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27th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Yerevan (12-13 October 2006)

**VICTIMS:
PLACE, RIGHTS AND ASSISTANCE**

Report presented by the Ministry of Justice of

CROATIA

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THE VICTIM

Rights, position and support

The Republic of Croatia, as a candidate country for full membership of the European Union, pays particular attention to harmonizing its legislation with the *acquis communautaire* of the European Union, but also the acceptance and promotion of European standards, relating to the protection of victims of criminal offences.

A civilized society condemns violence of any kind at the same time incriminating this kind of behaviour through the provisions of criminal legislation as well as through seeking new ways to protect the innocent from the perpetrators of crimes against them. How far a society is capable of raising this form of protection to a level which would enable the rehabilitation of victims in every sense, in terms of property, socially and psychologically, is the level to which that society will become more stable and raise the confidence of its citizens and the international community as a whole. This moral obligation of the state, seen in the need to compensate victims of crime and offer them comprehensive support, is becoming increasingly prominent. The current attitude of society as a whole certainly shows a general level of awareness and the need to draw the line clearly between good and bad, and for the victims in these proceedings to be treated and accepted in a different way than they have been until now.

The Republic of Croatia has signed the European Convention on the Compensation of Victims of Violent Crimes. Furthermore, through the provisions of its internal legislation, the Republic of Croatia has regulated a large number of situations where the victims of crime are given a position in which they are able to realize their rights.

The Republic of Croatia has systematically developed legal standards regulating the rights, position and support of victims – those who suffer the consequences of crime. The victim is considered in a way which offers comprehensive support: in the criminal proceedings, and social and psychological help, bearing in mind that the victim needs to be rehabilitated just as much as the perpetrator of the crime, in the sense of returning to the community without unnecessary trauma and a feeling of being left to him or herself. Apart from drawing up a legal framework, the Republic of Croatia offers support to victims of crime in a practical sense, through a series of seminars, guides and information aimed specifically at victims of crime, the professional training for various state institutions, and also a variety of activities are undertaken to create the vital social sensitivity, to ensure victims are treated appropriately and reduce secondary victimization.

In the Republic of Croatia, the position and rights of victims as participants in criminal proceedings are regulated by the provisions of the **Criminal Procedure Act**. Pursuant to these provisions, the victim is offered the opportunity to take part actively and influence the court proceedings. As the damaged party, the victim has access to the data and evidence being presented and established in the proceedings and is able to present evidence him or herself and assess the evidence presented on the initiative of the opposing party. During the proceedings, the victim may realise his or her rights before the court through an attorney as an expert person.

If for any reason (apart from expiry of the statute of limitations on criminal prosecution) the public prosecutor presenting the case before the court relinquishes further criminal prosecution of the suspect or the accused, the victim may takeover and continue with criminal prosecution and present the case and his interests before the court, seeking the rendering of a court decision.

In certain cases defined by law, the victim appearing in court as the plaintiff may ask the court to appoint an attorney to represent the interests of the victim in the court proceedings. This possibility is also prescribed in the **Juvenile Courts Act** when it is deemed, in the interests of the victim, that there is justification for an attorney to be appointed in the proceedings. In this case, it is not necessary for the victim to make a request as a child or minor, but the initiative for this is in the competence of the judge, who assesses that this kind of victim needs professional assistance during the proceedings.

In criminal proceedings, a request for damages may be made as a supplementary request, to which the provisions of civil law apply. Therefore the victim may request pecuniary and non-pecuniary damages, caused by criminal behaviour, about which the criminal court will decide in that case, without the need to conduct additional civil proceedings.

Special procedural provisions in the Criminal Procedure Act and the Juvenile Courts Act are applied when the victims of crime are children and minors. The purpose of these special provisions is to lessen additional unpleasant experiences or to ease the effect of secondary victimization. For this reason the participation is prescribed of special experts to be present while the child gives testimony in court, offering him or her support in the complex court proceedings which are often difficult to understand even for adults.

Furthermore, the Criminal Procedure Act provides for the possibility for the child or minor to be spared the trauma of coming to court but to be questioned in outside of the courtroom and always with the involvement of a professional psychologist, educational expert or some other professional. The Juvenile Courts Act, in its procedural provisions, goes one step further, providing for the use of audio and video equipment, when questioning a child or minor, in an environment familiar to him or her, in the endeavour to reduce the secondary victimization of the victim as far as possible. The use of technical equipment does not exclude the participation of experts whilst the child is being questioned.

In the Republic of Croatia there are a large number of NGOs, institutions and other organizations offering assistance, support and protection to victims of family and sexual violence. This is particularly true of especially vulnerable groups such as women and children. NGOs mainly offer victims of crime free legal and psycho-social assistance through individual and group work, but also educational programs for women's groups and self-defence programs for women victims of violence. Organizations involved in the protection of victims of family and sexual violence and trafficking in human beings, provide the victims with temporary accommodation, help them in resolving their social and economic problems (assistance in finding employment, realizing rights from the social welfare system, help in finding accommodation), directing them to the appropriate health institutions depending on their health problems.

The Ministry of Health and Social Welfare plays an important role in the protection of child victims of various forms of crime. Its sphere of work includes a system of educational and training institutions for the accommodation of children and minors who cannot count on the care and support of their family.

Apart from institutions for care of children, above all their physical and emotional integrity, there is also a well-organized system of foster care in families functioning in the Republic of Croatia, also run by the Ministry of Health and Social Welfare.

These institutions ease the effects suffered by children as victims, and at the same time prevent their further victimization.

The Ministry of Health and Social Welfare of the Republic of Croatia is engaged, along with the Ministry of Internal Affairs of the Republic of Croatia, in conjunction with the International Organization for Migration (IOM), in caring for the victims of trafficking in human beings, where the majority of the victims are again children and women. In view of the geographical position of the Republic of Croatia this form of crime is on the increase. The program of assistance and protection of the victims of trafficking in human beings includes safe accommodation, psychological and social, health and legal protection, based on individual programs for each individual who is a victim of trafficking.

It is important to emphasise that the Ministries of Internal Affairs and the Ministry of Justice of the Republic of Croatia worked in cooperation with the Government of the United Kingdom on the implementation of a project of support to the victims of crime, precisely in the two regions most affected by the events of the war – the Vukovar and Sisak counties. Although the primary goal of the project was not to provide support and assistance to victims of the war but of crime in general, the Republic of Croatia recognized the possibility for these positive principles to be used in war crime cases that is in relation to those involved in them. With the involvement of respective courts, which through their own efforts devised and provided special facilities for vulnerable participants in the court proceedings, the interest of the local community and coordination of the courts has resulted in the involvement of the service for the support of victims and witnesses, at present on a voluntary basis.

The Republic of Croatia is investing a great deal of effort in creating a supportive and healthy environment for peaceful life together in this region, both within and beyond its borders. The resolution of open questions which have their roots in the events of the war, above all the war crimes committed, is a condition for the establishment of cooperation and open relations with the states in the region.

For this reason a great deal of attention is being paid to the war crimes trials being conducted in the Republic of Croatia and in neighbouring states, where, alongside the already existing support of NGOs, institutionalized assistance and the engagement of state bodies are also vital.

In these proceedings, secondary victimization is inevitable of people who have gone through the horrors of the war, which means that it is not unusual for them to decline to appear in court, although they are sometimes decisive in their evidence regarding the crimes committed. Precisely for this reason, the Republic of Croatia, within the Ministry

of Justice, has organized a Department for Support of Witnesses and Participants in War Crime Trials, which fulfils its purpose through cross-border cooperation with the judicial bodies of neighbouring states.

One of the roles of this department is protection of the personal integrity of witnesses and victims and support for their appearance in court.

In order to bring criminal proceedings to a conclusion as soon as possible, good cooperation has been established between the judicial bodies of the states of the region, and the conditions have been created for standardised application of technical audio and video equipment which additionally reduces the pressure on victims who decide to testify about the difficult experiences they have been through. Present experience supports this approach, that is, the use of video conference links.

A service for out-of-court settlement is at work in the Republic of Croatia, the beginning of whose work came about as a result of cooperation with Austrian colleagues. In the procedure for out-of-court settlement, the victim is the central figure and is no longer merely an auxiliary means to prove the specific crime.

Joint discussion of the perpetrator and the victim result in an apology, and continue with the performance of work for the victim, through their joint action and finally monetary compensation for the damage caused. As well as this, achieved successful agreement makes a new social relationship possible, which has the result of preventing both criminal behaviour and the creation of further victims.

An alternative approach to the resolution of the question of compensation for damages caused by criminal behaviour by an individual or group finds its place in civil court proceedings. In October 2003 the Mediation Act was passed, which regulates this alternative dispute resolution method. The rights of the victim to compensation for damages, whether material or non-material, are founded on the provisions of the **Civil Obligations Act** which prescribes the general principles relating to liability for damage caused, and liability on the basis of guilt, liability of another person, liability for damage from dangerous things or dangerous activities, liability for faulty products and special cases of liability.

Apart from this law, the Act on Liability for Damage Arising from Terrorist Acts and Public Demonstrations establishes a system for compensation for damage resulting from terrorist activities and other acts of violence aimed at seriously disturbing public order by causing fear and a feeling of insecurity in citizens. In these cases, the Republic of Croatia is liable on the principles of social solidarity, equal bearing of the public burden and fair and quick compensation. Whilst drawing up this Act, the Republic of Croatia was guided by the principles established by relevant international documents, primarily those from the Council of Europe Convention on Compensation of Victims of Violent Crimes of 1983.

The Act on Liability of the Republic of Croatia for Damage Caused by Members of the Croatian Armed and Police Forces during the Homeland War enacted in 2003, endeavours to ease the consequences of the war and compensate victims who did not suffer war damage.

In the effort to meet one of the basic principles of justice for victims of crime proclaimed by the UN – the right of the victim to free legal assistance, the Ministry of Justice of the Republic of Croatia, in cooperation and coordination with the relevant entities, especially the Croatian Bar Association, has drawn up a proposal for an **Act on the Realization of the Right to Legal Aid**, which will be passed in the near future. The proposal works out in detail the criteria for the realization of this right and those responsible for its implementation, in an attempt to create a system as close as possible to the beneficiaries. Furthermore, a Project being implemented within the Ministry of Internal Affairs of the Republic of Croatia, - community policing, is one of the ways in which change can be achieved. Apart from the fact that a community policeman, in the way this work is conceived and implemented in certain areas, is the first to be able to offer assistance to the victim, his presence is much more important in the prevention of the occurrence of new victims. The Ministry of Internal Affairs educates its staff in a broad range, to enable them to recognize victims and violence more easily, and react appropriately when they come across them. Also within the project implemented in cooperation with the United Kingdom already mentioned, the police officer is the first to offer victims the necessary and accurate information about their position and rights that have been violated by the criminal offence.

The Republic of Croatia's orientation towards preventive activities regarding victims, especially of various forms of violence, can be seen in the program of work of the Ministry of the Family, Veterans' Affairs and Inter-generational Solidarity of the Republic of Croatia. Within this ministry, a whole series of activities has been developed, aimed at preventing violence and as a result, reducing the number of victims of this kind of behaviour.

The Ministry of the Family, Veterans' Affairs and Inter-generational Solidarity has drawn up a national strategy of protection from family violence for the period from 2005 to 2007, based on international documents regulating this area (the UN Declaration on the Elimination of Violence Against Women of 1993, the Peking Platform of 1995, the Recommendations of the Committee of Ministers of Europe no. 5 of 2002). An address list has been created of all institutions, organizations and other groups offering assistance, support and protection to victims of family violence. An informative leaflet has been printed aimed at these victims, since as a rule they are children and women, the victims of violent men in their families. The program of activities to prevent violence amongst children and young people was created as well. For the implementation of this program a protocol has been drawn up for action in cases of violence between children and young people, which is implemented in practice through an inter-disciplinary and inter-departmental approach. The planned activities are carrying out in cooperation with NGOs whose programs are aimed at protecting victims of family violence, to which the Republic of Croatia, amongst others, also gives financial support.

The institutional protection of victims, namely children, is also organized through the Children's Ombudsman, who monitors the breaching of specific children's rights and

informs the competent bodies and individuals about violations of these rights, and offers recommendations.

In conclusion, it may be said that the Republic of Croatia, through both its substantive and procedural laws, has systematically regulated the legislative aspect of the protection of victims of crime. At the same time, working continuously on improving the organization of various institutions and bodies themselves, and through professional training of their employees, the Republic of Croatia is endeavouring to attain the level and achieve the goal of complete protection for the victims of crimes, offering them adequate legal assistance, timely information, psychological and social support, in this way returning them, insofar as it is possible in the light of the nature of the case, to their position in the social community.

