⁰ to compensate physical and mental damage suffered as a result of a crime; ensuring psychological, emotional and practical, including legal support to the victim after the crime (provided by state authorities in cooperation with non-governmental and charitable institutions). For the purpose of performing the aforementioned functions a circle of cooperation partners (authorities) is established including different public authorities – they cooperate to provide support to victims within their competence **according to the Code of Practice for Victims of Crime**¹¹. The victim support organisation Victim Support Northern Ireland¹² participates in cooperation as well. The Code of Practice for Victims of Crime categorises the victims into groups to facilitate administration of support resources according to victims' needs. The support system is organised to enable provision of support not only to victims of crimes, but to witnesses as well. The support system works with persons in both categories by distinguishing sensitive groups of victims or witnesses are divided into who have suffered from sexual assaults or intimidation.

The victim support system is organised by defining fields of competence of authorities (a) and establishing links between the fields of competence (b) in a way that allows victims and witnesses to understand clearly the forms of inter-authority cooperation suited to their specific needs. **The inter-authority cooperation model** includes the police, the Compensation Agency, the Youth Justice Agency, the Probation Board, the Prison Service, charitable and support organisation Victim

⁹ Compensation Agency. Available at <http://www.dojni.gov.uk/index/compensation-agency.htm> [viewed on 10.02.2013].

¹⁰ Compensation for Victims of Crime NI. Available at <http://www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/victims-and-witnesses-of-crime/compensation-for-victims-of-crime.htm> [viewed on 02.02.2013].

¹¹ Code of Practice for Victims of Crime of Northern Ireland. Available at http://www.dojni.gov.uk/code_of_practice_for_victims_of_crime [viewed on 02.02.2013].

¹² Victim Support NI. Available at <http://www.victimsupportni.co.uk/> [viewed on 02.02.2013].

Support Northern Ireland etc... The Code of Practice for Victims of Crime also defines the legal status and competence of the inter-authority group – including analysis of national surveys and complaints of victims, organisation of professional discussions once in 6 months, planning of victims and witnesses policy. The inter-authority cooperation model used in Northern Ireland is considered successful also because it includes regular inter-authority monitoring of the system – since several authorities simultaneously bear responsibility for the evaluation of results, it is considered that such evaluation is less prejudiced and corresponds better to the actual situation, and provides a possibility to react immediately to faults in any part of the system avoiding thus bureaucracy and laying the blame from one authority to the other. Latvia may well use this model as an example in developing efficient Support system for victims of crime.

1.3. The Republic of Estonia

Victim support system in Estonia and its **legal regulation** was developed during the last ten years. Since 1 February 2004 the Victim Support Act¹³ is in force, which compared to previous regulation increased the range of cases, in which compensations are awarded along with their size¹⁴. In addition to the aforementioned legal regulation the government of Estonia has approved the programme „Creation of the system of aid to victims of crime” with the aim to create a victim support system, encourage understanding and support of society, ensure aid to victims of crime and perform research work by encouraging and developing amendments to legislative instruments, create Registry of Victims and improve it.¹⁵ **The aim of the victim support system** is provision of state support to victims in a way that would help them overcome the consequences of the crime and improve the quality of their lives. It is defined that victims require emotional, legal and material assistance and the help must come on time.¹⁶ **The victim support system in Estonia includes services** in the form of professionals’ consultations, financial compensations and assistance in interaction with public authorities and local government institutions to victims.

Persons, who are citizens of the Republic of Estonia; persons who reside in Estonia based on temporary or long-term residence permit; citizens of the European Union; citizens of a state which is a party to European Convention on Compensation of Victims of Violent Crimes; persons who are provided international protection and residing legitimately on the territory of Estonia **may apply for compensation** related to an event of a crime. **An application for compensation must be submitted** to the Republic of Estonia Social Insurance Agency or in cross-border cases – to the responsible authority of the respective country. The Social Insurance Agency after receipt of documentation makes a decision in course of 3 months, but the victim must provide a reply in course of 10 work days after the decision has been made. In cross-border cases the procedure for consideration of cases and payment terms are different.

The compensation is paid to the victim (a), who has become a victim of crime in the territory of the Republic of Estonia or to his/her dependent (b), but the law states that the crime must have taken place in the territory of the Republic of Estonia¹⁷; a natural person who takes responsibility for the medical care or the funeral of the victim

¹³ Victim Support Act. Available at <http://www.legaltext.ee/indexen.htm> [viewed on 23.01.2013.].

¹⁴ European Committee of Social Rights - European Social Charter (Revised) Conclusions 2006, Volume 1: Albania, Bulgaria, Cyprus, Estonia, Finland, Ireland, Italy, Council of Europe, 2007. p.214.

¹⁵ Tenno P. Estonia Kuressaare. Victim support in weak population. Available at <http://www.envisvictimsupport.eu/?p=664>[viewed on 23.01.2013.].

¹⁶ Victim support. Available at <http://www.sm.ee/eng/activity/benefits-and-support/victim-support.html> [viewed on 23.01.2013.].

¹⁷ Victims: Support and Assistance. Council of Europe, 2007. - p. 217.

is entitled to compensation of expenses according to the Victim Support Act¹⁸ (c); to victims outside the territory of the Republic of Estonia, if the victim is a resident or a citizen of Estonia, who did not reside in the territory of Estonia because of work or studies in another state, where he/she has not applied for a compensation (d); compensation is also paid to the person, who has made an attempt to prevent a crime and has suffered damage as a result (e). The compensation is paid, if the victim has incurred serious damage to his/her health and the health disorder lasts for at least 6 months or the victim has lost his/her life as a result of the damage sustained from the crime. The Victim Support Act of Estonia (Article 8, part three) provides for the duty to compensate the damage also in cases it is not possible to hold the offender criminally responsible, the offender has not been identified or detained, or cannot be tried due to other reasons, but gathered evidence indicates that his/her actions have caused harm. The compensation is paid in incomplete criminal proceedings, if the actual circumstances of the case are clear. Only in case of doubt about circumstances of the case compensation may be paid after the effective date of a judgment as well.

The amount of compensation for material loss may not exceed 80 % of the total loss incurred by the victim, but the compensation payable to one victim and all of his/her dependents may not exceed 9590 euros¹⁹. The Victim Support Act provides also for cases when victims are not paid compensations – if the victim caused or facilitated the commission of the crime or the occurrence of the damage was caused by his/her reckless or wilful behaviour (a); the victim has failed to report the crime to the police within fifteen days, although he/she would have been capable of doing so; the victim has been convicted of the commission of a criminal offence or information concerning his or her punishment has not been deleted from the punishment register.

After payment of compensation to a victim, the **subrogation action** is transferred to the state for the amount paid by the state to the victim. In subrogation action the state is represented by the Minister of Social Affairs. If following the receipt of compensation its beneficiary receives compensation for the same damage from the offender who committed the crime or from another source, the beneficiary must report this to the Social Insurance Agency and repay the compensation in the amount he/she received from the offender or from another source.

1.4. The Republic of Lithuania

In the Republic of Lithuania work on **legal regulation of the compensation system** of victims of crime was launched in 2002 with development of the draft law on establishing crime victims' fund. After repeated rewriting of the draft law, on 30 June 2005 the Law of the Republic of Lithuania on Compensation of Damage Caused by Violent Crimes (hereinafter – the Compensation Law of Lithuania), by which Lithuania transposed the Council Directive 2004/80/EC of 29 April 2004²⁰ Compensation to victims of crime, establishing a compensation system for damage inflicted as a result of violent crimes. The effective version of the Compensation Law of Lithuania in its turn²¹ came into force on 1 March 2009. The Compensation Law establishes that the state compensation is payable for two types of

¹⁸ State compensation of victims of crime. Available at <http://www.ensib.ee/state-compensation-of-victims-of-crime/> [viewed on 24.01.2013.].

¹⁹ State compensation of victims of crime. Available at <http://www.ensib.ee/state-compensation-of-victims-of-crime/> [viewed on 24.01.2013.].

²⁰ Council Directive 2004/80/EC (29 April 2004) relating to compensation to crime victims, Official Journal L 261 , 06/08/2004 pages 0015 – 0018. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0080:lv:HTML> [viewed on 27.02.2013.].

²¹ Author's note: the `existing version` must be construed as the version of the respective legislative instrument effective as of 1 March 2013.

damage – material loss (a) and moral damage (b) incurred as a result of a violent crime, and provides for two ways to receive the compensation: in incomplete (in advance) or complete criminal proceedings.

The Compensation Law of Lithuania provides for compensation only to persons who have suffered from violent crimes – who have lost their life as a result of intentional illegal activities aimed at them; intentional severe damage or damage of medium severity has been inflicted upon a persons health; medium severity, severe or very severe criminal offences against a person's freedom, sexual immunity or self-determination have been committed. According to the Compensation Law a victim is a person who as a result of an intentional violent crime has suffered material loss and (or) moral damage, or, spouses and dependents of a victim who has lost his/her life as a result of a violent crime. Dependents according to the law are minor, adopted children of the victim, disabled parents or other dependent disabled persons, for whom the victim provided or who were entitled to receive support from him/her as of the day of death of the victim, and children of the deceased victim born after his death.

A compensation in the Republic of Lithuania can be received, if the following conditions are (are not) met – the criminal offence was committed on the territory of the Republic of Lithuania; no compensation has been provided for the damage caused by the crime through other compensation mechanisms (insurance, social assistance or the offender's compensation to the victim); the application for compensation for the damage caused by the crime has been filed within ten years after the court ruling establishing the right to compensation was passed; the bailiff due to external reasons has not been able to collect the compensation from the offender (the offender has no property or financial means to collect the compensation from).

According to legislation²² **the maximum amount of compensation** for a material **loss** equals 100 subsistence minimums ²³ (approximately LVL 2 652,-), but the amount of moral damage – 120 subsistence minimums (approximately LVL 3 182,4) in cases the victim has deceased. The Compensation Law of Lithuania provides for advance compensation for victims of violent crimes, but in case of their death – for his/her spouses, children, parents, foster-parents and other dependents. The maximum amount of compensation for material loss and moral damage paid by the state amounts to half of the amount established according to the general procedure. **The compensation can be claimed to cover expenses** of medical care, rehabilitation costs, purchase special equipment (for example, a wheelchair), disability, funeral costs and loss of provider.²⁴

The Ministry of Justice is responsible for awarding and payment of compensations. It administrates the Crime Victims Fund as well. The Ministry of Justice represents the state in subrogation action proceedings, though the court passes a judgment about subrogation action against a person establishing the amount of the compensation to be awarded and the amount of subrogation action. A claim for recovery of the awarded compensation or a part of it may also be submitted in case a person provided misleading information about the amount of compensation due or the nature of damage suffered.

²² Law of the Republic of Lithuania on Compensation for Damage Caused by Violent Crimes, (version without the amendments of 2009). Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_lit.pdf#page=21 [viewed on 27.02.2013.].

²³ Author's note: one subsistence minimum of the Republic of Lithuania amounts of 130 Litas, which is ~LVL 26,52.

²⁴ Ibid., Article 11

Legal regulation of operation of the **Crime Victims Fund of Lithuania** is provided by the Compensation Law of Lithuania²⁵. The Criminal Code of Lithuania Section 118 provides that in cases the offender has no means and there is no possibility to collect the damages from him/her, the victim may be awarded compensation in advance from the Crime Victim Fund.²⁶ State compensations to victims of violent crimes are paid from this Fund. The Fund is administered by the Ministry of Justice and its financing is comprised of - payments to the Fund ordered by court; funds collected from the culprit according to the Compensation Law; funds from the state budget and other lawfully acquired means²⁷. The court may order the culprit as his/her punishment or as part of his/her punishment to make a payment to the Crime Victims Fund in the amount of five to twenty-five subsistence minimums. The Fund's budget is kept separate from the budget of the Ministry of Justice. The remaining funds at the end of the year remain at the Fund's disposal and are used for other programmes described in the Compensation Law of Lithuania.

The Criminal Code of Lithuania Article 44 Clause 10 provides for the right of a person who has been recognised a victim to receive **state guaranteed legal aid**. No other victim support measures are available in Lithuania except for legal aid and the state compensation. Psychological help to reduce post-traumatic stress disorder is available only with projects implemented by non-governmental organisations, but they are episodic and available only in the largest cities, as well as social support.

1.5. Czech Republic

The state compensation system of victims in the Czech Republic is regulated by the Act No.209/1997²⁸ of 1997, but receipt of compensation from the offender is regulated by the Act on Criminal Judicial Procedure of Czech Republic. No.141/1961²⁹, claim for compensation of damage may also be submitted according to civil procedure. The Czech Republic has a **state compensation fund** comprised of means obtained from convicted persons, who have caused damage.

Victims of crimes may receive financial support according to provisions of the Act No.209/1997 (hereinafter - the act) in the Czech Republic. Under Article 2 of the act **the term "victim" means a natural person** whose health has been harmed and this damage is the consequence of a crime or an attempt at a crime. If the victim has died as a result of a crime, his/her relatives, namely, parents, spouse or children who lived in one household with the deceased person at the time he/she died or a person the

²⁵ Law of the Republic of Lithuania on Compensation of Damage Caused by Violent Crimes of 14 November 2008. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=332087&p_query=&p_tr2=2 [Viewed on 27.02.2013.].

²⁶ Criminal Procedure Code of the Republic of Lithuania. Version of 13 November 2012. Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=438015&p_query=&p_tr2=2 [viewed on 27.02.2013.].
[Viewed on 28.02.2013]

²⁷ Law of the Republic of Lithuania on Compensation of Damage Caused by Violent Crimes of 14 November 2008. Article 12, part 3.
http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=332087&p_query=&p_tr2=2
[Viewed on 27.02.2013]

²⁸ Author's note: Act no. 209/1997 Coll. dated 31st July 1997 governing the provisions of monetary assistance to crime victims and governing changes and supplementation to some Acts. Change:265/2001 Coll. – in English.

²⁹ Act on Criminal Judicial Procedure of Czech Republic. Available at <http://legislationline.org/documents/action/popup/id/3850> [viewed on 28.12.2012.].

deceased provided for or whom he/she was obliged to provide for are also considered victims³⁰. The compensation is provided as a single payment.

Citizens of the Czech Republic or persons without citizenship issued a permanent or long-term residence permit in the territory of the Czech Republic, and persons who have such right according to international legislation **are entitled to receive the compensation.**

The state compensation system of the Czech Republic sets also conditions serving as the basis for **exclusion of the victim from the range of persons who can be awarded compensations**, namely - if the victim is tried as an accomplice in crime which resulted in damage to health; if the victim does not agree to initiation of criminal proceedings - in cases the victim's agreement is a mandatory precondition for initiating or continuation of criminal proceedings, as well as in cases the victim is hesitant to agree; if the victim does not cooperate with authorities involved in criminal proceedings, especially, if the victim fails to report to the police immediately the committed criminal offence, he/she claims compensation for, and in cases the victim makes use of his/her right to refrain from testifying against the offender, taking into account existence of a mutual relationship between the victim and the offender.

An application received from the victim serves as the **basis for payment of the state compensation**. The victim may be paid the state compensation in the form of a single payment in amount of 25 thousand Czech Koruna³¹, or in the amount estimated on the basis of the amount of lost income or the amount of necessary treatment costs. All amounts received by the victim as compensation for the damage inflicted are deducted from the aforementioned substantiated expenses. The insurance indemnity received by the victim to compensate the damage he/she has sustained is deducted from the amount payable as the state compensation as well.

Decisions about awarding state compensation are made by the Ministry of Justice of the Czech Republic, it also pays the amount of money determined by its decision. The Ministry of Justice may decide on reduction of the amount of the compensation or refuse to pay it, taking into consideration the social standing of the victim and the extent of his/her shared responsibility in incurring the damage, and evaluating whether the victim has used all legal means to achieve compensation of the damage from the offender or another person responsible for compensation of damage. The victim is required to submit an application for payment of compensation within 1 year from the day the victim has discovered the damage suffered from a criminal offence. Within three months after receipt of the victim's application and all required documents the Ministry of Justice makes a decision about awarding the state compensation or informs the victim about reasons for refusal.

Although the act does not state directly that the victim must first seek compensation from the offender, Article 8 of the act includes an indication that the compensation may be reduced or refused based inter alia on the fact that not all legal means for receipt of compensation from the offender have been used, thus we may conclude that this section indicates that the victim must first seek compensation for damage from the offender. It is being stated that damage must be primarily compensated by the offender, thus the act clearly applies to cases when bodily injury or a loss of a relative are not compensated in full³². Article 12 of the act provides for

³⁰ Compensation to Crime Victims. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/cv_applicants_cz_en.htm [viewed on 27.12.2012.].

³¹ Author's comment: 25 thousand Czech Koruna amount to approximately 700 Latvian Lats.

³² Compensation to Crime Victims. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/cv_applicants_cz_en.htm [viewed on 27.12.2012.].

regulation of **collection of the state compensation from the victim**, namely, within five years after receipt of the compensation the victim must repay the received amount in full to the Ministry of Justice. The act states that if the state fails to demand repayment of the compensation within two years after that term, it has no right to demand its repayment.

Several victim support organisations operate in the Czech Republic. The largest is “Bily kruh bezpeci” (BKB)³³. The organisation provides assistance to victims and witnesses of crimes free of charge. Seven consultation centres provide legal, psychological and social assistance, ensuring thus legal aid, practical advice and psychological support. In especially severe cases representatives of the organisation participate also in court hearings, visit the victim in medical institutions and assist in organising other types of support.

1.6. Sweden

Victim support system in Sweden is well developed and provides support to victims of crime since 1970. **Victims of crime may receive a compensation** determined by the court ordering the offender to pay it to the victim (a); from insurance companies (b); state compensation from the compensation plan of Swedish government upon applying to Crime Victim Compensation and Support Authority³⁴.

The person directing the proceedings has a **duty to inform the victim** about his/her right to claim compensation.³⁵ A claim for compensation of damage is a civil claim which can also be submitted in a criminal case. **The prosecutor prepares and submits the claim for compensation of damage.** The victim may demand compensation for bodily injury and moral damage. In this case compensation includes lost income, compensation for the inflicted pain, a course of psychotherapy etc.

Sweden has developed **a system for collection of expenses from the offender**, namely – if a person is awarded compensation according to a court ruling, that court ruling after entering into force is sent to the Enforcement Service of Sweden³⁶. The Enforcement Service sends an application form to the victim. After receipt of the completed form from the victim the Enforcement Service commences the debt collection procedure. As a result of that procedure the victim receives full or partial compensation. The Enforcement Service gathers information about the offender's property that could be used to collect compensation. If the results of investigation show that the offender cannot pay the compensation, investigation materials of the Enforcement Service serve as a basis to apply to an insurance company or the Crime Victim Compensation and Support Authority and receive compensation from these sources.

The compensation can be received, if the criminal offence was committed in the territory of Sweden or if the personal injury was suffered outside Sweden, but the victim has a permanent place of residence in Sweden. The compensation is not paid to persons who have no legitimate connection to Sweden, but who are entitled to compensation, for example, tourists and students.³⁷ Children are included into the Swedish Criminal Injuries Compensation Act as a sensitive group of victims,

³³ Bily kruh bezpečí. Available at <http://www.bkb.cz/en/> [viewed on 27.12.2012.].

³⁴ Author's note: in English - Crime Victim Compensation and Support Authority .

³⁵ Compensation to crime victims - Sweden. Available at http://ec.europa.eu/civiljustice/comp_crime_victim/comp_crime_victim_swe_en.htm (viewed on 05.01.2013.).

³⁶ Author's note: in English: Swedish Enforcement Authority.

³⁷ The Crime Victim Compensation and Support Authority. Available at <http://www.brottsoffermyndigheten.se/Filer/Broschyrrer/Andra%20språk/Brottsoffermyndigheten,%20engelsk,%20om%20m%20m%20yndigheten.pdf> (viewed on 05.01.2013.).

especially, if the child has been forced to witness violence. In case of the victim's death relatives of the victim may also receive the compensation – for psychological damage and loss of provider.

Types of compensations depend on damage suffered and can be paid - as compensation for personal injury (a); monthly allowance (b); as compensation of economic losses (c); as compensation for damage inflicted upon the victim's property (d), and other.

The Crime Victim Compensation and Support Authority (hereinafter - the Authority) subordinate to the Ministry of Justice of Sweden is **the authority responsible for the state compensation** mechanism. The Authority bears responsibility in all matters related to state compensations to victims of crime and **administers the Crime Victim Fund** in the same way the Competence Centre operates. Thus the state ensures that one authority is responsible for financial support to specific victims and financing of research, training of professionals and informing the general public³⁸. The Authority has the right to bring a subrogation action against the offender in the amount of compensations paid to the victim. A victim may **apply** to the Authority **within 2 years** after the event of a criminal offence, if the following conditions are met - the victim has reported the criminal offence to the police (a); the victim cannot receive compensation from the offender, an insurance company or in any other way (b). The state compensation can be awarded in complete and incomplete criminal proceedings.

The financing for the Crime Victim Fund comes from the fee in amount of SEK 500 (approximately LVL 42), which is collected from all persons convicted in Sweden with a punishment of deprivation of liberty, persons put under electronic monitoring have to pay a fee of SEK 50 (approximately LVL 4) for each day spent under electronic monitoring.

Governmental and non-governmental organisations provide **victim support services**. The Swedish Association for Victim Support is the largest organisation, and includes over 100 centres in rural regions, providing support to victims of all kinds of criminal offences, ensuring a 'support person', legal aid, child support measures for victims and a possibility to receive a 'victim's safety package'³⁹. **The victim is entitled to receive information about the execution of the offender's punishment** – the type of punishment, change in the punishment regime, conditional release and other facts. When the victim reports the criminal offence to the police he/she is informed about the possibility to receive support from this organisation.

1.7. The Republic of Poland

The procedure for receipt of compensations in the Republic of Poland is regulated by the Act on State Compensation for Victims of Certain Intentional Offences⁴⁰ (hereinafter – the Compensation Act of Poland). The Compensation Act of Poland establishes compensation only for material loss paid to the victim and in case of his/her death - to his/her relatives from the state budget for certain intentional offences⁴¹.

³⁸ Ibid.

³⁹ Author's note: Victims may also receive the "safety package" consisting of a mobile phone and alarm system. Packages are available at local police stations.

⁴⁰ Author's note: in English - Act on State Compensation for Victims of Certain Intentional Offences.

⁴¹ Compensation to crime victims – Poland, European Judicial Network in civil and commercial matters http://ec.europa.eu/civiljustice/comp_crime_victim/comp_crime_victim_pol_en.htm [Viewed on 7.02.2013]

The compensation in Poland is available to citizens of the Republic of Poland or other European Union member states⁴², who as a result of intentional violent criminal offences have lost their lives or suffered damage to the functions of vital internal organs, or damage to health lasting longer than 7 days⁴³. If a violent crime has resulted in death of the victim, relatives of the victim - spouse or partner, children, parents, adopters and adopted, and dependents of the victim - are entitled to the state compensation⁴⁴. The compensation may be claimed for lost income, medical expenses and funeral costs, but it may not exceed 12 000 Polish Zloty (approximately LVL 2040). The victims have to **submit** application for compensation **within 2 years** following the event of the criminal offence.

Regional courts are responsible for **awarding** and payment of **compensations** according to the victim's place of residence, but the prosecutor working with the respective case must inform the victim of the possibility to receive the compensation.

The Victim Support and Post-penitentiary Aid Fund (hereinafter - VSPAF) was founded on 1 January 2012 in Poland to ensure a support system for victims and former convicts. VSPAF is a state managed fund comprising financial means from compensation payments received from offenders and funds received from fines paid in Poland. VSPAF finances organisations operating within the victims' support system of Poland. The victims' support system of Poland encompasses 15 Support centres for crime victims located in each voivodeship of Poland, ensuring thus accessibility of services to victims. VSPAF in order to support victims finances provision of legal aid, psychologists services, and, if necessary, helps to cover the costs of medical care, living costs and transportation costs of the victims.

2. EVALUATION OF PROFESSIONALS' SURVEY ABOUT COMPENSATION AND SUPPORT SYSTEMS OF VICTIMS OF CRIME IN EUROPEAN UNION COUNTRIES

The research included a survey of 13 professionals from 11 European Union countries⁴⁵ on the subject of the victim support system in the respective country, including the existing compensation mechanisms. Professionals from Bulgaria, Czech Republic, Denmark, Estonia, Germany, Hungary, Lithuania, Poland, Slovenia, Spain and Sweden participated in the survey and answered 12 questions⁴⁶.

All countries participating in the survey have a state compensation mechanism for victims of violent crimes,⁴⁷ and this mechanism is rated as the most accessible to recipients of the service (12 answers), the second type of support mentioned most often are different social services, but in the third place is taken by the compensation from the offender. Representatives from only 6 countries have indicated

⁴² Act on State Compensation for Victims of Certain Intentional Offences of the Republic of Poland, 7 July 2005, Article 4. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_pol_en.pdf [viewed on 22.02.2013].

⁴³ Criminal Code of the Republic of Poland, 1997 (version of 28 June 2012). Available at <http://legislationline.org/documents/section/criminal-codes/country/10> [Viewed on 04.03.2013].

⁴⁴ Act on State Compensation for Victims of Certain Intentional Offences of the Republic of Poland, 7 July 2005, Article 2, part 4. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_pol_en.pdf [viewed on 22.02.2013].

⁴⁵ Author's note: Professionals who participated in the survey in their respective countries work in fields related to the topic of the research, the survey was conducted anonymously and by means of an electronic system. Questionnaires with a request to fill them out were sent to competent professionals or academic staff of higher educational institutions or research institutions of the respective countries.

⁴⁶ Author's note: Please find the questionnaires in Latvian and in English attached as in Appendix 1.

⁴⁷ Author's note: See Chart 1 in the appendix.

that sufficient **victim support measures** are available in their countries. In all countries participating in the survey the state compensation for victims of crime is available to citizens of the respective state⁴⁸ and citizens of the European Union, but the least protected categories are asylum seekers, foreigners and stateless persons, who can receive the state compensation only in 4 of the surveyed countries. In Spain, for example, payment of compensation to a victim is not based on the idea of state responsibility, but on the idea of solidarity, which means that payment of the compensation is not responsibility of the state (except for the victims of terrorism), it cannot be viewed as a targeted compensation, rather an act of assistance from the state.

In six of the surveyed countries (46%) **the state compensations to victims of crime are administrated**⁴⁹ by authorities subordinate to the Ministry of Justice and specifically established for the purpose. In Spain it is the Ministry of Economy and Finance, in Estonia - Social Insurance Agency, in Slovenia - inter-authority commission appointed the term of 4 years, directed by a Supreme Court judge, with participation of a representative of the General Prosecutor's Office, an expert in bodily injuries and a health insurance expert. In none of these countries these responsibilities are carried out by non-governmental organisations, but in 2 states – in Estonia and Germany - the state compensation mechanism is administrated by the Ministry of Welfare.

In most of the surveyed countries (56% or 7 countries) **compensation to a victim of crime is paid**⁵⁰, if the victim has reported the event of the criminal offence to the police, even if the offender has not been identified yet. In Bulgaria, Lithuania, Denmark and Sweden the state compensation can be received by the victim only after the effective date of the court ruling, but in initiated criminal proceedings, if the suspect has not been convicted yet, the compensation can be received in Estonia and Hungary.

In most countries (54%, 7 countries) the victim is entitled **to claim the state compensation, regardless of possibilities to receive compensation from the offender**⁵¹. The duty of the victim to seek compensation initially from the offender and only in case of failure from the state exists in 6 of the surveyed countries (46%) – in Slovenia, Poland, Lithuania, Sweden, Hungary and the Czech Republic. In Poland and Slovenia the state compensation is only paid in the cases the victim is unable to receive compensation not only from the offender, but also from other sources of compensation.

The amount of compensation paid to the victim is **recovered by the state in subrogation action**⁵² from the offender in 8 of the surveyed countries (62%) – in Spain, Bulgaria, Estonia, Germany, Poland, Lithuania, Sweden and Denmark, but professionals from the other countries indicated that in cases the victim has received additional compensation from other sources for the same criminal offence already compensated by the state the victim is required to pay back part of the compensation to the state. A subrogation action may be brought against the victim also in cases the victim has provided false information to the authority which estimates and pays state compensations.

The victim may appeal the decision about awarding the state compensation⁵³ with a higher authority than the one, which awarded the compensation (in 6 countries – Spain, Slovenia, Hungary, Poland and the Czech Republic, 46%), according to the law the victim may appeal with courts of general jurisdiction (in 3

⁴⁸ Author's note: See Chart 2 in the appendix.

⁴⁹ Author's note: See Chart 3 in the appendix.

⁵⁰ Author's note: See Chart 4 in the appendix.

⁵¹ Author's note: See Chart 4 in the appendix.

⁵² Author's note: See Chart 6 in the appendix.

⁵³ Author's note: See Chart 7 in the appendix.

countries – Estonia, Germany, Lithuania, 23%), the victim may appeal the decision only with the authority, which awarded the compensation (in 2 countries – Sweden and Estonia⁵⁴, 15%), in 2 countries the decision about awarding the state compensation is final and cannot be appealed (Bulgaria and Denmark, 15%).

In different countries victims of crime **are entitled to different types of compensation of damage**. For example,⁵⁵ the survey of professionals indicates that in most countries compensation for damage may be awarded for physical suffering (in 11 countries), personal injury (in 10 countries) and material loss (in 10 countries), but for moral injury only in 5 states – Slovenia, Germany, Sweden, Hungary and Denmark.

One of the aspects professionals from different countries had different opinions about was **the period of time, within which the victim is entitled to submit a claim for the state compensation**⁵⁶. In most countries (8 countries, 62% of participants of the survey) have very different terms for submission of the claim – for example, in Lithuania the term is 10 years after the effective date of the decision and only in some cases it is possible to make a decision about awarding the compensation „in advance”, Estonian professionals are in the process of discussion on the subject that the term for submission of the claim could be 3 years, in Hungary an application may be submitted from 3 months to 5 years after reporting the event to the police, in Slovenia within 5 years, but in Bulgaria – 2 months after the effective date of the verdict of guilty. In Spain the term is one year after the event of the criminal offence; in Estonia, the Czech Republic and Germany – within one year after a person has been recognised a victim in the respective criminal proceedings, in Denmark and Sweden on the other hand – within two years after a person has been recognised a victim.

Participants of the surveys were asked to rate⁵⁷ the compensation system of their countries in general (a), rate separately support measures for the victims (b) and the state compensation for victims of crime (c), giving it a grade from 1 to 10. Professionals in Estonia gave the highest evaluation to support measures for victims of criminal offences (8 points), in Lithuania – to the state compensation to victims of crime (7 points), in Sweden they gave the best grade to the damage compensation system in general (9 points), but in Hungary they gave 8 points to the state compensation system for victims. Germany like Sweden gave the highest grade to the damage compensation system in general (8 points). Spain gave only 4 points to the damage compensation system in general, but a considerably higher grade was given to the victim support system of Spain – 7 points. Slovenia gave the highest grade to the state compensation to victims of crime – 5 points, but only 3 points to victim support measures and the system in general respectively.

Professionals from different countries who completed the questionnaire were asked to indicate faults of the existing compensation system in each country or fields that would require improvement in the future. It was noted that the existing system in Spain only partially addresses needs of victims of criminal offences; the compensation is awarded only in cases offenders have no means, in addition large share of damage inflicted upon the victim is not compensated. The representative of Bulgaria noted that compensation for moral injury should be introduced, and the compensation should be paid to the victim before the verdict of guilty comes into effect in the respective case. The representative of Estonia indicated that the range of persons who can claim the

⁵⁴ Author's note: In Estonia the decision about awarding the state compensation may be appealed in court or with the authority, which took the respective decision.

⁵⁵ Author's note: See Chart 8 in the appendix.

⁵⁶ Author's note: See Chart 9 in the appendix.

⁵⁷ Author's note: See Chart 10 in the appendix. It is clear that each evaluation depends on the professional's expert opinion, but in correlation with other information acquired during the research it provides an insight into existing circumstances.

state compensation is too small, because compensation is awarded only in absolutely critical cases, and the maximum amount of compensation (9590 euros) is too small. The representative of Estonia expressed an opinion that the term for submitting the claim for the state compensation is absolutely insufficient – victims should be given time of up to 3 years. In addition to the aforementioned Estonian professionals believe that greater attention should be paid to victims who have suffered damage at the hands of another person belonging to their household. The representative of Slovenia mentioned as a fault the fact that the state has no systemic support for victims of criminal offences – there is neither organised psychological help, nor social assistance. Criminal proceedings in Slovenia are very time consuming and victims cannot receive compensation of intangible damage in criminal proceedings – victims have to bring civil claims for compensation to court. In Hungary only indigent victims are entitled to compensation. This means that no compensation is paid to victims whose monthly income exceeds 630 euros (condition for 2012). The representative of Hungary believes that for the population of Hungary this limitation would seem fair enough, because this amounts to two minimum monthly wages in Hungary, but this amount is completely insufficient in cross-border cases. The representative of Poland notes that legal regulation of state compensations in Poland is effective since 2005 and should be seen as outdated, therefore presently consultations with professionals are conducted and amendments to the existing legislation prepared. The professional from Lithuania expressed an opinion that Lithuania has neither a victim support system, nor a victim support strategy. The system in Sweden is assessed as very efficient and friendly to victims. The only fault noted is the fact that a victim may have difficulties to orient himself/herself in it.

3. POSSIBLE DEVELOPMENT MODELS FOR COMPENSATION MECHANISM AND SUPPORT SYSTEM FOR VICTIMS OF CRIME IN THE REPUBLIC OF LATVIA

Based on victim support models of other countries described in previous sections we may conclude that problems of the existing compensation system in Latvia are not exclusively characteristic of the system in Latvia compared to other European Union countries, nor is the system worse than those in other countries. Though it is important to understand, whether the existing practice and legal regulation in Latvia provides our population with solutions needed in their daily life and serves the general interests of a sustainable society. There is no doubt that Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012⁵⁸ establishing minimum standards on the rights, support and protection of victims of crime, at least during the period of time until 16 November 2015 will have the effect of a certain impulse in Latvia as well, and will motivate to reconsider legislation and reevaluate resources, and possibly introduce implement certain legal principles.

Experience in countries with a lasting victim support tradition⁵⁹ indicates that the notion of a compensation system for victims of crime cannot be narrowed down to the extent of the Law on State Compensation to Victims⁶⁰, but legal aid as understood

⁵⁸ Directive 2012/29/EU of the European Parliament and of the Council (25 October 2012) establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:LV:PDF> [viewed on 28.02.2013].

⁵⁹ Author's note: countries like Sweden, the Great Britain.

⁶⁰ Law on State Compensation to Victims: Law of the Republic of Latvia. *Latvijas Vēstnesis*, 6 June 2006, No.87.

under the State Ensured Legal Aid Law⁶¹ must be made available not only to persons with low income, but also to people from many other sensitive groups, namely, victims of criminal offences. This means that Latvia already has legislative provisions and legal regulation that could serve more fully interests of victims as of today, but the aforementioned legislative provisions and their implementation practice has not been explored from the point of view of a victim of crime. Is it possible for victims and to what extent to exercise their rights under regulation of the law (a), and in the context of practice implemented by authorities (b)? Can the victim be sure, if he/she uses the mechanisms offered by the state, that his/her needs for information, support and understanding will be met? An answer to these questions could be given by description of a complex and task-oriented body of measures, but all we can offer a victim are details in the form of certain regulations that fail to provide an answer to a request for a complex solution. This situation allows the authorities to divide the responsibilities among them and be held responsible each for only its own framework of functions, but this approach does not allow to evaluate, to what extent a victim of a criminal offence does or does not receive any support (a), whether the body of functions performed by authorities achieves its aim (b).

Taking into account the aforementioned we may conclude **that Latvia has in place series of important components of the system, but it does not have a victim support system itself as a task-oriented body of measures**⁶² – the state compensation and legal aid to victims of criminal offences are only two small elements of such system; the victim compensation system as described in the Criminal Procedure Law and in the Criminal Law is only a part of the compensation mechanism, support provided to certain groups of victims does not mean that Latvia has a victim support system, and financing assigned annually for payment of the state guaranteed compensation from the state budget is not a victim compensation fund.

The support system for victims of crime⁶³ **is comprised of horizontal and vertical directions of activities. The vertical directions of activities** are related to financing, administration and management of the system, including identification, quality management, and analysis and monitoring of services provided to victims. **The horizontal victim support system** concerns itself with the accessibility of services provided to victims, including rural regions of Latvia, range of services that would suit the needs of victims, and legal regulation of inter-authority cooperation at the local level (the place where a victim receives the respective support) and at the state level, where decisions are met, financing is assigned and regular evaluation of the system performed.

A successful victim support system should be based on inter-authority cooperation model⁶⁴, where chief emphasis is not put on division of functions among participating authorities, but on development of cooperation methods that would enable all authorities involved in victim support system to accomplish their work jointly – namely, instead of sending the victim from one authority to another the authorities should gather "around" the victim. Good and possibly useful practice of inter-authority cooperation in this research was identified in Northern Ireland.

A victim support fund is a part of a victim support system and a financial instrument serving the purpose of ensuring the horizontal directions of activities of a victim support system, i.e. accessibility of services. Good and possibly useful practice for Latvia in this research was identified in Poland - Victim Support and Post-

⁶¹ State Ensured Legal Aid Law: Law of the Republic of Latvia. *Latvijas Vēstnesis*, 1 April 2005, No.52.

⁶² Author's note: see Chart 11 in the appendix.

⁶³ Author's note: see Chart 12 in the appendix.

⁶⁴ Author's note: see the section of the research dealing with the Inter-authority cooperation model of Northern Ireland.

penitentiary Aid Fund. The fund comprises means from payments of fines and collection of damages from offenders. The existence of such a fund allows for meaningful planning of development of the support system for victims and former offenders (as post-penitentiary support). **It would be possible to facilitate protection of victims by creating a victim support fund**, possibly similar to Means of Support Guarantee Fund established in the country.

The Criminal Law provides for the right of the offender (suspect, defendant, and person on trial) to state provided defence counsel in case a person cannot afford it himself/herself. To ensure representation of the victim's interests along with the offender **the victim should be entitled to state ensured legal aid from the moment a person has been recognised a victim in criminal proceedings**. This right should not follow from the indigent status of the person, who has been recognised a victim, but from the status of a victim.

Each year number of cases increases where bailiffs have to execute civil claims,⁶⁵ but the number of cases completed in a year is small – the number of cases completed without collection is larger by comparison. In this case one should take into consideration that approximately 30-40% of cases are collected by bailiffs as civil claims in criminal proceedings. **One of the problems is the matter of bailiffs' fees, because bailiffs must perform series of actions financed from means acquired from other cases, on the other hand, if they do not have such means, the efficiency of collection process on behalf of the victim is at risk – collection on behalf of the victim is not accomplished as a result.**

Provision of information and commencing direction of a case. Based on information acquired as a result of the research we conclude that direction of a victim's case actually begins from the moment the police receives information about an event of a criminal offence. **It is crucial that during the first contact a victim is provided in a clear and comprehensive manner, in writing as well, with information of what would be the first or the two following steps a victim could take to exercise his/her rights.** Police officers must provide support to a victim in a considerate manner immediately after crime. The victim should be given information about what he/she should do next, he/she should know that there is a particular person with the police he/she may call after passage of some time after his/her reporting of a criminal offence event.

Taking into account that one of the main challenges in development of the victim support system in Latvia will be the inter-authority cooperation model, including establishing of the victim support fund, **it would be advisable to consider development of a new legislative instrument – the Victim Support Code.** The legislation would regulate cooperation between authorities in the process of provision of support to victims; involvement of new authorities in the system to ensure accessibility of services to victims; administration of victim support and the range of state guaranteed services to victims.

⁶⁵ Author's note: for details see the section of this research dealing with the analysis of court rulings in Latvia on victims' claims for compensation.

SOURCE LIST

Books

1. European Committee of Social Rights - European Social Charter (Revised) Conclusions 2006, Volume 1: Albania, Bulgaria, Cyprus, Estonia, Finland, Ireland, Italy, Council of Europe, 2007.
2. Victims: Support and Assistance. Volume 642. Group of authors. France: Council of Europe, 2007.

Internet resources

1. A guide to the Criminal Injuries Compensation Scheme 2012. Available at <http://www.justice.gov.uk/downloads/victims-and-witnesses/cic-a/how-to-apply/cica-guide.pdf> [viewed on 19.12.2012].
2. Bílý kruh bezpečí. Available at <http://www.bkb.cz/en/> [viewed on 27.12.2012.].
3. Compensation Agency. Available at <http://www.dojni.gov.uk/index/compensation-agency.htm> [viewed on 10.02.2013].
4. Compensation for Victims of Crime NI. Available at <http://www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/victims-and-witnesses-of-crime/compensation-for-victims-of-crime.htm> [viewed on 02.02.2013].
5. Compensation to crime victims – Poland, European Judicial Network in civil and commercial matters
http://ec.europa.eu/civiljustice/comp_crime_victim/comp_crime_victim_pol_en.htm
6. Compensation to crime victims - Sweden. Available at http://ec.europa.eu/civiljustice/comp_crime_victim/comp_crime_victim_swe_en.htm (viewed on 05.01.2013.).
7. Compensation to Crime Victims. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/cv_applicants_cz_en.htm [viewed on 27.12.2012.].
8. Criminal Injuries Compensation Authority: Account 1998-99, March 29, 2000. Available at <http://www.official-documents.gov.uk/document/hc9900/hc03/0357/0357.pdf> [viewed on 07.12.2012].
9. State compensation of victims of crime. Available at <http://www.ensib.ee/state-compensation-of-victims-of-crime/> [viewed on 24.01.2013.].
10. Tenno P. Estonia Kuressaare. Victim support in weak population. Available at <http://www.envisvictimsupport.eu/?p=664> [viewed on 23.01.2013.].
11. The Crime Victim Compensation and Support Authority. Available at <http://www.brottsoffermyndigheten.se/Filer/Broschyrer/Andra%20språk/Brottsoffermyndigheten,%20engelsk,%20om%20myndigheten.pdf> (viewed on 05.01.2013.).
12. Victim Support NI. Available at <http://www.victimsupportni.co.uk/> [viewed on 02.02.2013].
13. Victim Support Scotland. Available at <http://www.victimsupportscotland.org.uk/page/index.cfm> [viewed on 25.02.2013].
14. Victim support. Available at <http://www.sm.ee/eng/activity/benefits-and-support/victim-support.html> [viewed on 23.01.2013.].
15. Victim Support. Available at <http://www.victimsupport.org.uk/> [viewed on 25.02.2013].

Legislation

1. Directive 2012/29/EU of the European Parliament and of the Council (25 October 2012) establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:LV:PDF> [viewed on 28.02.2013].
2. Council Directive 2004/80/EC (29 April 2004) relating to compensation to crime victims, Official Journal L 261 , 06/08/2004 pages 0015 – 0018. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0080:lv:HTML> [viewed on 27.02.2013.].
3. Law on State Compensation to Victims: Law of the Republic of Latvia. *Latvijas Vēstnesis*, 6 June 2006, No.87.
4. State Ensured Legal Aid Law: Law of the Republic of Latvia. *Latvijas Vēstnesis*, 1 April 2005, No.52.
5. Act on Criminal Judicial Procedure of Czech Republic. Available at <http://legislationline.org/documents/action/popup/id/3850> [viewed on 28.12.2012.].
6. Code of Practice for Victims of Crime of Northern Ireland. Available at http://www.dojni.gov.uk/code_of_practice_for_victims_of_crime [viewed on 02.02.2013].
7. Criminal Injuries Compensation Act 1995. Available at <http://www.legislation.gov.uk/ukpga/1995/53/contents> [viewed on 04.12.2012].
8. Criminal Justice Act 1988. Available at <http://www.legislation.gov.uk/ukpga/1988/33/contents> [viewed on 14.12.2012].
9. Domestic Violence, Crime and Victims Act, 2004. Available at <http://www.legislation.gov.uk/ukpga/2004/28/contents> [viewed on 07.12.2012].
10. Law of the Republic of Lithuania on Compensation for Damage Caused by Violent Crimes, (version without the amendments of 2009). Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_lit.pdf#page=21 [viewed on 27.02.2013.].
11. Criminal Procedure Code of the Republic of Lithuania. Edition of 13 November 2012. Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=438015&p_query=&p_tr2=2 [viewed on 27.02.2013.].
12. Law of the Republic of Lithuania on Compensation of Damage Caused by Violent Crimes of 14 November 2008. Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=332087&p_query=&p_tr2=2 [viewed on 27.02.2013.].
13. Criminal Code of the Republic of Poland, 1997 (version of 28 June 2012). Available at <http://legislationline.org/documents/section/criminal-codes/country/10> [Viewed on 04.03.2013].
14. Act on State Compensation for Victims of Certain Intentional Offences of the Republic of Poland, 7 July 2005, Article 4. Available at http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_pol_en.pdf [viewed on 22.02.2013].
15. Victim Support Act. Available at <http://www.legaltext.ee/indexen.htm> [viewed on 23.01.2013.].
16. Criminal Injuries Compensation Scheme, 2012. Available at <http://www.justice.gov.uk/victims-and-witnesses/cica>, [viewed on 19.12.2012].
17. The Criminal Injuries Compensation Scheme, 1996. Available at <http://ej.uz/hvzb> [viewed on 14.12.2012].

APPENDICES

Questionnaire in Latvian

Speciālistu aptauja

Kompensāciju pētījumam

1. Lūdzu, norādiet, kuru valsti Jūs pārstāvat?
2. Kāda veida atbalsta pasākumi ir pieejami no noziedzīga nodarījuma cietušajiem Jūsu valstī? (var atzīmēt vairākus variantu)
 - a. valsts kompensācija noziedzīgos nodarījumos cietušajiem;
 - b. bezmaksas psihologa pakalpojumi;
 - c. bezmaksas juridiskās konsultācijas;
 - d. bezmaksas pārstāvniecībā kriminālprocesā (lūdzu, norādiet, ja ir kādi ierobežojumi);
 - e. sociālo dienestu pakalpojumi;
 - f. kompensācija no noziedzīga nodarījuma izdarītāja (lūdzu, precizējiet, kāda kompensācija – par morālo kaitējumu, materiāliem zaudējumiem);
 - g. Programmas, kas izveidotas noziedzīgos noziegumos cietušajiem;
 - h. Cits, lūdzu precizēt.
3. Ja Jūsu valstī cietušajiem pastāv valsts kompensāciju mehānisms noziedzīgos nodarījumos cietušajiem, kādam personu lokam kompensācijas tiek piešķirtas?
 - a. Jūsu valsts piederīgajiem;
 - b. ES pilsoņiem;
 - c. Ārvalstniekiem / Bezvalstniekiem;
 - d. Patvēruma meklētājiem;
 - e. Personai, kura ir tieši cietusi no noziedzīgā nodarījuma;
 - f. Ja noziedzīga nodarījuma rezultātā iestājusies personas nāve - personas tuviniekiem;
 - g. Citiem, lūdzu precizēt!
4. Kādas institūcijas lemj par valsts kompensācijas piešķiršanu?
 - a. atsevišķa šim nolūkam izveidota iestāde Tieslietu ministrijas pakļautībā;
 - b. atsevišķa šim nolūkam izveidota iestāde Labklājības ministrijas pakļautībā;
 - c. atsevišķi šim nolūkam izveidota institūcija;
 - d. Nevalstiska vai sabiedriska organizācija;
 - e. Atsevišķi administrējam fonds;
 - f. cits, lūdzu precizēt!
5. Vai valsts kompensācija cietušajai personai tiek izmaksāta, ja:
 - g. Ja ir iesniegts ziņojums policijā, bet vainīgais vēl nav noskaidrots;
 - h. Vainīgais nav notiesāts, bet ir uzsākts kriminālprocess;
 - i. Vainīgais ir notiesāts un ir stājies spēkā notiesājošs spriedums.
6. Vai cietušajam ir pienākums sākotnēji prasīt kaitējuma atlīdzinājumu no noziedzīga nodarījuma izdarītāja un tikai pēc tam vērsties pēc valsts kompensācijas?
 - a. Jā
 - b. Nē

c. Cits, lūdz precizēt!

7. Vai valsts kompensācijā izmaksāto summu piedzen no:

- a. Noziedzīga nodarījuma izdarītāja par labu valstij, lai no Noziedzīga nodarījuma izdarītāja valsts atgūtu cietušajam izmaksāto kompensāciju;
- b. Cietušā, ja izmaksātā kompensācijas summa ir par lielu, jo cietušais sniedzis nepatiesas ziņas;
- c. Cits, lūdz precizēt!

8. Vai lēmumu par valsts kompensācijas piešķiršanu cietušais var pārsūdzēt?

- a. Jā, var - to pārsūdz institūcijā, kura piešķirusi kompensāciju;
- b. Jā, var - saskaņā ar likumu tiesā;
- c. Jā, var - augstākai institūcijai (augstākai par to, kas ir piešķirusi kompensāciju);
- d. Nē, nevar - lēmums par valsts kompensācijas piešķiršanu nav pārsūdzams.

9. Par kāda veida kaitējumu cietušajam ir tiesības prasīt kaitējuma kompensāciju?

- a. mantisks zaudējums;
- b. fiziskas ciešanas;
- c. personisks aizskārums;
- d. morāls aizskārums;
- e. Cits, lūdz precizēt!

10. Cik ilgā laikā pēc atzīšanas par cietušo persona var pieteikt kaitējuma kompensāciju?

- a. līdz vienam gadam no brīža, kad persona atzīta par cietušo;
- b. līdz diviem gadiem no brīža, kad persona atzīta par cietušo;
- c. cits, lūdz precizēt!

11. Kā Jūs vērtējat (10 ballu sistēmā):

- a. kaitējuma atlīdzināšanas sistēma kopumā?
1 _____ 10
- b. valsts kompensācijas sistēmu?
1 _____ 10
- c. atbalsta pasākumi cietušajiem?
1 _____ 10

12. Kādi, Jūsaprāt, ir cietušo kompensācijas sistēmas būtiskākie trūkumi Jūsu valstī? Ko varētu uzlabot, kas būtu darāms citādi, lai noziedzīgos nodarījumos cietušajiem tā būtu vairāk pieejama?

Questionnaire in English

Questionnaire on the compensations for victims of violent crime

1. Please indicate the country you represent:

2. What kind of support is available for the victims of violent crimes in your country? (several answers possible)

- a. State compensation for victims of violent crime
- b. Free of charge psychological help
- c. Free of charge legal consultations
- d. Free of charge representation in the criminal proceedings (please specify limitations if any)
- e. Assistance from Social services
- f. Compensation from the person who has committed the crime (please specify - material, moral)
- g. Foundations for state compensations for victims of violent crimes
- h. Programmes for victims of violent crimes
- i. Other, please specify:

3. If there are state compensations for the victims of violent crime available in your country, please specify the groups of persons to whom the state compensations are awarded (several answers possible):

- a. Nationals of your country
- b. EU citizens
- c. Foreigners / stateless persons
- d. Asylum seekers
- e. Person who has directly suffered from violent crime
- f. If death of the person has occurred - family members of this person
- g. Other groups of persons, please specify:

4. Which institution decides whether to award the compensation?

- a. Separate institution which is established for this purpose under the Ministry of Justice
- b. Separate institution which is established for this purpose under the Ministry of Welfare
- c. Separate authority established for this purpose
- d. Non-governmental organization or public organization
- e. Foundation which is separately administered
- f. Other, please specify:

5. What is the precondition for a person to claim for state compensation for victims of violent crime?

- a. Crime is reported to police but the person who committed the crime is not identified yet;

- b. Person who committed the crime is not convicted but the criminal procedure is initiated;
- c. Person who committed the crime is convicted and convicting court judgment has entered into effect.

6. Does the victim have an obligation to demand the compensation from the person who committed the crime before claiming for state compensation for the victims of violent crime?

- a. Yes, victim has such obligation;
- b. No, victim can claim for state compensation without demanding compensation from the offender;
- c. Other, please specify:

7. Can the amount of money paid as state compensation be recovered:

- h. from the person who committed the crime in order for the state to recover the amount of money paid to the victim?
- i. from the victim, if the amount of money paid as state compensation is too high because of the false information the victim deliberately provided?
- j. Other conditions, please specify:

8. Can the decision on awarding the compensation be appealed?

- a. Yes, it can be appealed - to the institution which awarded the compensation;
- b. Yes, it can be appealed - in court as provided in general law;
- c. Yes, it can be appealed - to higher authority (higher than the institution which awarded the compensation);
- d. No, the decision on awarding the state compensation can not be appealed.

9. For what kind of damage the victim has a right to claim compensation? (several answers possible)

- a. material loss
- b. physical suffering
- c. personal injury
- d. moral injury
- e. Other, please specify

10. What is the time limit for claiming the state compensation for victims of violent crime?

- a. Up to one year after the person has been recognized as victim;
- b. Up to two years after the person has been recognized as victim;
- c. Other, please specify:

11. How would you rate (in scale of -5 to +5 where “-5” is the lowest possible rating and “+5” is the highest possible rating):

- j. damages' compensation system in general
1 _____ 10
- b. state compensation system to victims of violent crime
1 _____ 10
- c. support measures to victims of violent crime

12. What do you see as main downfalls of the state compensation system in your country. What could be improved and done different to make it more accessible and adequate for victims of violent crime? (open question)

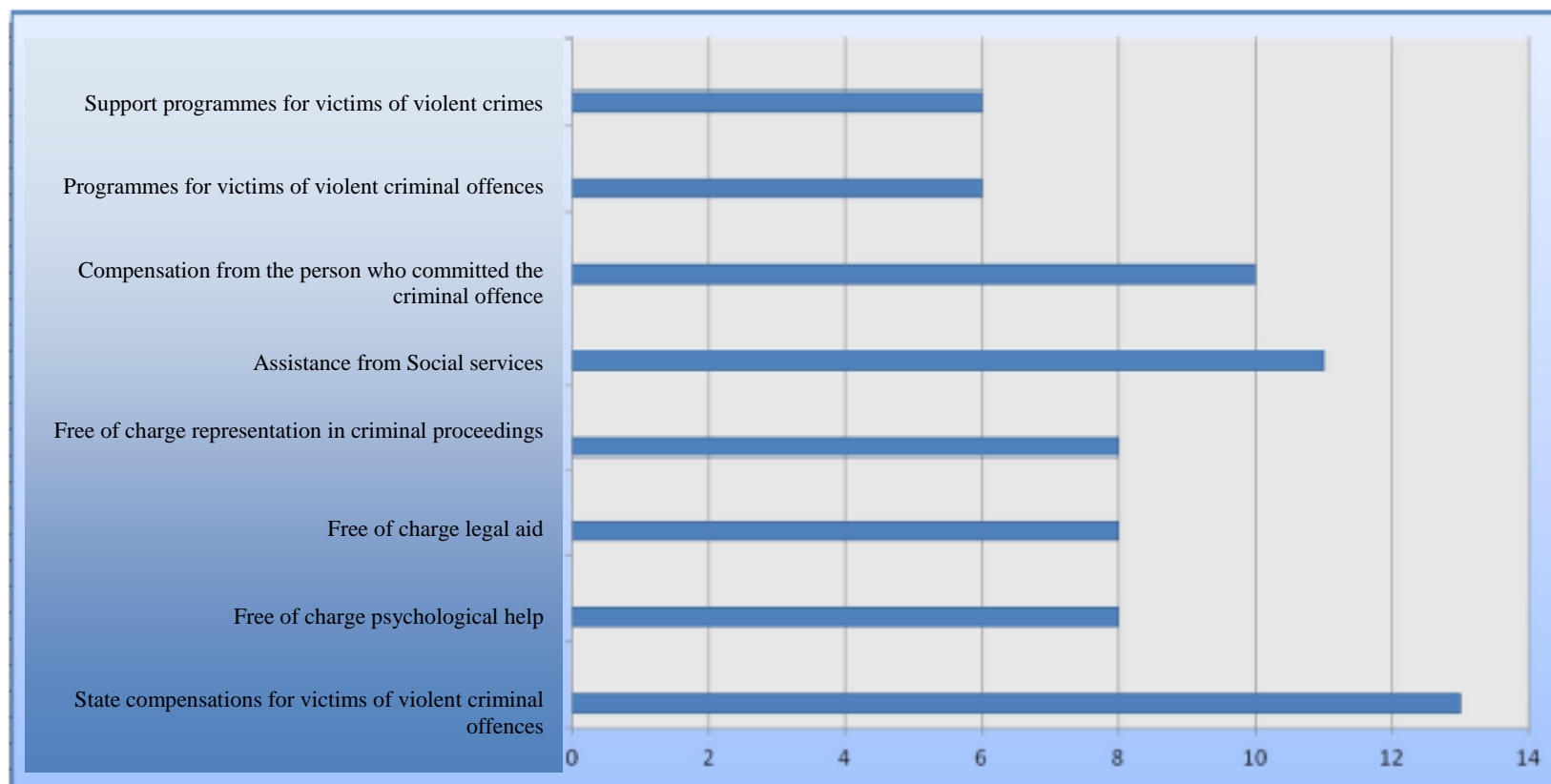
Chart 1. What kind of support is available for the victims of crimes in your country?

Chart 2. If there are state compensations for victims of violent crime available in your country, please specify the groups of persons to whom the state compensations are awarded?

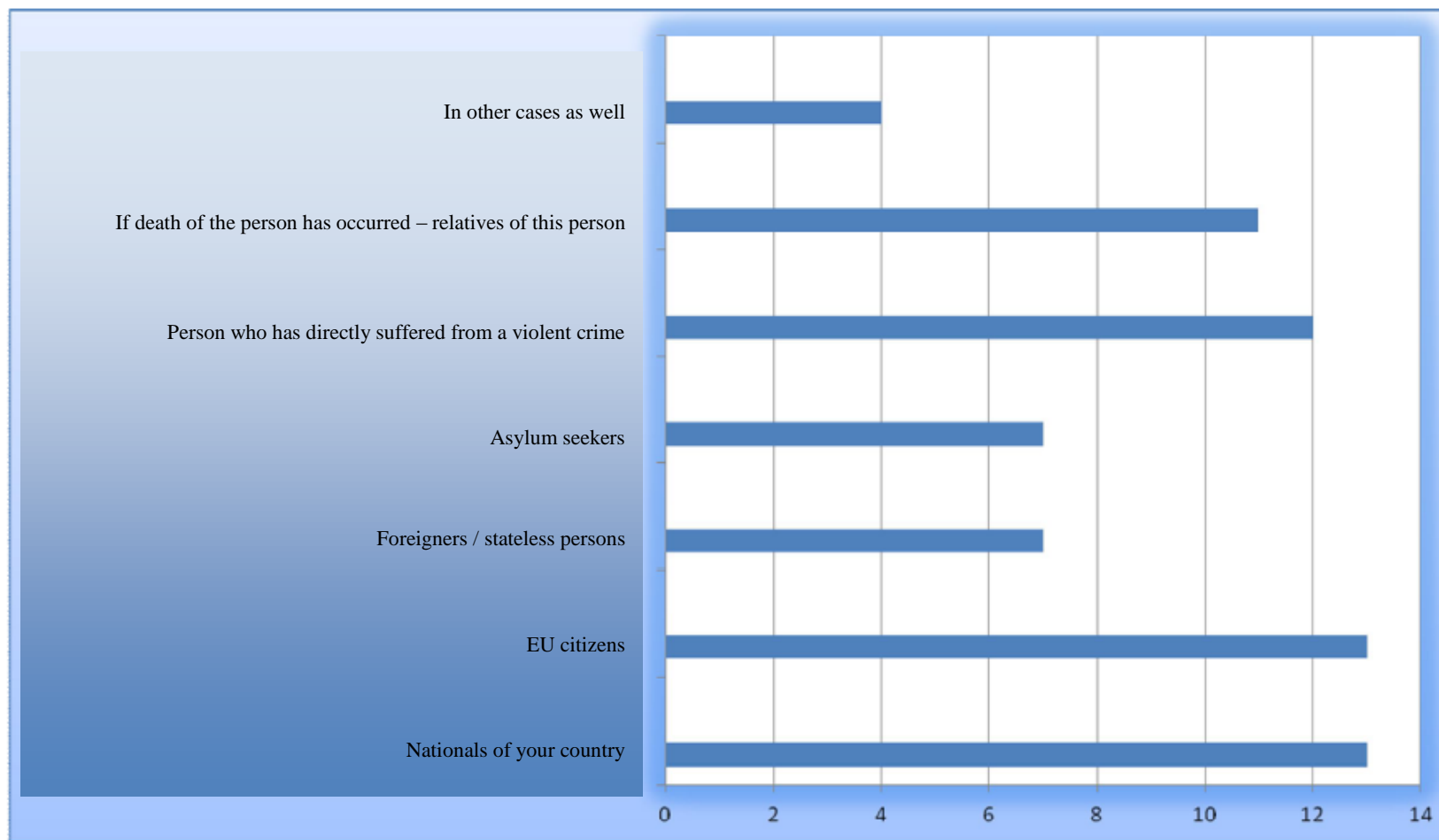


Chart 3 Which authorities decide whether to award the state compensation?

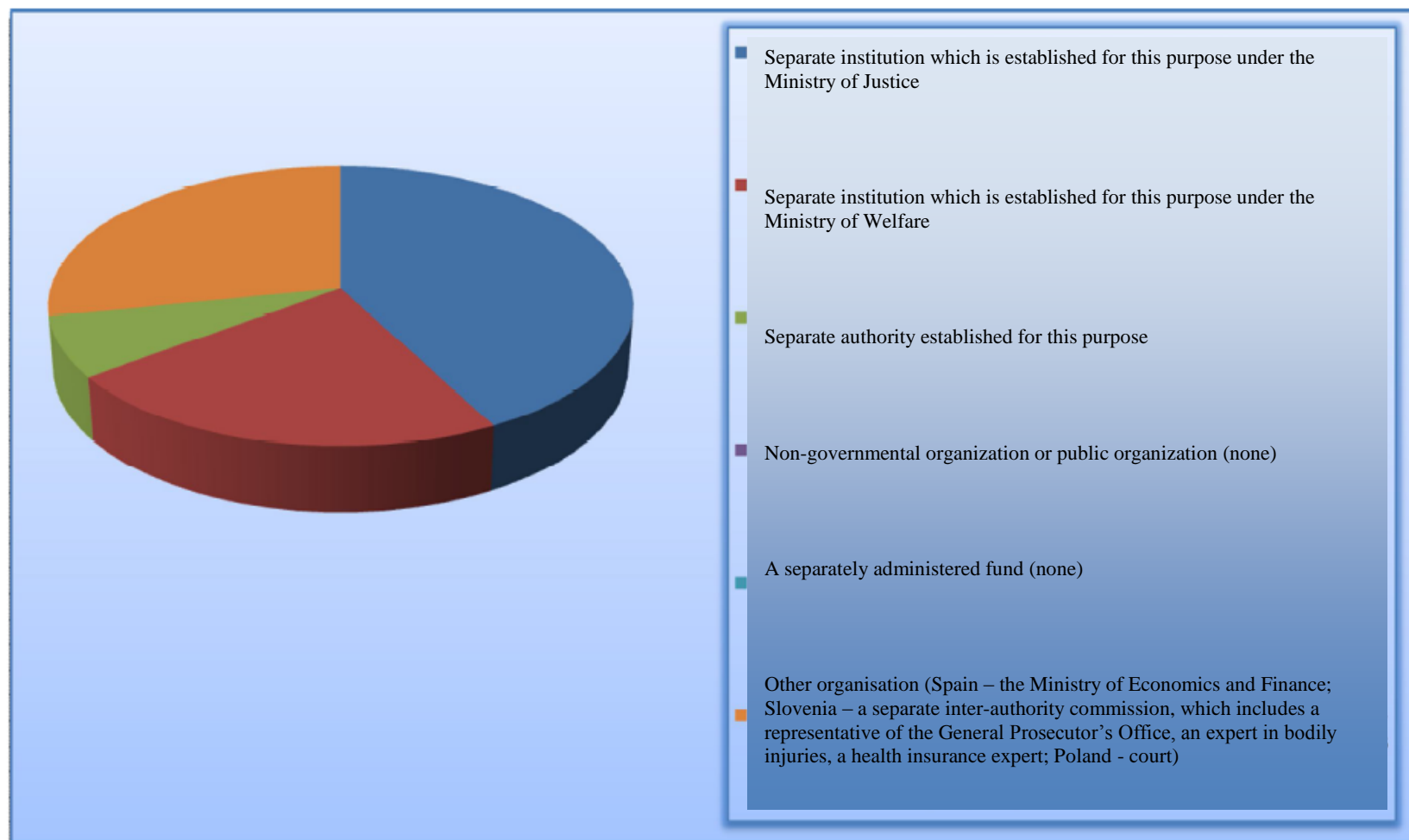


Chart 4. Is the state compensation paid to the victim, if:

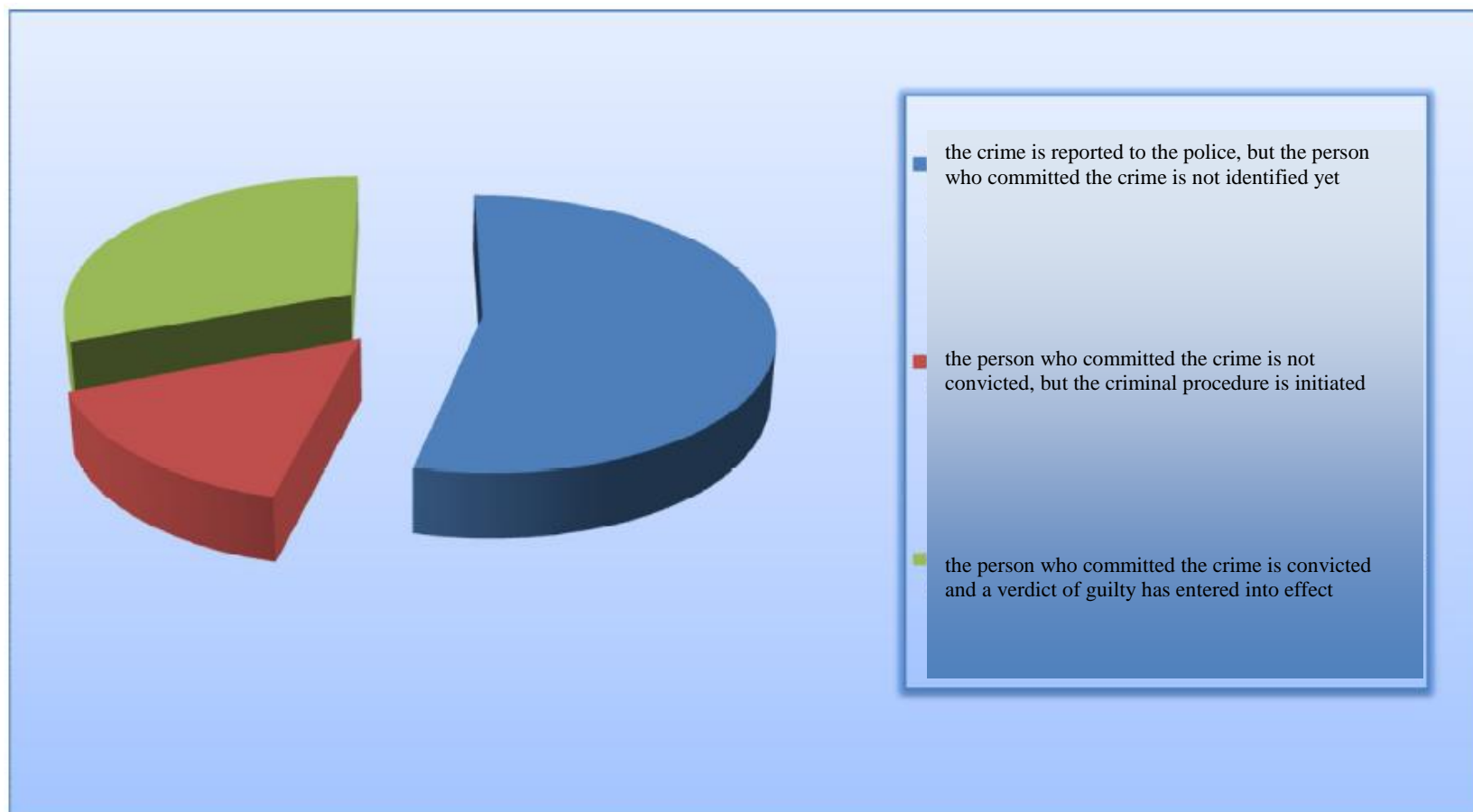


Chart 5. Does the victim have an obligation to demand the compensation from the person who committed the crime before claiming the state compensation for victims of violent crime?

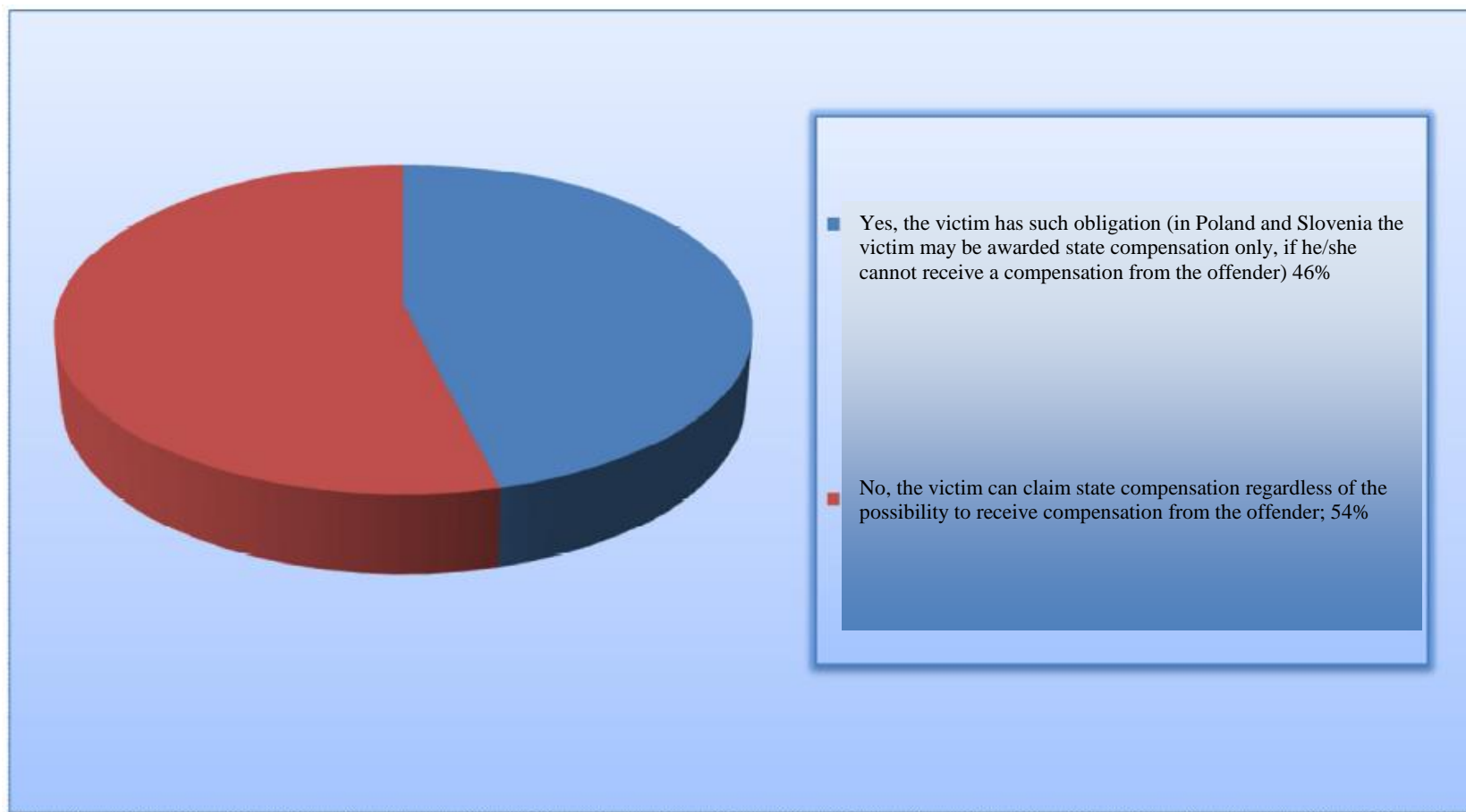


Chart 6. Can the amount of money paid as state compensation be recovered from:

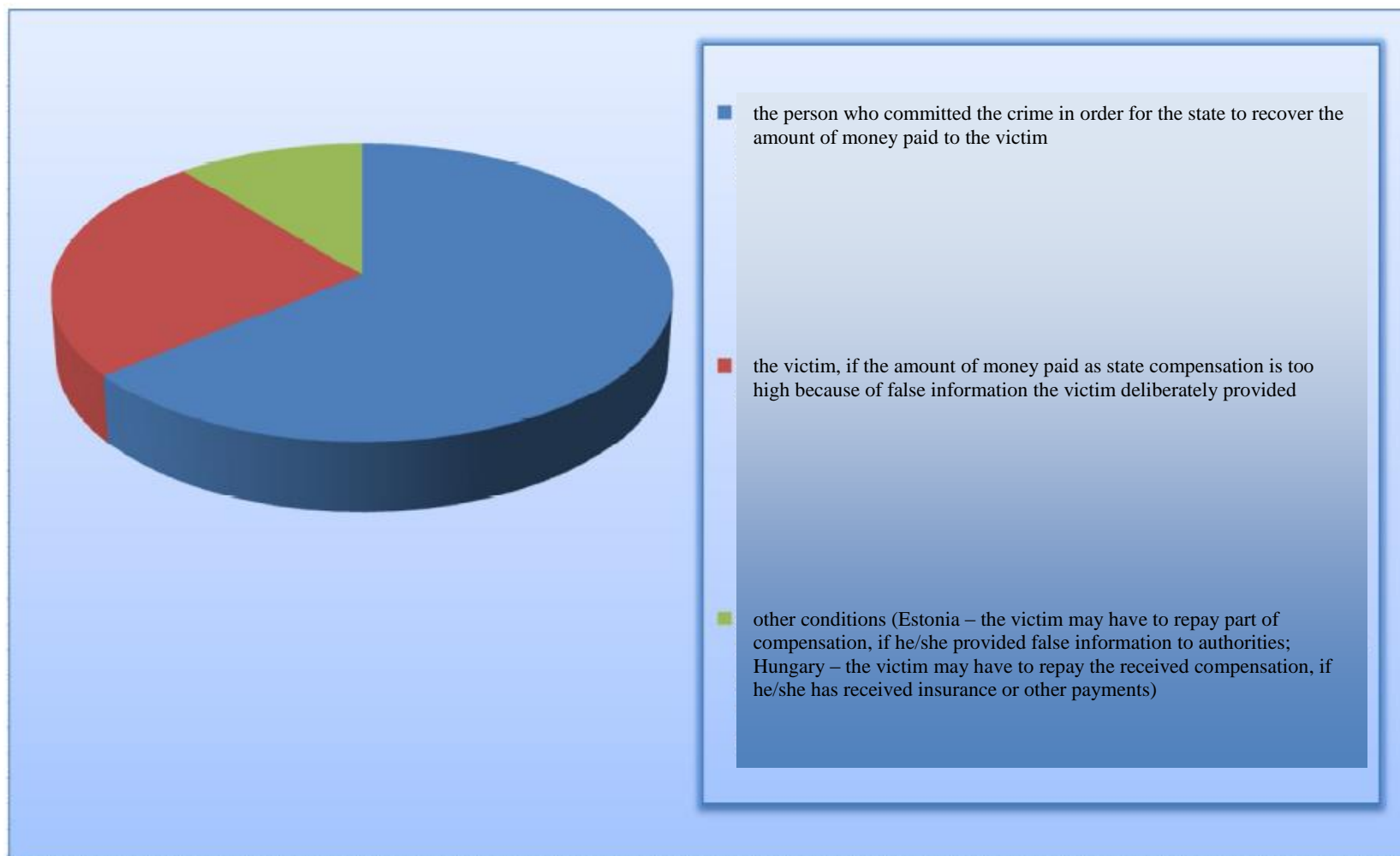


Chart 7. Can the decision on awarding the compensation be appealed by the victim?

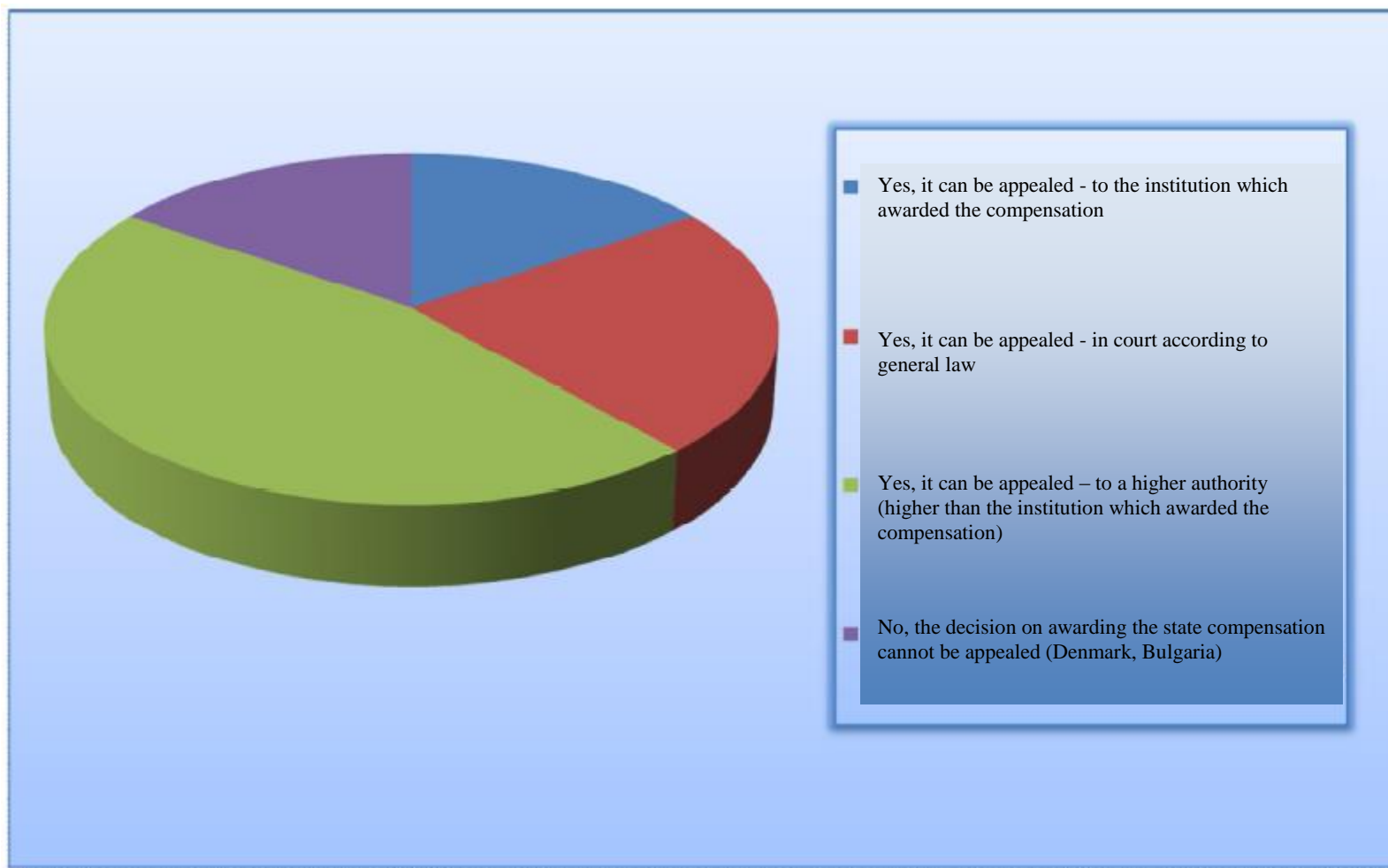


Chart 8 For what kind of damage the victim has a right to claim compensation?

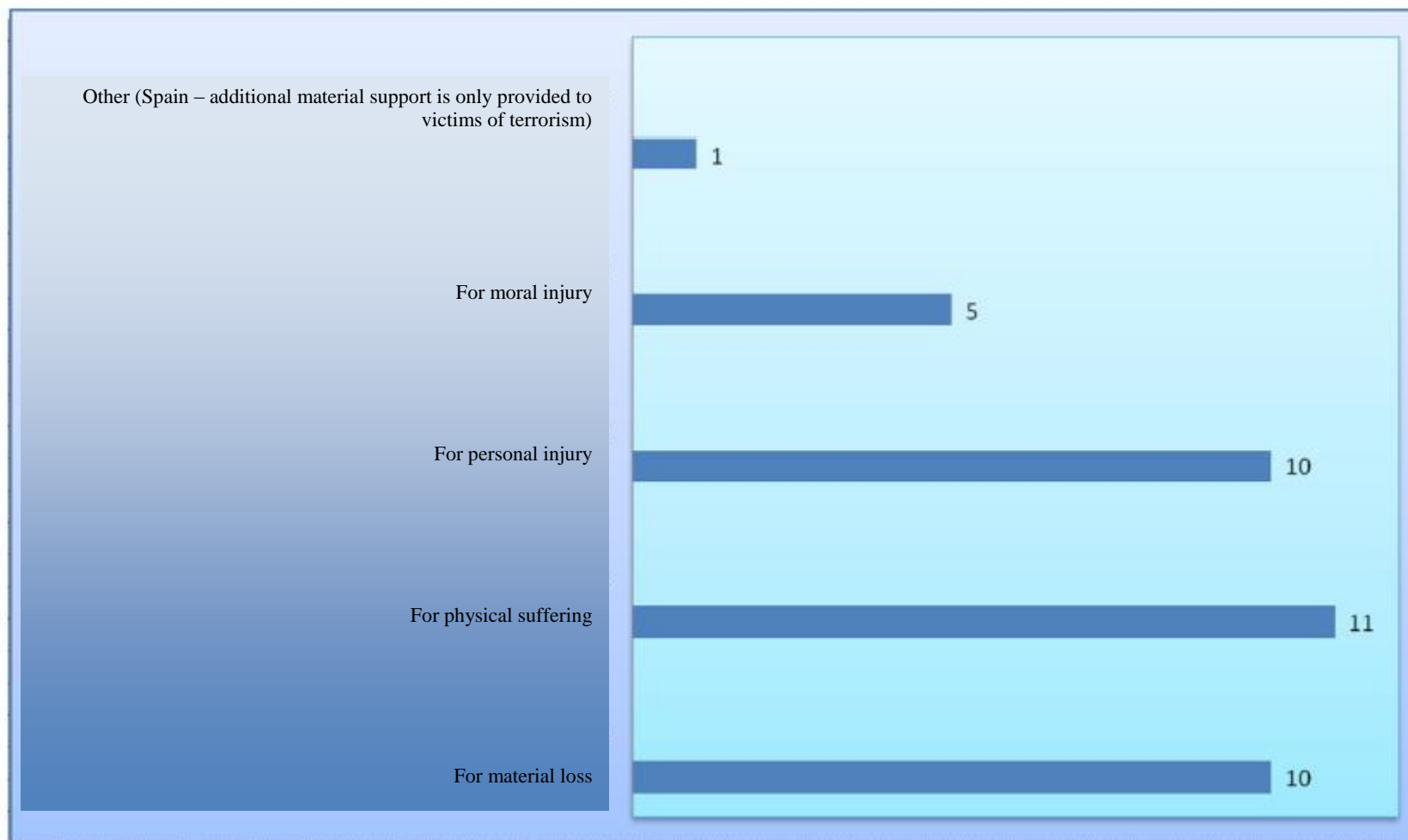


Chart 9. What is the time limit for claiming the state compensation for victims of violent crime?

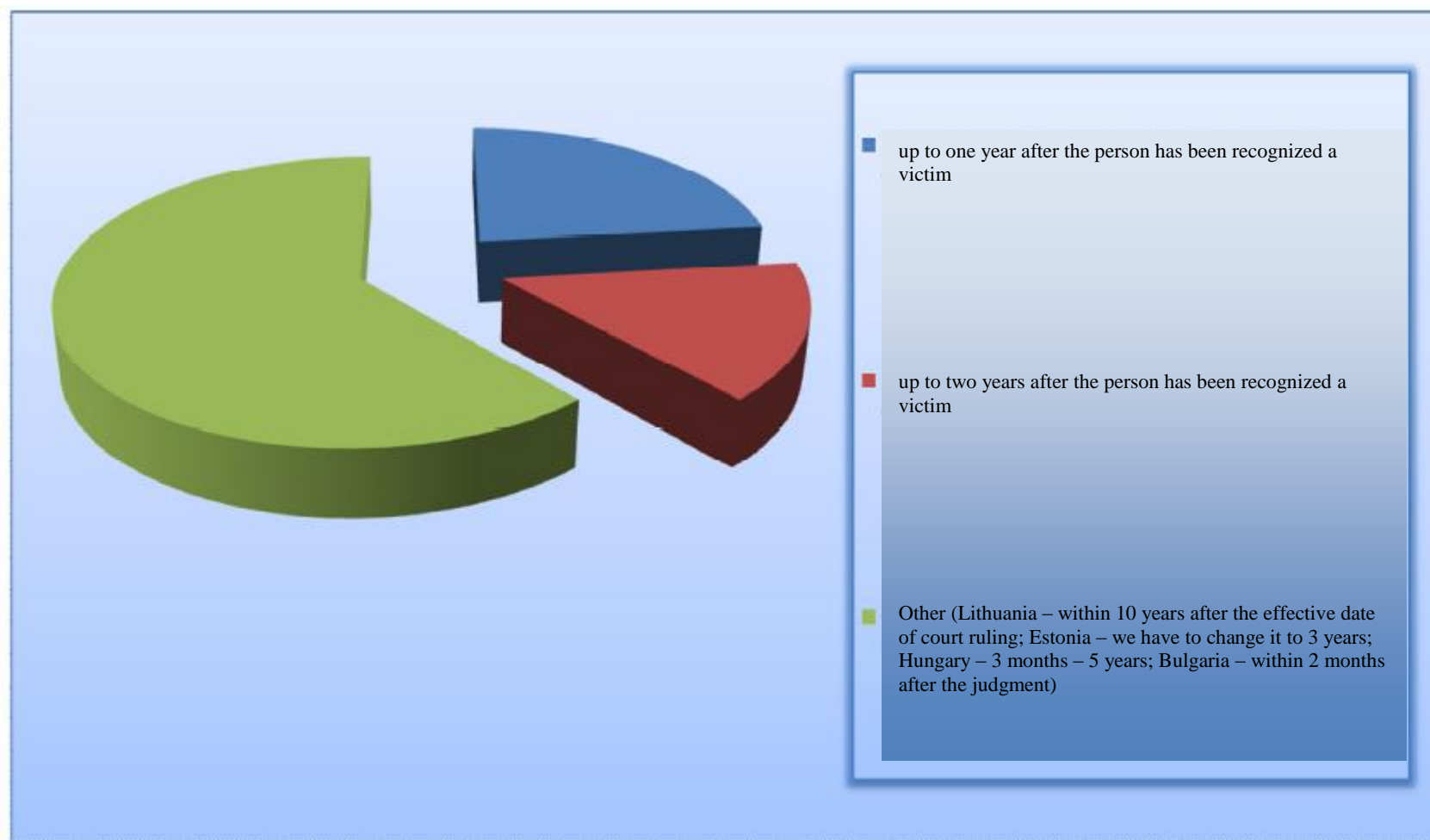
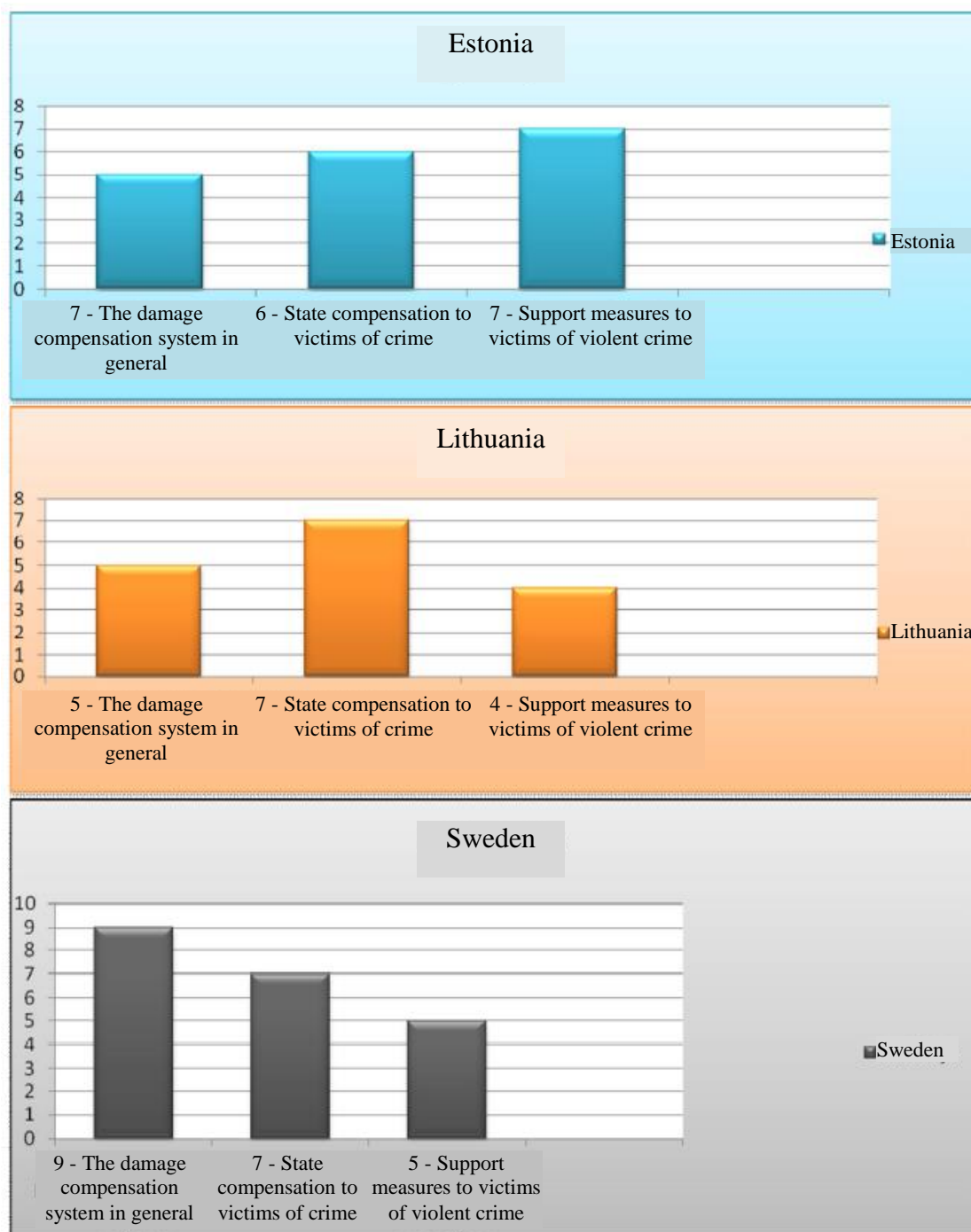
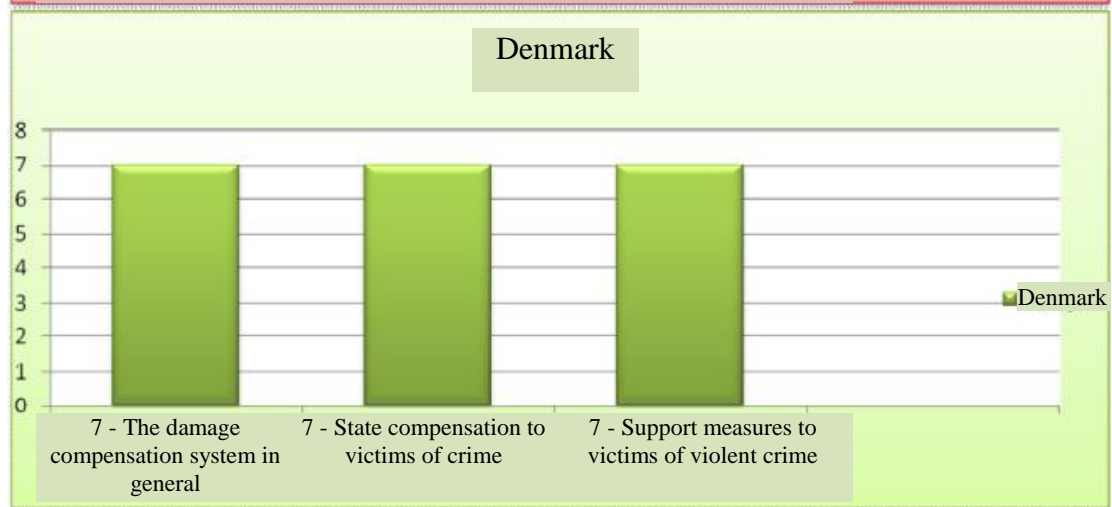
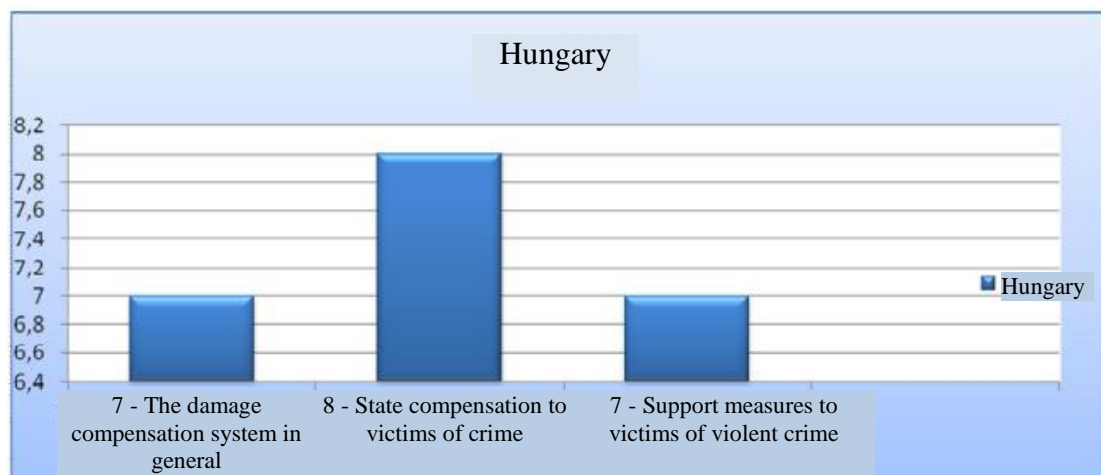
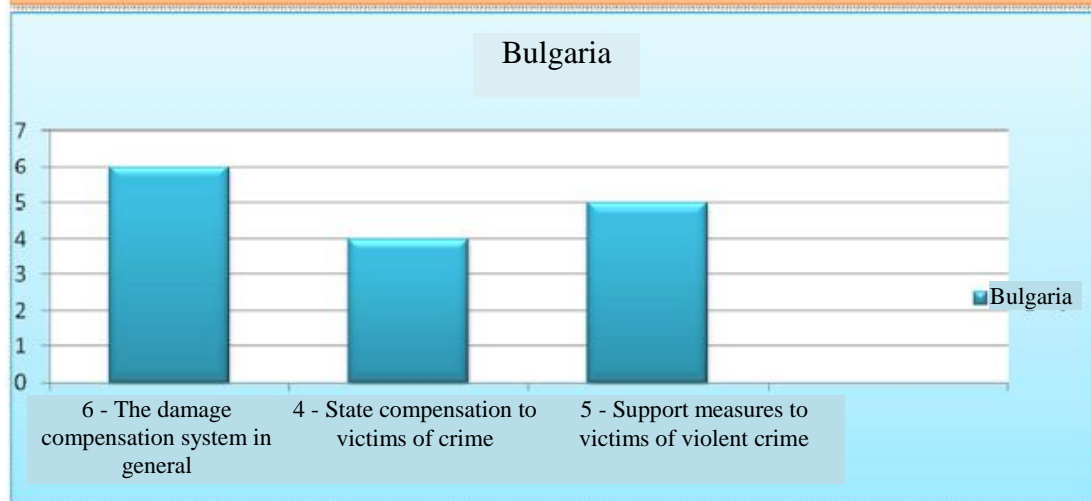
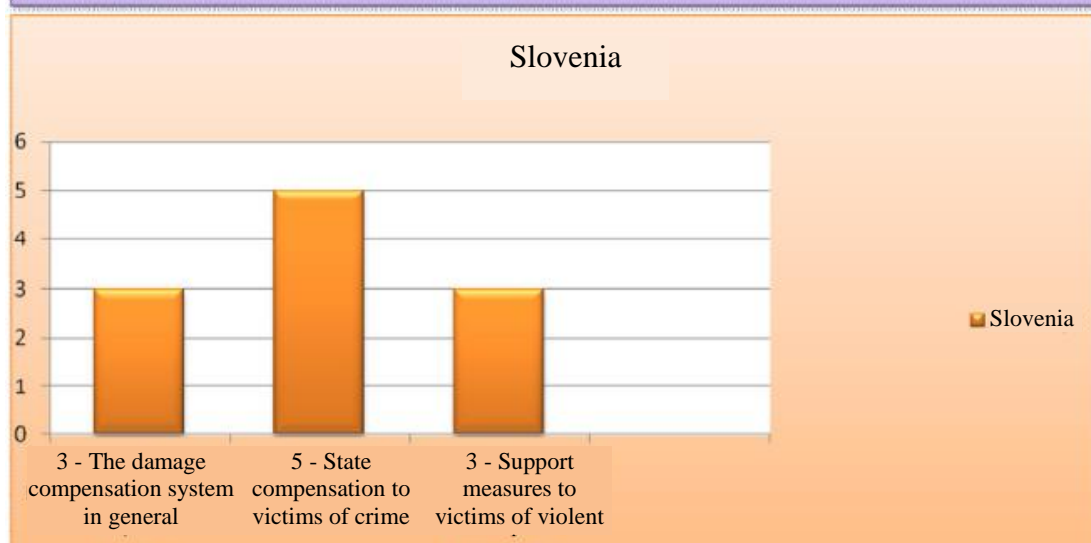
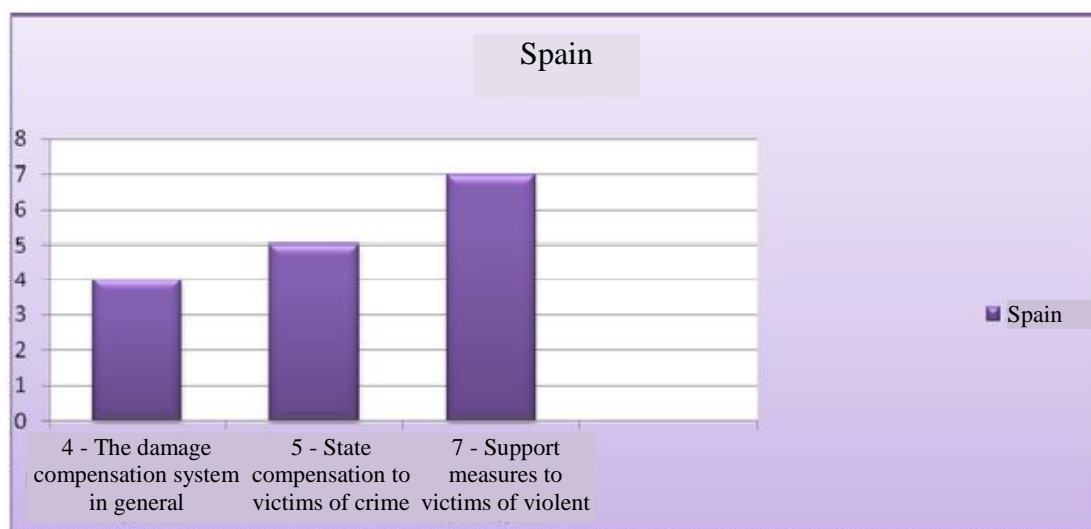


Chart 10 How would you rate (in scale of -5 to +5 where “-5” is the lowest possible rating and “+5” is the highest possible rating) the damages’ compensation system to victims of crime in your country?







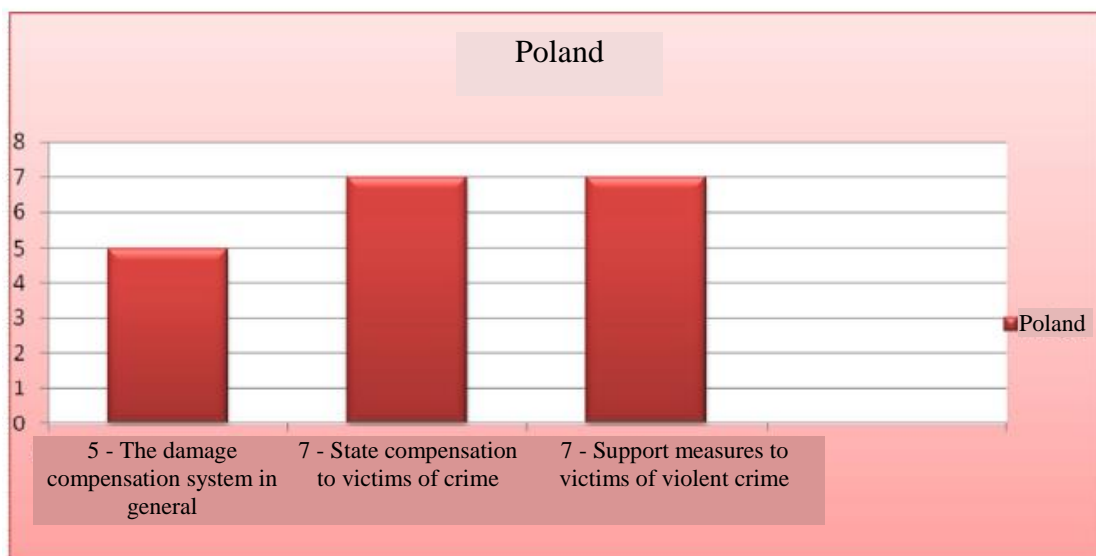
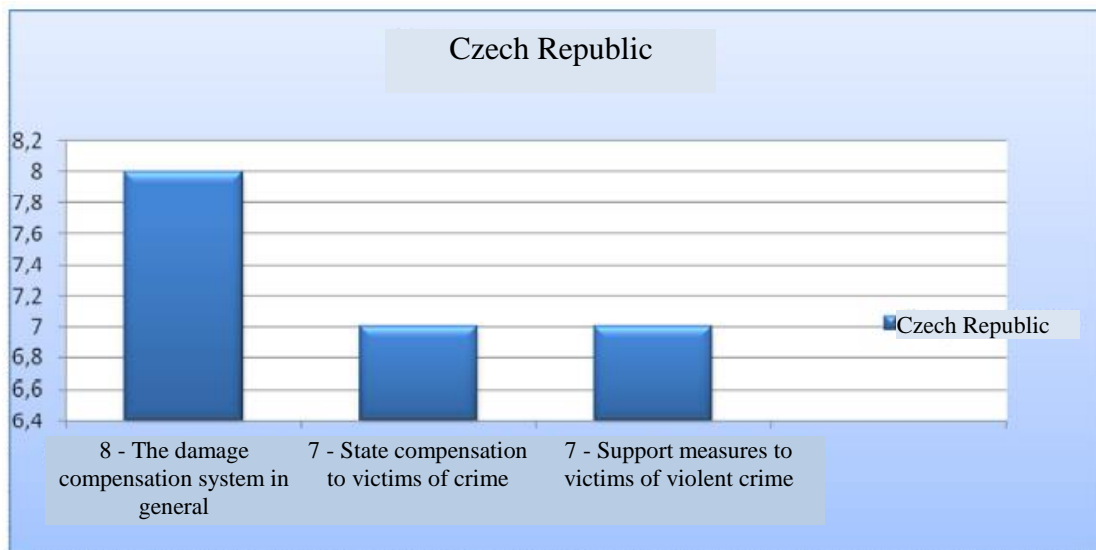


Chart 11. The model of the Victim Support System in Latvia integrating the existing components



Chart 12. Victim Support System in Latvia – directions of vertical and horizontal development

