



# **PRO VICTIMS JUSTICE**

## **Victims' rights and assistance mechanism in Bulgaria**

Maria Yordanova, Center for the Study of Democracy, 8 March 2018, Hannover



*Funded by the European Union's Justice Programme (2014-2020)*

# Legislative framework

- **Criminal Procedure Code** – finally amended in 2017 to transpose the 2012 Victims' Rights Directive
  - interview of victims/witnesses with specific protection needs to be accompanied by measures to avoid contact with the defendant, incl. by video or telephone conference;
  - specific protection needs of a witness/victim can be subject of an expert opinion;
  - testimony of witnesses/victims with specific protection needs always read in court without further interweaving him/her ;
- **Law on Assistance and Compensation of Victims of Crime** – also recently amended (July 2016)
  - all victims of crimes prosecuted ex officio - subject to assistance, incl. victim's heirs
  - financial compensation – limited, but with expanded scope of crimes and limits of compensation - raised
  - obligations to provide information – expanded, taking into account individual specifics;
  - psychological help – also to victims' family members;

# Legislative framework - continued

- **Regulation on the Implementation of the Law on Assistance and Financial Compensation of Victims of Crime, December 2016**
  - further reorganised, in line with the Directive, the activity of the pre-existing National Council for Support and Compensation of Victims of Crime and its expert commission
  - established further conditions for financing free psychological consultation and accommodation of victims and for reporting and control over victim support organisations
- **Law on Countering Human Trafficking**
- **National Mechanism for Referral and Support of Victims of Trafficking**
  - official and binding framework of co-operation of institutions and NGOs in supporting victims
  - standard procedures for: identification and referral, protection and support as well as social inclusion (reintegration)
- **Law on Legal Aid**
  - state-paid legal aid ( provided by attorneys, organised by the National Legal Aid Bureau with the Minister of Justice and the bar councils)
  - international co-operation in the area of legal aid

# Legislative framework - continued

- **Istanbul Convention** – signed (2016) but not yet ratified, the ratification process is frozen due to lack of understanding and overexposing of the so called "third gender" and "same sex marriages"; probably the strongly politicised debate will postpone the ratification for long time.
- Package of **draft legislative amendments** (prepared by the Ministry of Justice |
  - to the **Criminal Code** to criminalise some forms of domestic violence and violence against women - definition of stalking, punishment for systematic mental violence (up to one year of imprisonment or probation) , expansion of the list of grave bodily injuries to include genital mutilation and the adding of domestic violence motivation as an aggravating factor in cases of murder, bodily injury, incitement towards suicide, kidnapping, illegal deprivation of liberty and coercion;
  - to the **Law on protection against domestic violence** - specialised protection services proposed for any person victimised by domestic or gender-based violence - round the clock consultation on a free telephone line, consultation centres for victims of domestic and gender based violence and victims of sexual violence, placement in a crisis centre for victims of domestic and gender based violence, regardless of consent to co-operate.

# Victim support institutional framework

- **National Council for Support and Compensation of Victims** – only ‘generic’ specialized body
  - interagency unit chaired by the Minister of Justice or a designated deputy minister
  - composed of representatives of Supreme Cassation Court and prosecution, Ministries of Interior, Health, Labour and Social Policy, Finance, Foreign Affairs, Child Protection Agency, National Anti-Trafficking Commission, Supreme Bar Council, Association of Victim Support Organisations
  - main powers : drafting application forms for crime victims, co-ordinating the entities involved; supporting Bulgarian citizens having been victimised in another EU Member State; reviewing financial compensation requests through an expert commission; deciding on these requests; and paying compensations etc.
- **Psychological support** – wholly in the hands of NGOs financed by the state + offered on project basis – Association not so visible!

# Victim support framework

- **Victims' rights during criminal proceedings**

- In the pre-trial (Art.75, CPC)
  - to be notified about his/her rights, receive protection for his/her and relatives safety
  - be informed about the progress of criminal proceedings
  - have an attorney
  - receive translation of the decree for terminating or suspending criminal proceedings if no command of Bulgarian
- \*Rights can be exercised if victim explicitly requests participating in the proceedings and leaves a notification address
- In the trial – can be a witness (with limited procedural rights) or a party (private prosecutor or civil claimant)

- **Access to legal aid**

- poor financial situation; indigent victims of domestic and sexual violence and human trafficking;
  - during proceedings - when victim **as party** does not have money to pay an attorney, wants one and the interests of justice so require – first instance court appoints a defender;
  - difficulty to prove indigence + poor qualification of lawyers
- **Victims helplines** – for victims of domestic violence, for children, for victims of trafficking

# Victim support framework

- **Challenges:** lack of unified co-ordination mechanism (only for human trafficking and partly for domestic violence), lack of balance between the roles of the state and the NGOs (state delegating vs keeping its responsibilities), lack of general victim support mechanism;
- **Promising practices:** National Council for Support and Compensation of Victims – information/co-ordination function; Centres for Prevention of Violence and Crime – joint initiatives between Ministry of Interior and NGOs; regional centres of the National Legal Aid Bureau

Thank you for your attention! Questions?

Maria Yordanova

Center for the Study of Democracy, Sofia

[maria.yordanova@online.bg](mailto:maria.yordanova@online.bg)