

THE LEGAL STATUS OF THE INJURED PARTY AND VICTIM OF CRIME

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Abstract: The author presents the most important characteristics of the legal status of the injured party and victim of crime (pointing out the differences between these two notions) in the criminal proceedings in light of “new” Serbian criminal procedure rules. The emphasis is on the recommendations and requirements of international organizations and compliance of national (criminal procedure) legislation with them, especially given the recent directives of the European Union. The author points out the existing gaps in national legislation and in practice, and provides suggestions for overcoming them. The rights with respect to information, assistance and protection, participation in criminal proceedings and compensation for damage are in focus. The author concludes that the latest amendments to the criminal procedure legislation have not significantly improved the position of the victim, as officials claimed, and that victims of crime do not enjoy the necessary protection. The protection of victims of crime is more declarative in nature, while in practice, the greatest burden of protecting and fighting for the rights of these persons is on non-governmental organizations.

Keywords: injured party, victim of crime, victims’ rights, criminal proceedings, Directive 2012/29/EU

INTRODUCTION

The position of the victim of crime has been improving by the development of victimology and its recommendations and requests. As victimology gained its momentum in the seventies of the last century (in Serbia much later), it is clear why the position of victims of crime in Serbia has received greater attention only recently (due to the need for harmonization with the European standards). The international recommendations and requirements relevant to the topic of this paper use the term victim, not injured party, and at the beginning it is important to point out the differences between these concepts and their interpretation. In fact, it is quite reasonable to use the term victim in international law, taking into account differences in national legislations in terms of the participation of victims in criminal proceedings and their rights¹. The term victim is broader than the concept of the injured party², because the latter appears only in criminal proceedings, or in connection with it. Specifically, the injured party is a person (natural or legal) whose personal or property right has been violated or jeopardized by a criminal offence. However, there is no doubt that the primary or direct victim of crime is in focus, and that the injured party is inextricably linked to the process, with precisely defined rights and duties established in the interest of the procedure (although he/she may act as a subsidiary or private prosecutor). An indirect crime victim may be in position of the injured party (in case of murder, a spouse or a close relative of the murdered would be in the position of injured party). If, for some reason, the criminal proceedings cannot be initiated or cannot develop further, there is no injured party and the state will not provide further support and protection for the victim of crime. However, the victim, with his/her human rights exists in this case. And very often he/she needs the support and protection.

INTERNATIONAL LAW OF CRIME VICTIMS

According to the international victims’ rights instruments, “victim” means a natural person affected by the criminal offence, which does not necessarily need to participate in the criminal proceedings in order to enjoy certain rights and protection. According to the first document adopted at the international level, dedicated to the victims and their rights - the United Nations Declaration of Basic Principles of Justice for

¹ About these differences, see: L. Wollhuter, N. Olley, D. Denham, *Victimology: Victimization and Victims’ Rights*, Routledge-Cavendish, London and New York, 2009, pp. 186-195.

² For a different opinion, see: J. Ćirić, *Prosecutors and Victims*, Institute of Comparative Law, Young Lawyers of Serbia, Belgrade, 2009, p. 15. If we talk about the victim and his/her rights, especially about rights to assistance and protection, we think of natural person, while the injured party may also be a legal entity.

Victims of Crime and Abuse of Power³ of 1985, victims are “persons who individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial violation of their fundamental rights through acts or omissions that constitute a violation of the criminal laws of a Member State”. A person may be considered a victim regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familiar relationship between the perpetrator and the victim. The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization (Annex, A.2). The most recent document in establishing crime victims’ rights, with legally binding nature is Directive 2012/29 / EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220 / JHA⁴.

The victims and their protection are main topics in documents of the Council of Europe, such as the Committee of Ministers Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure⁵, Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims⁶. Crime victims and their rights are in focus of international law documents devoted to certain, particularly vulnerable categories of victims, or victims of certain types of crime (women, children, victims of violent crime, victims of acts of terrorism, trafficking victims) or to witness protection⁷. The mentioned documents indicate that it has become obvious that there is no effective prosecution of perpetrators of (certain) offences without effective protection of victims. It is important to emphasize the fact that some of them are legally binding, and that they set before the member states certain requirements whose fulfillment will be controlled. Thus, the European Union adopted Directive 2011/36 / EU on preventing and combating trafficking in human beings and protecting its victims⁸, while the Council of Europe adopted two important conventions that Serbia has ratified recently, and which also pay special attention to vulnerable categories of victims (the Convention on action against trafficking in human beings⁹ and the Convention on preventing and combating violence against women and domestic violence¹⁰). Particularly vulnerable victims’ right - the right to compensation for damages arising from a criminal offence is in focus of two legally binding documents: Directive 2004/80/ EC of April 2004 relating to compensation for crime victims¹¹ and the Council of Europe Convention on the compensation of victims of violent crimes of 1983¹². The importance of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the European Court of Human Rights for the protection of victims’ rights is undoubted, but due to the limits set for this paper, these will not be elaborated¹³.

According to the abovementioned international law documents, the basic principles of justice for the victims¹⁴ are related to: 1) respect and compassion; 2) information; 3) the right of access to court and the right to be heard; 4) legal advice; 5) protection of privacy and security; 6) the possibility of informal conflict resolution; 7) help and support (medical, psychological, material); 8) restitution/compensation by the offender; 9) compensation for damages from the state; 10) empowerment and cooperation. Listed categories will be, for the purposes of this study, summarized as follows: 1) respect for the dignity of victims, information on rights and proceedings, 2) participation in criminal proceedings, victim assistance and protection, 3) compensation, and will be analyzed according to the Directive 2012 / 29 / EU and European legally binding documents on compensation of victims of (violent) crime.

Respect for the dignity of the victim, careful, professional and non-discriminatory treatment are requirements that have primacy in terms of the state-victim relation and they apply to all its segments, from the first contact with the victim, regardless of whether he/she has filed a complaint, and is willing or able to participate in the proceedings. Such behavior is expected of all who participate in providing assistance to vic-

3 United Nations Declaration of basic principles of justice for victims of crime and abuse of power, A / RES / 40/34, <http://www.un.org/documents/ga/res/40/a40r034.htm>

4 Directive 2012/29 / EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220 / JHA, Official Journal of the European Union L 315, 14 November 2012.

5 Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure, http://www.coe.int/t/dghl/standardsetting/victims/recR_85_11e.pdf

6 Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims, http://www.coe.int/t/dghl/standardsetting/victims/Reference%20documents%20CoE_en.asp/

7 Documents of the Council of Europe: http://www.coe.int/t/dghl/standardsetting/victims/Reference%20documents%20CoE_en.asp

8 Directive 2011/36 / EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629 / JHA, Official Journal of the European Union L 101, 15 April 2011.

9 „Official Gazette of the Republic of Serbia – International Agreements“, No. 19/2009.

10 „Official Gazette of the Republic of Serbia – International Agreements“, No. 12/2013.

11 Council Directive 2004/80 / EC of 29 April 2004 relating to compensation to crime victims, Official Journal L 261, 6 August 2004

12 European Convention on the Compensation of Victims of Violent Crimes, CETS No. 116, <http://conventions.coe.int/>

13 See: G. P. Ilić, “The Injured Party and Human Rights Standards in the Criminal Proceedings”, *Annals of the Faculty of Law in Belgrade*, No. 2/2012, p. 135-161.

14 J. Van Dijk, “Victims’ Rights and International Criminal Law”, International Conference on Crime Victims, Rome, 19-21 January 2006.

tims. Thus, education and training of employees in the police, prosecution office, courts, support services for victims, and other relevant agencies are of paramount importance in recognizing victims' vulnerability and specific needs. *Information and advice* provided to the victims by competent authorities and other relevant agencies should be given in simple and accessible language. Victims' knowledge of the language, age, intellectual and emotional capacity, literacy, mental/physical impairment, vulnerability, should be taken into account. In the process of information transfer, victim may be supported by the chosen person (*person of trust*). Information has to be provided to victims without delay, at the first contact, referring to: 1) support services (information on medical assistance, psychological support, alternative housing); 2) the role in the proceedings (sufficient detail should be given in order to enable victims to make informed decisions about their participation in the proceedings); 3) the possibility of obtaining protection, legal aid, counseling; 4) the possibility of exercising the right to compensation; 5) the complaint about inadequate treatment by the competent authority; 6) contacts through which the details of the case could be communicated; 6) availability of restorative justice; 7) reimbursement of the expenses arising from participation in the proceedings. Other relevant information should be given to the victim at the first contact, or in the later stages of the procedure, depending on the specifics of the case and the victim's needs. The victim has the right to be notified about the dismissal of a criminal complaint, or abandonment of criminal prosecution (and about the current status of any proceedings), as well as about the time and place of evidence examination, and the trial. In connection with the above-mentioned rights, related to the notification of victims, is also the right to an interpreter or translator who should be appointed by the competent authority, provided that a victim has the right to appeal against a negative decision. The information that is of particular importance for a victim is information about the release or the escape of the offender, at least in cases where there might be a danger or an identified risk of harm to the victim.

Participation of victims in the criminal procedure includes the right to be heard, to present the facts and propose the evidence of importance for proving the claim. A victim has the right to object to the public prosecutor's decision not to conduct criminal prosecution or to abandon criminal prosecution. In terms of achieving the goals of restorative justice, the authorities must have in mind the protection of victims against secondary and repeated victimization, intimidation and retaliation, his/her interests, as well as free and informed consent to participate in the process (e.g. mediation). Access to legal assistance provided to victims who have the status of a party to the proceedings, and the right to reimbursement of (necessary) expenses belongs to victims who are actively involved in the process (at the request of the competent authority). *Support and protection* must be provided through referral of victims to the appropriate support services, free of charge and unnecessary formalities, which will act in the interests of victims before, during, and the appropriate time after the completion of the criminal proceedings. The right to assistance and support belongs to family members of the victim, in accordance with needs and the extent of damage and injuries. Victim support services and specialist services can be organized as public or non-governmental ones, but they should be evenly distributed all over the country. The referral services or access to them must not be conditional upon submission of a complaint by the victim to the competent authorities. The aforementioned services must provide the minimum of assistance in the form of: 1) information, counseling and support in relation to the rights of victims, including access to national programs of compensation and participation in criminal proceedings, including adequate preparation for it; 2) information about existing specialized services to help and support or direct reference to them; 3) emotional and psychological assistance and support; 4) advising on financial and other practical issues related to victimization; 5) counseling regarding risks and prevention of secondary and repeat victimization, intimidation and retaliation. It is necessary to provide (within the specialized service assistance): 1) shelters or other types of temporary accommodation, for the protection against secondary or repeat victimization, intimidation or retaliation; 2) targeted and integrated assistance for victims with specific needs, such as victims of sexual violence, gender-based violence, violence in close relationships.

States must ensure *the protection of victims against secondary victimization, repeat victimization, intimidation and retaliation*. If necessary, they should provide physical protection to victims and family members. It is necessary to take measures to prevent contact of the victim and the defendant in the premises in which the proceedings are conducted, by providing even separate waiting rooms for them, for this purpose. In the framework of the investigation, it is necessary to carry out questioning of the victim as soon as possible; number of questionings should be minimized, justified by the needs of the proceedings. During the examination, a victim could be accompanied by his/her legal representative, as well as by the person of his/her own choice (person of trust). A victim has the right to privacy, as well as to implementation of special measures for protection against secondary and repeat victimization, intimidation and retaliation. When assessing whether to implement these measures, one must consider: the personal characteristics of the victim, the type and nature of the offence, and the circumstances under which it was committed. Special attention must be paid to the gravity of the offence, its consequences, the offender's motives, especially those that are related to discrimination and victims who are, due to the relationship with the defendant, especially vulnerable (victims of terrorism, organized crime, human trafficking, gender-based violence, in close relationships, sexual abuse, exploitation or offences committed out of hatred, victims with disabilities

and children). In the course of the proceedings, the following measures may apply to victims who are particularly vulnerable and have special need for protection (provided that their application is possible and that the reasons of urgency for victim questioning does not preclude their use): examination in separate rooms, examination by or with the assistance of professionals (psychologist, social worker, etc.), examination by the same persons, examination of victims of sexual violence, gender-based violence, violence in close relationships by a person of the same gender as the victim, if the victim so wishes (unless examination is conducted by a prosecutor or a judge). During the proceedings before the court, it is possible to take the following measures: measures to avoid visual contact between the victim and the defendant; measures to ensure that the victim is heard although not present in the courtroom (by using technical devices for transmitting images and sound); measures to avoid unnecessary questions concerning the private life of the victim which are not related to the subject of the evidentiary action, and the exclusion of the public. Special attention must be paid to child victims and their protection, and in addition with the aforementioned measures the following also apply: in the phase of investigation, examination of the child can be audio-visually recorded, and the footage can be used as evidence; legal representation is obligatory; if the age of the person cannot be determined, and there is a reasonable suspicion that he/she is a child, the person is to be regarded as a child and as such enjoys certain rights.

The right to compensation is one of the most important victims' rights. A victim has the right to submit the claim for restitution in criminal proceedings, which should be adjudicated within a reasonable time. States must take measures to provide compensation to a victim by the defendant. However, it is well known that this is very complicated, almost impossible for a victim to get the compensation from the defendant, because the procedure takes a long time, and then raises the question of (in)ability of the offender to compensate for the damage. Thus, establishing state funds for compensation to victims of (violent) crime is a better solution which tackles the issue more effectively: victims get compensation regardless of the outcome of criminal proceedings, even if the offender is not identified¹⁵. The provisions of the Directive 2004/80 / EC show clearly how important this right is by requiring the efficient compensation for victims who were victimized in the member state in which they are non-residents.

INJURED PARTY IN THE NATIONAL LEGISLATION

The Criminal Procedure Code¹⁶ does not introduce the concept of a crime victim, while the Croatian legislator did it in 2008. A victim has been considered as a person who has suffered physical, mental harm, economic loss or substantial violation of fundamental rights and freedoms which were caused by a criminal offence, while the injured party is a victim but also another person whose personal or property rights have been violated or jeopardized by a criminal offence, and who participate in the capacity of injured person in the criminal proceedings (Article 202 paragraph 2, subparagraph 10 and 11 of the CPC)¹⁷. In Serbian criminal procedure law, the notion "injured party" is dominant, and he/she participates in criminal proceedings as a secondary or main subject (subsidiary or private prosecutor) with certain rights and duties.

The rights of the injured party are enlisted in Article 50 of the Criminal Procedure Code. The public prosecutor and the court will inform the injured party of these rights. However, in Article 300 of the CPC on attending certain evidentiary actions, there are some omissions. Specifically, paragraph 3 of this Article stipulates that the injured party may be present at the examination, but has not provided the obligation of informing the victim. The paragraph 6 does not even mention injured party, so he/she might miss the examination of witnesses and experts. Thus, his/her right to be informed about the time and place of taking certain evidentiary actions has been violated, as well as the opportunity to actively participate in the proceedings, which might have negative impact on the quality of the evidence.

The victim/injured party is not provided with the information about the organizations offering psychological or other assistance. Such information is of great importance for victims, and it would be the best solution if they receive this information at the first contact with the competent authority (it is usually the police). According to recently conducted research¹⁸, the victims consider service information about the proceedings and its progress as the most important information, as well as the information related to

15 The establishment of a special state fund has been envisaged by the Statute of the International Criminal Court (Article 79). See: The Ratification of the Rome Statute of the International Criminal Court Act, "Official Gazette of the Federal Republic of Yugoslavia – International Agreements", No. 5/2001.

16 "Official Gazette of the Republic of Serbia", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014.

17 On the relationship between these two concepts and more about victims' rights in Croatia, see: "Subjects in the Criminal Procedure: the Legal Position of Victim and Injured Person in the New Croatian Criminal Procedure", *Croatian Annual of Criminal Law and Practice*, vol. 15, 2/2008, pp. 839-845. Victims' rights are presented in Chapter 5, art. 43-46 of the CPC, "Official Gazette of the Republic of Croatia", No. 152/2008.

18 Results were presented at the conference *Rights of victims of sexual and intimate partner violence* (organized by the Autonomous Women's Center from Belgrade, supported by the Norwegian Ministry of Foreign Affairs, 31 October 2011, Belgrade).

the support they can expect¹⁹. Directive 2012/29/ EU has suggested that the police officers should provide information to victims (e.g. by handing leaflets). It is proved that the best are those systems in which police officers have a legal obligation to provide specified general information to a victim (at the first contact), and to compile a report (e.g. Netherlands and Belgium²⁰). According to the survey, conducted by the Autonomous Women's Center from Belgrade about the experiences of women victims of sexual and partner violence, over 60% of victims were dissatisfied with the information given by the police. The information that the victims find important were related to: their rights and the proceedings - 79%; assistance and protection - 79%; compensation - 60%. The victims got no useful information by the public prosecutors in 56% cases. Furthermore, the victims were not satisfied with the attitude of officials towards them (58% when it comes to the police, and 48% when it comes to the public prosecution office). It should be noted that representatives of the police and the public prosecution office admit that they do not have sufficient knowledge about techniques for interviewing victims, and that they need training in this regard. Besides, representatives of the state authorities do not have leaflets for victims to learn about existing programs of assistance and protection, and most of them are not aware of the existence of NGOs or other agencies providing support. The victims do not receive information on the release or escape of the offender.

There is no possibility for a victim to be accompanied (during questioning) by the person of trust whose presence would alleviate discomfort and stress for the victim (Slovenian law allows such possibility for victims of violence²¹). Agency for assistance and support to witnesses and injured parties, established at the High Court in Belgrade, provides some sort of information and support²² which is a good example that should be followed and developed²³. The inequality of treatment of the accused and the injured party in relation to the exclusion of the public from the trial should also be noted. At the request of the defendant, persons close to him/her (e.g. spouse, close relatives) could be exempted from the exclusion of the public (Article 364, paragraph 2). Such possibility is not provided for the injured party.

A special section of the explanatory notes for the CPC Draft is devoted to the injured person and his/her "improved" status and expanded rights. Special praise has been given to the obligation of deciding on a restitution claim in the procedure for imposing the security measure of compulsory psychiatric treatment²⁴. However, the achievement of the right to restitution in the proceedings pending against a mentally incompetent person is "illusory"²⁵, because this person cannot be responsible for damages, due to the lack of guilt. According to the Law of Obligations²⁶ (Article 164 paragraph 1) this claim can be directed to a person who is on the basis of law, or a court decision, or the contract, obliged to keep control of mentally incompetent person, so it is clear that this demand can only be achieved in a lawsuit. The main flaw in the national legislation is the lack of possibilities of compensation from the state fund, at least for some victims, as it is the solution set out in Slovenia²⁷ and Croatia²⁸.

The explanatory notes for the CPC praise the right of an injured person as a subsidiary prosecutor to request appointment of a proxy when criminal proceedings are being conducted in connection with a criminal offence punishable by law by a term of imprisonment of over five years. The "additional protection of the injured party" is emphasized, even though the condition for appointment of the proxy is "the best interest of the proceedings"²⁹. So much praise over the improved status of the injured party is not understandable when the same solution related to the appointment of a proxy existed in previous CPC. (Article 66, paragraph 2 of the CPC/200³⁰). The new provision is related to the possibility of appointment of a professional consultant to a subsidiary prosecutor, but the inextricable condition is the same – the best interest of the proceedings. The appointment of a proxy or professional consultant would be useful not only to the injured party as a subsidiary prosecutor, but in general to the injured party (in certain cases, like those of "especially vulnerable witnesses"), in order to help him/her to achieve the rights and to avoid the secondary victimization.

19 D. Ajduković, M. Mrčela, K. Turković, *Support to Victims and Witnesses of Crime in the Republic of Croatia*, UNDP, Zagreb, 2007, p. 20.

20 These countries are highly positioned on the list of those who show exceptional care for victims. See: M. E. I. Brienen, E. H. Hoegen, *Victims of Crime in 22 European Criminal Justice Systems: the Implementation of Recommendation (85)11 of the Council of Europe on the Position of the Victims in the Framework of Criminal Law and Procedure*, Wolf Legal Productions, Nijmegen, 2000, p. 1159.

21 K. Filipčić, "The Position of Crime Victims in Legislation of the Republic of Slovenia", *Temida*, No. 1/2008, p. 51.

22 About the services: <http://www.bg.vi.sud.rs/lt/articles/o-visem-sudu/uredjenje/sluzba-za-pomoc-i-podrsku-svedocima-i-ostecenima/>
23 Act on Courts demands it (art. 23. par. 3), "Official Gazette of the Republic of Serbia", No. 116/2008, 104/2009, 101/2010, 31/2011, 78/2011, 101/2011, 101/2013.

24 Draft Criminal Procedure Code, 2011, p. 208.

25 M. Grubač, op. cit., p.113.

26 "Official Gazette of the Socialist Federal Republic of Yugoslavia", No. 29/78, 39/85, 45/89, 57/89, "Official Gazette of the Federal Republic of Yugoslavia", No. 31/93, and "Official Gazette of Serbia and Montenegro", No. 1/2003.

27 See: K. Filipčić, op. cit., pp. 55-57.

28 See: G. Tomašević, M. Pajčić, op. cit., pp. 846-852.

29 Draft Criminal Procedure Code, 2011, p. 209.

30 "Official Gazette of the Federal Republic of Yugoslavia", No. 70/200, 68/2002, "Official Gazette of the Republic of Serbia", No. 58/2004, 85/2005, 115/2005, 85/2005, 49/2007, 20/2009, 72/2009, 76/2010

Regarding the right to a review of a decision not to prosecute or to abandon the prosecution, the CPC has changed existing provisions, but not in favor of a victim. Again, the interest of the proceedings, its acceleration and strengthening the position of the prosecution are in focus. Namely, the injured party cannot replace a public prosecutor (as a subsidiary one) if a public prosecutor decides to dismiss a criminal complaint or abandon prosecution before the confirmation of indictment (Article 51), or if a public prosecutor desists from criminal prosecution until the scheduling of a trial or a hearing for pronouncing a criminal sanction in summary proceedings (Article 497, paragraph 1). The injured party has the right to submit an objection to the immediately higher public prosecutor, which is a solution that has been criticized because it is neither in the interests of the injured party, nor in the public interest. It is believed that this solution provides a prosecutor with absolute and uncontrolled monopoly on initiating criminal proceedings³¹.

The fact that the CPC does not acknowledge a victim is not such a problem, as it is the absence of any other regulation on the rights of victims of crime, regardless of the criminal proceedings, and in particular the right to compensation from the state fund. In Germany, whose legislation is a model for Serbia, the Act on the Protection of Victims (*Opferschutzgesetz*) was enacted in 1986, ten years before the Act on the Compensation of Victims of Crime (*Opferentschadigungsgesetz*)³². In the UK, a national organization that provides assistance to the victims and witnesses of crimes (*Victim Support*), which has branches all over the country, was established in 1974 (and there are other organizations)³³.

However, one cannot say that victims have no support and protection in Serbia. The NGOs are most active in this field, especially those dealing with certain types of victimization³⁴. The most advanced is a mechanism developed to protect victims of human trafficking whose important characteristic is good cooperation between the state and civil society³⁵. A victim of human trafficking is introduced to the system of protection by the state agency – the Center for the protection of victims of trafficking³⁶. More attention has been paid to the victims of domestic violence, especially women and children, but the NGOs play the most important role in providing support to the victims³⁷. The Social Protection Act³⁸ recognizes certain categories of victims as the beneficiaries of social care services (victims of abuse, neglect, violence and exploitation ... and trafficking in human beings (Article 41)). There are special protocols regulating the procedures and mutual cooperation among relevant actors (state agencies and NGOs) which are very important for the protection of especially vulnerable categories of victims (e.g. protocols for the protection of children from abuse and neglect³⁹, Special protocol on acting of the judicial bodies in protection of victims of human trafficking in the Republic of Serbia⁴⁰, Special protocol on acting of the judicial bodies in cases of violence against women in the family and intimate partner relationships⁴¹), but there is still an open question of their implementation and effective protection of victims.

CONCLUDING REMARKS

New Serbian criminal procedural legislation has made certain changes in the sphere of a victim status as an injured party in criminal proceedings, but it could not be said that they are as important as the creator of the new code claimed, at least not in the sense that injured party has gained some real and useful benefits. The position of an injured party has been improved more on the level of declarations, not for real (in some spheres his/her rights are deteriorated). So far, the greatest contribution to the protection of victims has been given by non-governmental organizations, especially those providing support and assistance to the most vulnerable groups (women, children) linked to certain types of crime (domestic violence, sexual violence, trafficking in persons). On the other hand, we should not forget the nature of the criminal procedure and its objectives, and we cannot expect that all the necessary assistance and protection could be provided to a victim in criminal proceedings. In this regard, the state must develop and support other mechanisms that will act before, and during criminal proceedings, and upon its completion, as in the case where the process is not initiated or its development ends, victim exists and needs protection. Guidelines for creating good mechanisms are set out in international and comparative law, and Serbia should consider them having in mind obligations with regard to the respect of rights of victims imposed by the EU accession process and ratified documents.

31 M. Grubač, op. cit., p. 111.

32 On the position of the victim in German law, see: M. Löffelman, "The Victim in Criminal Proceedings: a Systematic Portrayal of Victim Protection under German Criminal Procedure Law", *Resource Material Series No. 70*, UNAFEI, Tokyo, 2006, pp. 31-40.

33 See: P. Dunn, "Victim Support in UK: its History and Current Work", *Resource Material Series No. 63*, UNAFEI, Tokyo, 2004, pp. 93-100.

34 See: Ignjatović, Đ., Simeunović-Patić, B., *Victimology*, University of Belgrade Faculty of Law, Belgrade, 2011, p. 143-159.

35 See: A. Galonja, S. Jovanović, "Protection of Victims and Prevention of Human Trafficking in Serbia", Joint Programme of UN-HCR, UNODC and IOM to Combat Human Trafficking in Serbia, Belgrade, 2011.

36 About the Center for the Protection of Victims of Human Trafficking: <http://www.centarzztlj.rs/>

37 See: <http://www.womenngo.org.rs/>

38 "Official Gazette of the Republic of Serbia", No. 24/2011.

39 http://www.unicef.org/serbia/resources_14632.html

40 http://arhiva.mpravde.gov.rs/images/POSEBNI_PROTOKOL_eng.pdf

41 Ministry of Justice and Public Administration, No. 119-01-00130 / 2013-05, 14. 1. 2014.

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