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STRENGTHENING LAWYERS LEGAL KNOWLEDGE AND COOPERATION WITH PROSECUTORS  
AND JUDGES, TO PROTECT VICTIMS OF HUMAN TRAFFICKING RIGHTS IN THE JUDICIAL  
PROCEEDINGS

# **The rights of the victims of human trafficking in the criminal trial (prosecution phase)**

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**I. Victim of human trafficking – injured party in the criminal trial**

**II. Victim of human trafficking –civil party in the criminal trial**

**III. Victim of human trafficking –witness in the criminal trial Victima traficului de persoane**

# I. Victim of human trafficking –injured party in criminal trial (1)

- **Art. 81 C.p.p. – legal framework**
- Art. 111 paragraph.5: The right to be informed about the release of the accused
- Art.111 paragraph.4 and paragraph. 8: the right to ask the prosecutor for a hearing through technical audio means or audiovideo means
- (special rules for minors )

# I. Victim of human trafficking –injured party in criminal trial (2)

- Art. 93 paragraph 4 C.p.p.; art. 44, art.43 Law no. 678/2001: right to legal assistance free and mandatory
- Art.111 paragraph. 3 rap. art.109 paragraph..2: the right to consult with the lawyer before and during the hearing, and the judicial authority if it considers necessary can allow the victim to take notes;
- Art.93 paragraph.1: the right of the victim's lawyer to be notified (...), to assist at any act during prosecution phase in the conditions of art 92, to consult the file, make petitions and submit statements;
- Art. 93 paragraph.2, art. 92 paragraph.8: the right of the injured party's lawyer to benefit from the time and facilities needed to prepare and carry out effective defense

# I. Victim of human trafficking –injured party in criminal trial (3)

- Art. 113 C.p.p.: victim right to protection of private life and security
- Art. 126 paragraph.1 and art.124 C.p.p.: protection measures disposed by the prosecutor:
  - supervising and guarding the dwelling or providing temporary housing;
  - to accompany and ensure the protection of the injured person and his / her family members while traveling;
  - protection of identity data by giving a pseudonym with which the witness signs the statement;
  - hearing the person injured by video broadcasting, with distorted voice and image;
  - hearing the minor in special cases (art.124 C.p.p.).

# I. Victim of human trafficking –injured party in criminal trial (4)

- **Right of injured party, preventing revictimization:**
  - avoiding repeated hearings of injured persons;
  - avoiding visual contact between the victims and the accused;
  - avoiding unnecessary questions about the privacy of victims.
- *Legal framework* : art. 12 point 4 from Directive 2011/36/UE and art. 18, art. 19 from Directive 2012/29/UE
- *Dispositions from C.p.p. which indirectly governs this right:* art. 113 paragraph 4 and art. 124 paragraph.4 , 126 paragraph letter d, art.129, art.130 C.p.p.

## **II. Victim of human trafficking – civil party in criminal trial (1)**

### **A. Right to reparation of the prejudice**

- Art. 84 paragraph 1 C.p.p. – right of the injured party to exercise civil action in the criminal trial;
- Art. 20 paragraph 1 C.p.p. – the limit term until which a person can constitute herself as civil party – the beginning of the judicial investigation;
- Art. 19 paragraph 3 C.p.p. – special provisions minor victims

## **II. Victim of human trafficking – civil party in criminal trial (2)**

### **A. Right to reparation of the prejudice**

- Art. 27 paragraph C.p.p. – the right to chose the court (civil/penal) to obtain the recognition of the prejudice
- The right to benefit from the reparation of the prejudice produced by the offence – in the European legislation
  - art. 17 from Directive 2011/36/EU and
  - art. 16 from Directive 2012/29/EU

## **II. Victim of human trafficking – civil party in criminal trial (3)**

### **B. Other Rights**

- Art. 85 paragraph 1 and art. 81 C.p.p. – All procedural rights that the law recognizes to the injured person - a victim of human trafficking in the course of the criminal prosecution phase

### **III. Victim of human trafficking – witness in the criminal trial (1)**

- Art. 81 paragraph 2 C.p.p. the right to renounce the status of injured person and acquire the status of witness;
- **Rights of the victim - witness in the criminal trial:**
- **A.** The right to protection measures (art.120 paragraph.2 lit.a C.p.p.)
- **B.** The right to benefit from reimbursement of costs incurred by his or her presence in front of the prosecutor (art.120 paragraph 2 lit.a C.p.p.)
- **C.** The right of not being accused (art.118 C.p.p.)

### III. Victim of human trafficking – witness in the criminal trial (2)

#### A. The right to protection measures

- Art. 120 paragraph. 2 lit. a, art. 125, art. 126, art. 129 și art. 130 C.p.p. – *different protection measures* based on the quality of the witness during the criminal investigation phase;
- • Witness threatened art. 125 C.p.p. ;
- • The vulnerable witness art. 130 C.p.p. ;
- • Protected witness - undefined by C.p.p.

### **III. Victim of human trafficking – witness in the criminal trial (3)**

#### **B. The right to reimbursement of the costs made by her/his presence in front of the prosecutor**

- Internal Legislation art.273 C.p.p.;
- European Legislation art. 14 from Directive 2012/29/EU.

### **III. Victim of human trafficking – witness in the criminal trial (4)**

#### **C. The right of not being accused**

- Internal Legislation: art. 118 C.p.p.;
- European Legislation: art. 8 from Directive 2011/36/EU

***Thank You for Attention***

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