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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

SLOVENIA

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I. Introduction

The rights of victims in criminal proceedings have been regulated in the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 8/06 - Officially Consolidated Text 3) since it was adopted after the Republic of Slovenia became an independent state - please see item II. Also the rights of victims to compensation under civil law have been a part of Slovenia's internal legal system for quite some time.

In year 2005 two important laws were passed:

- the Witness Protection Act (Official Gazette of the Republic of Slovenia, No. 113/05) - please see item III,
- the Crime Victims' Compensation Act (Official Gazette of the Republic of Slovenia, No. 101/05) - please see item IV.

Also in year 2005 the Resolution on Prevention and Combating Crime was passed by the Parliament and now the National Action Plan is being under preparation. The strategic objects of the Resolution are the higher standard of respect of human rights and fundamental freedoms, where also the question of rights of victims is important and the linkage of governmental and non-governmental institutions in preventing and combating crime.

II. Victims' rights according to the Criminal Procedure Act

1. Criminal Procedure Act gives the possibility for victims to be heard during proceedings and to supply evidence. The injured party (i. e. victim) is during the investigation entitled to call attention to all facts and offer evidence relevant to establishing the commission of a criminal offence, the perpetrator thereof and the property rights claims of the injured party. At the main hearing they are entitled to produce evidence, pose questions to the witnesses and experts and comment on and clarify their depositions, and make other statements and motions. The injured party is also entitled to inspect the file and the material evidence. The investigating judge and the presiding judge must acquaint the injured party with the rights he/she is entitled to.

2. Victims, having the status of witnesses or parties to the proceedings, have the right to a translation during criminal proceedings to avoid communication difficulties. Those kinds of victims also have the right of reimbursement of expenses in compliance with the relevant provisions of Criminal Procedure Act.

3. Criminal Procedure Act determines also the right of an injured party to obtain the compensation in the course of criminal proceedings. If this would cause considerable delay in proceedings, the victim has the right to claim the compensation in civil suit.

The motion for indemnification in criminal procedure should be filed with the agency responsible for receiving crime reports or with the court which conducts criminal proceedings. If a claim for indemnification is filed in the pre-trial procedure or in the main hearing, the court may order a provisional securing of this claim (i. e. temporary seizure) on a proposal of the claimant.

4. The injured party, as well as her/his legal representative, may exercise their rights in connection with the proceedings through an authorized person.

In criminal procedures which are taking place due to criminal offences against sexual inviolability, criminal offence of trafficking in human beings and criminal offence of neglect of minors and cruel treatment the minor-injured party¹ must from the initiation of the criminal procedure onwards have an authorised person to care for their rights, particularly in connection with the protection of their integrity during examination before the court and during the exercising of property-law demands. Minors-injured parties who have no authorised person must be assigned an authorised person from among lawyers by the court ex officio.

5. Regarding the injured parties, having the status of witnesses in the investigation procedure, the investigating judge may order the accused to be removed from interrogation if a witness is unwilling to testify in the presence of the accused or if circumstances indicate that the witness will fail to tell the truth in the presence of the accused or in instances where a recognizance will be required after hearing the witness. The accused may not be present during the questioning of witnesses younger than 15 who are victims of any of the criminal offences against sexual inviolability, criminal offence of trafficking in human beings and criminal offence of neglect of minors and cruel treatment the minor.

If a minor-injured party is examined as a witness in course of the main hearing the panel may order that the public be excluded from the examination. Direct questioning of persons under 15 years of age who are victims of criminal offences against sexual inviolability, criminal offence of trafficking in human beings and criminal offence of neglect of minors and cruel treatment the minor is not permitted in the main hearing. In such instances, the court is obliged to decide that the records of previous questioning of such persons be read.

6. If there are reasonable grounds for believing that disclosure of the personal data or whole identity of a certain witness (or victim as a witness) could endanger his/her life or body or those of his immediate family or other close persons, the court may before hearing also order one or more measures for covering the identity of such witness to protect him or his immediate family. In cases of such endangered witnesses (and also in cases of "pentiti"²) the Witness Protection Act enables also the witness protection programmes in the pre-trial procedure, in the course of criminal procedure and after the criminal procedure.

III. Protection of witnesses under the provisions of the Witness Protection Act

If the victim's life or body or those of her/his immediate family or other close persons is endangered because of the criminal procedure, those persons are entitled to a personal security to the largest extent possible. The protection must be provided to them in the pre-trial procedure, during and after the completed criminal procedure.

The admission of endangered persons into the protection programme according to the Witness Protection Act is voluntary. It is based on the written consent of the endangered person and the decision of the competent authority. The Commission for the Protection of Endangered Persons is a body which is competent for making decisions on admission into and suspension of implementation

¹ Up to eighteen years of age.

² i. e. repentants or collaborators of justice

of the protection programme. Members of the Commission are a Supreme Court judge as the president of the Commission, the supreme state prosecutor, a representative of the Ministry of Justice and a representative of the Ministry of Internal Affairs.

Within the Police the Endangered Persons Protection Unit is established as an organizational unit in order to propose, organize and carry out measures and tasks determined in the Witness Protection Act.

The admission of the endangered witness into the protection programme is decided by the Commission on the proposal of the competent state prosecutor.

During the duration of the programme appropriate psychological, psycho-social and legal assistance should be provided to protected persons. For providing this assistance the Unit may co-operate with non-governmental organisations.

The measures within the protection programme may be: the relocation of persons, altered documents, prevention of provision of personal data and supervision of inquiries into records, concealment of identity as required for judicial procedures, change of identity, use of video conference and telephone conference, international exchange, measures in prisons or institutions for the enforcement of corrective measures, economic and social support.

IV. Compensation for victims of crime by the State

In the year 2005 The Ministry of Justice have put a lots of efforts into preparing a new Act (Crime victims' compensation Act) which establishes an overall scheme for indemnification of the victims of violent criminal offences. The new Act covers a new national scheme and encompasses also all the cross-border aspects envisaged by the provisions of the Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.

This Act regulates the right to compensation to victims of violent intentional crime and their dependants, the respective claiming proceedings and the authorities that make decisions and participate in the decision-making proceedings on the respective rights.

Types of recognized damages:

Under the terms and conditions hereunder the access to compensation is recognized for:

- Physical pains or impairment of health,
- Suffering,
- Loss of maintenance,
- Medical and hospitalization expenses.
- Funeral expenses
- Damages for destruction of goods
- Expenses for compensation claims.

Tasks of the Ministry of Justice:

- The applicant shall submit his or her application for compensation to the Ministry of Justice.

- The Ministry of Justice shall provide for cooperation and exchange of information between the Committee, the Police and the competent authorities of other countries, according to the regulations of the respective countries competent for performance of tasks in compensation claim proceedings, and shall give assistance and seek adequate solutions concerning the implementation of the provisions hereof in cross-border situations.
- The Ministry of Justice shall provide the applicants with the basic information on the possibilities and on the terms and conditions for claiming compensation in accordance with the manual drawn up by the European Commission.
- The Ministry of Justice shall be competent for receipt and transmission of applications in cross-border situations.

V. Compensation for victims of terrorist violence

The Code of Obligation (Official Gazette of the Republic of Slovenia, Nos. 83/01 and 32/04) regulates liability for acts of terrorism, public demonstrations and other public events. It states that the state or the person that should have prevented the damage is liable for damage (death or physical injury) as a result of acts of terrorism or during public demonstrations and events. Liability exists regardless of the fact that the person, who should have prevented the damage, did everything in his/her power to prevent it.

