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**JUSTICE FOR WOMEN – Towards a more effective rights protection and access to judicial procedures for victims of crimes**

**Transnational Experts Working Group**

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# Right to compensation of crime victims in Bulgaria

- The right to compensation for damages suffered(which is inherited) in the context of the complex of rights of the victims of crime
  - To be informed of their rights;
  - To receive protection (personal physical guarding, anonymity)
  - To receive assistance (medical, legal, social, psychological, legal, interpretation etc.)
  - To take part in pre-trial and court proceedings
  - To have legal representative
- Execution of the right to compensation
  - civil claim in the criminal proceedings
  - separate civil claim after the end of the criminal proceedings
  - administrative procedure for:
    - state assistance(emergency medical assistance, psychological counseling and help, free legal aid, practical help)
    - financial (state) compensation - only for material damages and only for a limited group of victims

# Compensation of victims of crime in Bulgaria – civil claims

- According to the Criminal Procedure Code, victims **or their heirs** can join the trial proceedings as **civil claimants**; *civil claims cannot be made before the criminal court if they are made under the Civil Procedure Code*;
- The request to file a civil claim can be **written or oral**, against the defendant or other persons with civil liability under the case;
- The victim-civil claimant can take part in the trial proceedings, ask for security of his/her claim, acquaint himself/herself with the case and make the necessary excerpts, present evidence, make requests, notes and objections and appeal the court acts violating his/her rights and lawful interests (*ALL WITHIN THE REMIT OF DEFENDING HIS/HER CIVIL CLAIM!*)
  - deciding on the civil claim cannot be reason to postpone the trial of the criminal case; when the trial is terminated;
  - the civil claim is not reviewed but can be submitted to the civil court;
  - when the court has failed to rule on a civil claim, adjudication is made by an additional sentence within the time limit for appeal;

# Civil claims - continued

- Prosecutors can file civil claims on behalf of children or victims with disabilities who cannot properly protect their interests;
- Already at the pre-trial proceedings, the first instance court can impose **security measures** for the future civil claim or expenses made;
- Civil claimants can have an attorney if they prove they cannot pay for one, wish to have one and the interests of justice so require;
- Civil claimants get their expenses reimbursed by the defendant if they have requested so and if he/she is sentenced;
- The issue whether to honour the civil claim and whether in full or in part is decided by the sentence, which civil claimants can only appeal concerning their claim.

# Civil claims – benefits and concerns

- Victims might
  - file their claims upon trial - however, criminal courts would often not accept the claim for reasons it would slow down proceedings;
  - file before the civil court after the sentence has entered into force within a five-year limitation period (civil courts are also their only recourse when the case was closed via an agreement, because in that case only the monetary damages are covered).
- According to a recent interpretative decision by the Supreme Cassation Court, compensation for non-monetary damages resulting from the death of a relative can be asked by an extended circle of persons, while this circle remains limited for the criminal trial;
- According to practitioners (Animus, 2018) **victims are usually only witnesses and rarely join proceedings as civil claimants**, especially victims of trafficking who may be suggested they have also committed something bad, and victims of low education level, or from smaller cities and villages;
- The submission of civil claims also depends on the access to and quality of legal aid.

# Civil claims – criteria for awarding monetary and non-monetary damages

- No specific guidelines either in primary or secondary law;
- Criteria should be sought in relevant case law
  - damage should generally be caused by the crime, regardless of whether it is provided for in its elements
  - damage should be actual
- Non-monetary damages – difficult to prove, especially in (recently criminalised) cases of domestic violence;
- Difficulty in proving victims' non-monetary damages (pain, suffering) also because of the lack of regulation of the role of NGOs as support persons or 'friends of the court' being able to step in with an expert opinion on the victim's state.

# State financial compensation

- Only for property damage, only for victims of **terrorism, intentional murder, attempted murder, intentional grievous bodily injury, carnal abuse, rape, trafficking in human beings, crimes committed on commission or by decision of an organised crime group, and other serious intentional crimes**, of which death or serious bodily injury has resulted as a material consequence (Art.3, par.3, *Law on Assistance and Financial Compensation of Victims of Crime*)
- Financial compensation covers medical treatment costs that are not covered by the National Health Insurance Fund, lost income, court expenses, lost alimony, funeral costs, other pecuniary damage (the Fund compensates for pecuniary damage up to **BGN 10,000**, lost alimony is up to **BGN 10,000 for each dependent child**).

# State compensation – benefits and challenges

- State compensation is awarded by the National Council for Assistance and Compensation of Victims of Crime, which is an interinstitutional body, i.e. can help streamline practices regarding victims and develops significant information activity;
- Difficulty in gathering all necessary documents to prove damage sustained;
- Problems in informing citizens – although authorities are obligated to inform, they often do so formalistically



# Trafficking victims' compensation and the experience of Demetra

- A relatively limited group of victims of crime may receive compensation;
- According to the information provided by the Secretary of the National Council for Assistance and Financial Compensation to Victims of Crime for 11 years since the entry into force of the law :
  - out of 17 applications to victims of trafficking, no application was approved;
  - from 16 applications for financial compensation of victims of rape, only two victims were compensated in the amount of BGN 4,000.

# Trafficking victims' compensation and the experience of Demetra

- For the last three years, 13 victims of trafficking have been placed in the shelter for victims of trafficking in Burgas, 9 of them being victims of sexual exploitation; Only one woman received financial compensation from Switzerland, the country where the crime was committed;
- On the one hand, there are problems in practice, and on the other hand the problem lies in the anti-trafficking system itself; The main focus is on the prosecution of perpetrators; The rights of the victims are neglected, as they are mainly seen as witnesses; In practice, the court almost never orders compensation for the victim, and defense and prosecution very rarely claim compensation.

Thank you very much! Questions?

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