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International Standards of Protecting Victims of Crime

This paper presents major international and national efforts aimed at improving the situation of crime victims, as well as developing regulations, which would define the standards of public institutions' conduct toward victims of crime. Special attention is devoted to victims who are most vulnerable and therefore require special support, i.e., child victims of crime. As the situation of victims depends not only on the content of criminal law, the information discussed in this paper will concern the broadly understood social policy, with major subjects including public services, non-governmental organizations, and other institutions.

Organizations and institutions, whose responsibility or will is to provide assistance for victims of crime, often face difficulties stemming from a clear discrepancy between victims' interests and the functioning of law enforcement institutions, insufficient psychological and social help services for crime victims, or restraints in the process of claiming compensation or restitution for the harm suffered as a result of the offence. Although such problems continue to aggravate the already difficult situation of crime victims, it should be noted that the status of victims in criminal procedures – as defined in recently adopted documents – has been improving. The positive changes concern both the international standards of victims' rights, and the evolution of the Polish law toward observing and respecting these rights.

The Council of Europe's standards

An important goal of all regulations adopted by the Council of Europe is to introduce similar legislation and public life practices in all member states. This principle applies to resolutions and conventions defining crime victims' rights in a way that ensures their equal treatment in all member states.

In mid 1970s the Council of Europe pointed to the problem of public (state) compensation for crime victims. At that time many of the Council of Europe's member states had regulations, which differed in the principles of granting such compensation. The Council of Europe's goal was to adopt uniform minimum rules for all member states.

European Convention on the Compensation of Victims of Violent Crimes, 1983 (not ratified by the Republic of Poland)

In 1977 the Committee of Ministers of the Council of Europe adopted Resolution (77)27 on the compensation of the victims of crime, which recommended that member states provide for state compensations for victims. This resolution underlay the adoption of the European Convention on the Compensation of Victims of Violent Crimes in 1983. The Convention obliges the signatory states to provide for state compensation for **victims of intentional violent crimes** and for **the dependants of persons who have died as a result of a violent crime**.

Compensation from public funds is payable only where compensation is not fully available from the offender or from other sources. The Convention allows the setting of upper limits of state compensation, as well as other constraints. When the loss is verified in a particular case, state compensation should cover the following minimum items: loss of earnings, medical expenses, hospital fees, and loss of maintenance (in case of the victim's dependants).

The Convention also specifies the ways of avoiding double compensation: from the state and from other sources. Finally, it obliges signatory states to inform persons, who might be interested in applying for state compensation, about their compensation rights.

In the years that followed the Council of Europe adopted further regulations concerning the situation of victims of crime: Recommendation No. R(85)11 on the position of victim in the framework of criminal law and procedure, and Recommendation No. R(87)21 on assistance to victims and the prevention of victimization.

Recommendation No. R(85)11 on the position of victim in the framework of criminal law and procedure

In 1985 the Committee of Ministers to Member States issued this Recommendation in order to change the traditional approach of the criminal law, which focused on the relationship between the state and the offender and tended to diminish the victim's problems.

The Recommendation includes guidelines aimed at protecting victims of crime and safeguarding their interests at each stage of the criminal procedure: at the police level, when questioning the victim, during court proceedings, and in the areas of compensation, protection of privacy, and special protection of the victim. The document also emphasizes the need of examining the possible advantages of mediation and conciliation schemes, as well as conducting research on the efficacy of provisions affecting victims.

The Recommendation devotes special attention to the **situation of interviewed child victims**; it underlines that children should be questioned in the presence of persons who may support and help them (such as their parents or guardians or other persons qualified to assist them).

Recommendation No. R(87)21 on assistance to victims and the prevention of victimization

In 1987 the Committee of Ministers to Member States completed the document of 1985 with the *Recommendation on assistance to victims and the prevention of victimization*. The guidelines presented in this Recommendation aim at developing an aid and support system for victims, including both public services and non-governmental organizations.

The Recommendation lists measures that should be taken by the member states in order to develop assistance programs and structures for victims in general, for special categories of victims, and for victims of particular offences, such as rape, domestic violence, sexual abuse, organized crime, and racist violence.

Children were described as a special category of victims, for whom assistance services should be created, developed, and extended.

Moreover, the document recommends that member states take measures to prevent victimization, conduct research on victimization, and make every effort to raise the public awareness of victims' needs.

Guidelines concerning particular efforts to be made define major forms of assistance, i.e., satisfying the victim's immediate needs, especially the need for security; providing medical, psychological, social, and material help; providing information on the victim's rights and advice to prevent further victimization; providing assistance during the criminal process; finally, helping the victim in obtaining effective reparation or compensation.

In the guidelines concerning the development of the **aid system** the document recommends that member states identify the existing services and organizations able to help victims of crime, encourage voluntary aid, as well as train and increase the contribution of services, which have direct contact with victims of crime, such as medical and social services.

Important recommendations regard promoting the coordination of efforts, especially of victim assistance services operating on a public and private basis, and of victim assistance services with agencies of the criminal justice system and other public services. The document emphasizes the need to support the establishment of national organizations that advance the interests of victims. Detailed guidelines are provided concerning prevention programs in the closest neighborhood and among groups with specific victimization risks.

The European Union's standards

The fundamental EU document concerning victims of crime is the Framework Decision of March 15, 2001, on the standing of victims in criminal proceedings, adopted by the Council of the European Union and binding on all member states since March 22, 2001. The Council is currently working on a Directive on state compensation for victims of crime¹.

Framework Decision of March 15, 2001, on the standing of victims in criminal proceedings

The documents defines the following terms: "victim", "victim support organization", "criminal proceedings", "proceedings", and "mediation in criminal cases".

The decision requires that EU member states adopt regulations ensuring that victims of crime enjoy the following **rights**: to respect and recognition, to be heard and to supply evidence, to receive information, to be protected, to compensation in the course of criminal

¹ **Directives** are binding as to the result, do not include legal norms, and require member states to take means necessary to achieve the goal defined in the directive, while allowing them to choose the form and methods of implementation. **Decisions** are binding on those addressed. The Council of the European Union addresses its decisions to member states, if it wishes to ban or permit a particular activity or to impose certain obligations or grant specific rights.

proceedings, to communication safeguards, to specific assistance to the victim, to reimbursement of expenses incurred as a result of their legitimate participation in criminal proceedings, to mediation in criminal cases, and to receive appropriate assistance and compensation if the victim is resident in another member state.

Specifying the right to respect and recognition as the right to being treated with due respect for dignity, and to recognition of the rights and legitimate interests of the victim, the document emphasizes the need to **provide special care for victims, who – for various reasons and circumstances – are particularly vulnerable, including children.**

The Framework Decision indicates the directions of the harmonization of legal regulations regarding the protection of victims of crime, aimed at a significant improvement of their situation.

Among other benefits, introducing the standards defined in this Framework Decision to member states' internal regulations makes it possible to provide better protection for child victims.

International standards of protecting children from violence and abuse

The interest in the situation of victims of crime has drawn the international community's attention to the general problem of violence. In 1990s violence was acknowledged as a human rights problem. A report of the European Parliament defined violence as *"a violation of the human right to life, personal security, freedom, dignity, and physical and mental integrity, and thus an obstacle to full development of a human being"*.²

The situation of victims of crime and victims of various forms of violence, not necessarily classified as offences (such as domestic violence or school violence), have been a focus of attention of international organizations: the United Nations, the Council of Europe, and the European Union. These organizations finance special programs³ aimed at preventing violence and helping both victims and offenders. They organize sessions and conferences concerning this subject, and pass documents and legal acts defining standards of prevention and assistance, which should be adopted in their member states.

The Council of Europe has issued recommendations and resolutions concerning particular categories of victims (e.g., victims of domestic violence or victims of organized crime). **Children, women, and representatives of national minorities have been described as victims who need special treatment and support.**

Selected regulations of the Council of Europe on the protection of children against violence:

- Recommendation R(79)17 concerning the protection of children against ill-treatment
- Recommendation R(85)4 on violence in the family
- Recommendation R(90)2 on social measures concerning violence in the family
- Recommendation R(91)9 on emergency measures in family matters
- Recommendation 1371 (1998) on the abuse and neglect of children
- Recommendation 1065 (1987) on the traffic in children and other forms of child exploitation
- Recommendation 16 (2001) on the protection of children against sexual exploitation
- Recommendation 135 (2003) on local partnership for preventing and combating violence at school
- Resolution 135 (2003) on local partnership for preventing and combating violence at school

² *Jak chronić kobiety i dzieci przed przemocą?*, „Dialog Europejski. Magazyn na rzecz Integracji Europejskiej”, November/December 1999, 4, p. 20.

³ Having defined violence as a public health problem, since 1997 the European Union has financed the **„Daphne program”** (the legal basis for this initiative is defined in the Treaty of the European Union, in the article on public health), aimed at resolving the problem of violence against women and children in EU member states.

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