TYPES OF SUPPORT SERVICES GRANTED FOR THE VICTIM OF A CRIME

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Abstract

Usually, a crime implies the coexistence of two parts: the offender and the victim. If most studies deal with researches on the offender's behaviour after having committed the crime, the present article aims at analysing the perspectives that the aggrieved party has. We will display one alternative of the legal dispute, e.g. mediation, which can be also transposed, in practice, to criminal acts, indeed under certain conditions. At the same time, the probation services are designed in such a way that they should also address the victim of a crime. This person should be supported in overcoming the crisis period after having borne the consequences of a crime.

Keywords: victim, mediation, probation

1.The legislative plan concerning victim protection

In the new Romanian Criminal Procedure Code, the victim (or the aggrieved party) is approached in a whole new article – art. 81, which passes in review his/her rights: the right to see the case file, the right to be communicated the stage of the criminal prosecution, the right to be heard, the right to suggest measures of inquiry etc.

The old regulation used to mention that the victim could be heard as a witness, unless he/she became a civil party in the lawsuit or if he/she did not participate in the lawsuit as the aggrieved party. by special legislation – the law 211/2004, a legal regime for protecting the victims of crimes was established.

In this respect, some protective measures have been introduced, as well as psychological counselling, free legal assistance and financial compensations coming from the state. As a matter of principle, public authorities in collaboration with non-governmental organizations set up public information campaigns over these rights. The state ensures the permanent functioning of a telephone line available for denouncing various abuses. If from a telephone conversation it results that the victim is in danger, they will automatically inform the police unit.

In another train of thoughts, the restorative justice is a new solution for the romanian criminal policy. By means of the law no 192/2006 on mediation and the organization of the profession of mediator, there have been determined a few principles that govern the mediation of penal cases (art. 67-70).

For instance, the parties' reconciliation can make up the object of mediation, but only regarding certain crimes. This type of criminal proceedings

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closure (art. 231 of the new Criminal Code) has been extended over to crimes which in the past used to be under the state's exclusive power: the theft (under certain ways of committing). The old provisions did not allow the closure of criminal proceedings (exercised only by the state) even if the aggrieved party did not have any claim. Such subsequently-found regulation deficiencies have been eliminated: "basic penalties are not doubled any further by alternative sanctions, while some texts that describe the crimes and map out the limits of the penalties display a certain inflexibility, situation which makes them too less functional and sometimes inadequate to specific cases" (Danes 2002).

The inclusion of art. 16, par. 1, letter *g* into the new criminal procedure code refers to extrajudicial mediation. Before the aggrieved party formulates the preliminary complaint, one may try the reconciliation of the conflict. This possibility comes as an alternative to exercising criminal action. According to art. 312, par. 3 and art. 367, par. 3 of the new Criminal procedure code, criminal prosecution and, respectively, the trial of the case can be suspended for a period of maximum 3 months, after the respective parties have signed the mediation contract. This period of time is believed to be enough for trying to amicably settle down the criminal conflict. (Gorea and Costin 2009).

The conclusion of an agreement for guilt acknowledgement between the defendant and the prosecutor, by means of an authorised mediator, is a principle established in art. 472-482 of the Criminal Procedure Code. The involvement of a mediator in this case is not banned by any legal text and the statement of reasons of the new Criminal procedure code is in agreement with it. (Dana 2010). Nevertheless, this agreement will also have to be analysed by a court of law, taking into account that in this manner the prosecutor's risk of transforming into a judge will be avoided. According to the 126 article of the Constitution, justice can be attained only by courts of law. If a victim was involved in the crime, the issue of protecting his/her rights will determine a greater care for investigating the "transaction" between the prosecutor and the defendant, even if the aggrieved party has withdrawn his/her claim or has reconciled with the law breaker. (see the article 248 of new Criminal Procedure Code and Decision nr. 235/7.04.2015 of the Constitutional Court).

The compensation for the caused damage and the delinquent's accountability define restorative justice. The classical penalty used to imply the offender's passive attitude which was limited to "digesting" the sanction of a punitive nature. Mediation removes the existing risk within a legal dispute, e.g. one party will not receive the anticipated Court resolution. At this point, the parties will attain their interests, as a result of a reciprocal concession facilitated by a mediation specialist.

In addition, the society is exempted from the expenses with the management of the public services of justice (the trial and the enforcement of the sentence) and, in a relatively short period of time, it will return to its necessary previous balance as a result of having settled down or avoided the conflict.

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2.Therapeutic means dedicated to the victim of a crime

"If at a certain point in time the emphasis was laid on the delinquent's resocialization as object of public solicitude, nowadays it is very outstanding the interest for diminishing the consequences of a crime over the victims" (Bocancea and Neamtu 1999)

The victim has certain needs and expectations that can be intercepted as immediate needs (to be heard, to be treated with respect, without labelling and preconceptions, to be recognised as the victim, the need for security, discretion etc.) and long-term needs (the need to have his/her case solved, the need to be protected from repeated victimisation, the need for a status in the criminal system). (Butoi, et al. 2004).

The criminal offence leads to the appearance of at least two categories of consequences related to the victim.

The first category is represented by the physical and financial impact. Simply putting it, the physical prejudice implies the victim of a brutality, while de financial one appears in the case of an action against his/her assets. In fact, the physical prejudice experienced by the victim usually determines also a psychological prejudice. This can have a direct impact over himself/herself (the diminishing or lack of the victim's self-esteem) or over the others (the image of the criminal offence creates a permanent pressure on the victim, which will trigger aggression as a form of reaction towards the offender). Sometimes, the victim's reaction can seem disproportionate as compared with the initial act of the delinquent (in such a way that the victim transforms into aggressor) or influences other people's perception of the victim (the social support network can become inactive when the victim is apparently indifferent to the respective situation; his/her life partner cannot accept the idea that the victim will remain with a certain permanent invalidity – without an organ or deprived from a sense, especially when it concerns his/her face aspect; people from the victim's external environment can easily detect his/her flaws, by applying labels, and the victim's reaction will be one of revolt). (Birch and Hayward 1999).

The second negative consequence of the offence over the victim, e.g. psychological trauma, comprises several stages:

a) Initial violent reaction performed under a state of shock, when a mixture of feelings takes place: disbelief, dismay, anger, frustration. Frustration can cause excessive aggression and, implicitly, delinquent behaviour. The initial criminal legal enterprise will be doubled, concerning the second offence, the parties switching their procedural qualities. (Sdorow 1993);
b) The disorganization period when the following feelings emerge: confused ideas, nightmares, depression, anxiety, loss of self-esteem, loss of confidence in the loved-ones, the disappearance of the purpose of life;
c) The period of reconstruction, of accepting life as it is and the circumstances of having suffered the offence, when the victim starts to adapt (coping strategies). The victim becomes objective and assesses

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his/her own resources necessary for going through this period. (Eysenck and Keane 1995);

d) The cognitive restructuring period when the victim re-evaluates the content of the event that caused him/her the trauma, with the possibility of repositioning his/her values and attitudes (Groza 2006).

During this last stage of the physical shock caused by the offence, the victim can have a positive attitude, finding his/her own explanations regarding the etymology of the suffered crime. The offence is regarded as a life experience, the victim will take a series of precautionary and self-protective measures, further on in life. There is also the situation in which the victim gives a distorted definition to the crime whose passive subject he/she was, ending up in resigning, without understanding the reasons why the incident had happened and, above all, the reasons why the things had happened as they did. The failure in this situation can be blamed both on the individual's particularities, as well as on the dysfunctionalities of the intervention system conceived by the state.

The risk of losing control over the victimised individual, this person giving up to any kind of individual or group therapy programme, to getting in contact with basic groups: family, friends, neighbours when in a short period of time he/she has to go through a "second victimisation".

The sources of this new trauma are represented basically by the legal authorities that he/she comes into contact with and whose profile is regularly very authoritarian, because they are part of a repressive system which imposes penalties (police, prosecutor, judge).

Medical and social institutions have a particular impact; they are involved in the period immediately after the commitment of the offence, managing the crisis moment. If the people assigned with attributions required by law to assess, monitor and have medical, psychological and social procedures performed in support of the victim display a superficial attitude, or even worse, an attitude of blaming the victim, the result is on the understanding. Recently, even mass-media can influence the victim's post-delinquent behaviour. Obtaining information and pictures at any cost is to the detriment of the victim's right to private life. A specific victim typology is represented by the abused under-aged girl, when we are talking about rapes, sexual acts involving minors, sexual corruption. We can identify certain particular factors favouring the appearance of the crime: the temporary or permanent absence of their own mothers, early puberty and, last but not least, the "social stock of knowledge". (Vicovan 2012)

The interaction between the victims' stock of knowledge – under-aged mothers – and the effects that they can generate describes the term of "social construction of social support and social assistance" (Payne 2011). In these cases it is dealt with the appearance of some delinquent acts (the rapist) as a result of some deviant types of behaviour (the under-aged girl who will become a mother). The intervention methods for overcoming the trauma will be long-termed and the respective specialists will come from probation services, as well as from general

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directorates of social assistance and child protection. The specific protection measures that might be taken concern, this time, two minors: the under-aged mother and her new-born. From a psychological point of view, the therapy will be extremely complicated and complex while, from a legal viewpoint, an extremely important issue arises: can someone order the separation between a minor mother and her new-born in virtue of the minor's superior interest?

3.The intervention of probation services – relevant statistical data

The internal legislation initiates only formal aspects, but future regulations should also comprise some dispositions related to presenting the changes of the victim's psychological profile, as they are felt by him/her. "We signal in the United States an approach centred on the victim, by providing a separate chapter in the lawsuit, which can record the victim's declaration over the personal influence that the offence had over him/her (victim impact statements-vis). In this respect, the probation departments are involved in helping victims offer information on the negative effects imprinted to their conduit" (Abraham, et al. 2001). Unfortunately, at the Romanian probation services level, it is observed a descending trend concerning the support offered to the victims of a crime, tossing aside the limited character of the objectives set by law in this area of activity. Thus, nowadays, psychological counselling and other forms of assistance addressed to the victim barely exist if we are to make reference to the officially-reported statistical data (2010: 74 people, 2011: 43 people, 2012: 67 people, 2013: 15 people, and in 2014: 2 persons). Not only that the number of assisted victims has drastically declined, but also their distribution at a national level. If in 2013 there were 11 centres which offered these kinds of services, in 2014 only two counties were registered with such beneficiaries (Ministry of Justice 2016).

4.Conclusions

Although at a hypothetical level, the victim of a crime can dispose of the means provided by the legislation in force, in reality, the support provided to this person is quite limited. The novelties brought by the mediation institution allow the reassessment of his/her status. We must alarm the authorities concerning probation. Here, the prisoner's assistance and counselling prevail, although the crimes for which the prisoner can execute his/her penalty in liberty imply most often a victim (theft, common assault, manslaughter as a result of a traffic accident etc.). The reality is in this case expressed by the statistical data to which we have made reference throughout the present article. The premises for developing support means dedicated to the victims of crimes are thus created, although there are many things which need to be corrected, first of all at a regulation level and then at an administrative- bureaucratic level.

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