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Shkelqim Veseli and Besa Arifi

¹ South East European University, Tetovo, N. Macedonia, <https://orcid.org/0009-0001-4033-5871>

² Phd candidate, South East European University, Tetovo, N. Macedonia, <https://orcid.org/0000-0001-5611-5358>

[Author] is now at [New Affiliation].

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Correspondence concerning this article should be addressed to Shkelqim Veseli, shkelqim.veseli123@gmail.com and second author Besa Arifi b.arifi@seeu.edu.mk

Shkelqim Veseli, shkelqim.veseli123@gmail.com, tel. 0038975289959

Besa Arifi, b.arifi@seeu.edu.mk, tel. 0038972422898



The Victim's Right to Compensation

Shkelqim Veseli and Besa Arifi

Abstract

Whenever the term victim is used, almost everyone is aware that someone has suffered harm or something has happened to them that is contrary to their interests. The word victim is derived from the Latin word, “victim” and the verb vincere, vaincere and has the meaning of sacrifice, suffering, damage, victimization, destruction of property, while the science which deals with its study is called victimology. The word victim essentially means the person or group that has suffered, that has been harmed as a result of various actions whether caused by man, animals, natural disasters, etc. In general, we are talking about human, animal and plant victims, and with an expression characterized the whole process of human suffering, which is called, “victimization”, which means an indefinite number of wrongdoings that endanger, annihilate, damage and threaten the basic goods and values of man. In fact, when the term victimization is used, it is thought about the ways, routes, forms of injury, its scale and intensity (Halili, 2011). Victims according to the legislation, respectively the positive provisions of Republic of North Macedonia, but also according to various legalities in the world, enjoy many rights, among which the victims have the right to compensation for damage. Damage compensation can be calculated in moral and material compensation. The moral compensation is not foreseen with positive provisions; however, it is presented as a satisfaction of the sentence which is imposed on the perpetrator or perpetrators, while the material compensation is defined with positive legal provisions. We can conclude that moral compensation is presented in cases when the victim feels in himself that the goal has been achieved and the perpetrator has been given the deserved punishment, while material compensation is realized in a certain legal procedure and the perpetrator or the state in certain cases performs compensation.

Keywords: victim, compensation for damage (moral, material), criminal offense, violence.

Introduction

The right to compensation has been recognized since antiquity, with various forms of redress evolving across different historical periods. Traditionally, the nature of compensation depended on the type of harm inflicted. However, due to prevailing family structures and social norms, incidents such as domestic violence were rarely acknowledged or formally addressed, limiting the possibility for victims to seek redress. Over time, societal circumstances have significantly changed, leading to the development of comprehensive legal frameworks. Today, the positive legal systems of nearly all modern states recognize and guarantee the rights of victims, including the right to compensation. In line with this global trend, the legal system of the Republic of North Macedonia has established a set of rights aimed at protecting and supporting victims, similar to provisions for other categories of crime (Halili, 2011).

The rights of victims are safeguarded by the Constitution, as well as by specific legislative instruments such as the Law on Criminal Procedure and the Law on the Prevention and Protection from Violence against Women and Domestic Violence.

Under the legal framework of the Republic of North Macedonia, any individual who has suffered harm—whether through bodily injury, material loss, or non-pecuniary damage such as emotional distress—has the legal standing to initiate a claim for damages. This right is exercised through the institution of a proprietary legal claim, which may be pursued within criminal proceedings. The proprietary claim may include demands for monetary compensation, restitution of unlawfully acquired or retained property, or annulment of a legal act that has caused harm. In instances where the injured party is covered by life or other types of insurance, the claim may also be directed to the relevant insurance provider in accordance with applicable contract and insurance law provisions (Law on Criminal Procedure Official Gazzete of RM, number 150/2010, 100/2012, 142/2016 and 198/2018).

The adjudication of proprietary legal claims is within the competence of the court conducting the criminal proceedings. The Criminal Procedure Code provides for two principal outcomes regarding such claims. First, if the court renders a conviction, it may decide on the proprietary claim either in full or in part. If the court adjudicates only part of the claim, the injured party is advised to pursue the remainder through civil proceedings. Second, if the defendant is acquitted, the indictment is dismissed, or the proceedings are otherwise terminated, the court will refer the injured party to assert the proprietary legal claim before a competent civil

court. This procedural structure aims to ensure that victims have access to compensation without prejudicing the rights of the accused or the integrity of the criminal process (Law on Criminal Procedure Official Gazzete of RM, number 150/2010, 100/2012, 142/2016 and 198/2018).

General Data on Victims and the Right to Compensation for Damage

Regarding the meaning of the word victim, there are many definitions, however, as more acceptable, the definition is calculated on the basis of the provisions of the Declaration on the fundamental principles of justice for victims of crime and abuse of power, and on the basis of this declaration, as victims are considered persons who individually and collectively have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial loss of their rights, as a result of acts or omissions, which violate the criminal law in force in the Member States, including those laws, which prohibit the abuse of power. Also, it is very important to note that on the basis of this declaration as victims are counted all those who have suffered various damages regardless of faith, race, gender, age, ethnicity, political opinion or any other difference. They have suffered enough damage to be counted as victims (Halili, 2011).

The victim is the passive subject of the criminal offense which has caused him harm by committing the criminal offense. The victim may be a natural or legal person who has been harmed.

The right to compensation is guaranteed by legal provisions and in all cases the victim, based on the provisions of the Law on Criminal Procedure of RNM, can submit a legal claim for property, in order to compensate the damage caused to him. All damages can be repaid. Not all damages can be compensated, depending on the type of criminal offense, the damage caused also varies, so the cause-and-effect relationship is what determines whether the damage can be compensated or not. Looking at this point of view it is not a question of damage which is legally provided for compensation, but for damage for which there is no way of compensation, eg. The crime of murder can be compensated for by human life? The dead can be brought back? Or, violence in the family? Can the mental and spiritual suffering of either the direct victim or the suffering of other members who witness domestic violence be compensated? There is no price that can compensate, harmony in the family and spiritual comfort. However, compensation is possible in many criminal offenses. For example, in the criminal offense of theft, the stolen item can be

compensated, or in the criminal offense of serious bodily injury, all medical expenses must be compensated, etc.

Compensation under the United Nations Declaration on Victims of Crime and Abuse of Power shall include the restitution of property or compensation in cash for damage suffered or profit lost, the reimbursement of expenses incurred in connection with victimization, expenses incurred in connection with services provided for the rehabilitation of health conditions, physical, psychological, moral damages. So, all damages and expenses related to the restoration of the attacked rights” (Halili, 2011).

Proprietary Legal Claim (Law Definition for the Victim Right to Compensation)

The victim has the right to compensation for the damage and all other rights determined according to the positive legislation of RNM. To compensate for the damage, a property claim must be submitted, which may be related to the compensation of the damage, the return of the goods or the abrogation of the given legal case, and in case the victim enjoys life insurance or any other type of insurance, the claim is also submitted to the insurance agency. The legal property claim in criminal proceedings is filed by an authorized person or a victim. The legal proprietary request is submitted to the body that files the criminal complaint or the court of first instance where the procedure takes place. The request must contain facts about the type and height of compensation and if it is not filed until the indictment is filed, the authorized person will be notified that the same can be filed at the latest until the conclusion of the main hearing in the court of first instance (Law on Criminal Procedure (“Official Gazette of the Republic of Macedonia” no. 150/2010).

“The legal claim is decided by the court. With the verdict by which the accused is found guilty, the court fully decides on the proprietary legal request or in part, while for the remaining amount of the proprietary legal request it instructs the injured person to implement it in the dispute. If the evidence in the criminal proceedings does not provide sufficient grounds for the full or partial trial of the property claim, while for their supplementary provision there is a risk of unreasonable prolongation of the criminal procedure, the court shall instruct the injured party to implement the property claim in the dispute. When the court will approve a judgment by which the accused is acquitted of the charge or by which the charge is rejected or when by decision it will terminate the criminal procedure, it will instruct

the injured party that the property legal claim can be realized in the dispute. When the court is declared incompetent for the criminal procedure, it shall instruct the injured party that the legal proprietary claim may be filed in the criminal procedure that the competent court shall initiate or continue” (Law on Criminal Procedure (“Official Gazette of the Republic of Macedonia” no. 150/2010).

It is important to note that the person authorized until the conclusion of the main session in the criminal proceedings, can waive the proposal of the proprietary legal request and realize the same through the dispute. In the event that such a proposal is rejected, such a proposal may not be submitted again.

Moral and Material Compensation for Violence in the Family

According to the Law on Prevention and Protection from Violence against Women and Domestic Violence, “Domestic violence is the ill-treatment, insult, endangerment of safety, physical harm, sexual violence or other psychological, physical or economic violence that causes a feeling of insecurity, threat or fear, including threats of such acts, against a spouse, parents or children or other persons living in a marital or extramarital community or in a joint family economy, as well as against a current or former spouse or extramarital partner or persons who have a common child or are in a close personal relationship, whether the perpetrator shares or has shared the same residence with the victim or not” (Law on prevention and protection from violence against women and domestic violence, Official Gazette of RNM nr.24/2021 and 39/2025)).

Based on the definition of domestic violence, the question is rightly asked whether family harmony, spiritual suffering, integrity and human dignity among family members can be compensated!! There is no price that can compensate for family harmony.

Excellent relations between family members are a prerequisite for the family to function and to have the real role that it actually has, the nucleus of society. The spiritual suffering, integrity and human dignity among family members is also not compensated at any price.

The very fact that domestic violence is used, whether mental or physical, shows that the family does not function, respectively, falls into the category of fallen, degraded or, as criminological literature knows, criminogenic families, respectively families that present potential for deviant behavior.

We can conclude that there are no scales that can measure the value of moral compensation or there is no moral compensation in this type of violence, respectively domestic violence, while material compensation is possible through the foreseen legal procedure either through the dispute or through the proprietary legal claim.

Victims of Violent Extremism and Terrorism, and Their Compensation

Victims of violent extremism and terrorism as terrible types of crimes differ and have their own special or specific characteristics from victims of other crimes. Among the characteristics that differ from the victims of other crimes are: in most cases the victims who suffer from terrorist or extremist attacks are not known to the victimizer (perpetrator), the number of victims from such attacks is very large, violently desiring to attack or change any ideology, religion or political attitudes indirectly automatically as victims of such an attack also count all those individuals or groups belonging to an ideology. Such religion or political attitude which is attacked, individuals or groups of people suffer from such attacks only because they are at a certain moment in a particular place where the attack occurs as extremists and terrorists have public places and frequented by as many people as possible, and if the simplest crimes are less thought or imagined, a preliminary and detailed strategy is drawn up in these types of crimes in order that the damage may be as great as possible. It is also worth noting that unlike other crimes where victims want to hide, perpetrators of terrorist attacks or violent extremists do not hide and do not hesitate to take responsibility for the attack and the consequences caused.

The classification that can be given to victims of violent extremism can be different. We will mention two classifications by which every victim of violent extremism or even terrorism is identified, and that we distinguish direct victims of violent extremism and indirect victims of violent extremism, as well as another classification into then and later victims, can also be classified on the basis that depending on what type of extremism it is, political, religious, ethnic, national or racial, while with the classifications mentioned at the beginning each victim of violent extremism or terrorism is identified. By direct victims of violent extremism, we mean all those individuals, groups of people, or the entire population of a country or state that has suffered harm whether related to bodily integrity, life, property, or other emotional or material damage as a result of violence caused for the purpose of violent change of ideology, religion, or policy in the territory in which the violence is exercised, while indirect victims are considered all those people who suffer

indirectly or indirectly as a result of extreme violence caused for the purpose of realizing the above-mentioned interest. Victims are those who suffer at the moment of extreme violence, while all those people who suffer in any form after a certain ideological, religious or political change through violence are considered as later victims, and the consequences of such change are continuous and longer-lasting (Veseli, 2018).

Since very severe penalties are foreseen for these offenses, in accordance with Article 53 of the Law on Criminal Procedure of RNM, the state is obliged to compensate victims of terrorism.

Conclusion

The criminal legislation of the Republic of North Macedonia provides significant rights for victims. Exactly all types of compensation provided for in the United Nations Declaration can be realized in the Republic of North Macedonia, either through the filing of a property claim or the holding of a special dispute for the realization of the damage caused.

The treatment of victims of domestic violence and victims of violent extremism is characteristic as these acts are increasingly present. In domestic violence of concern, there is a high number of criminality, since in most cases this type of crime is not reported to the competent authorities, while in violent extremism and terrorism victims are in most cases random and cannot be found an adequate method for their compensation.

The problem that the literature seeks and must find a solution is presented in the concretization of several types of compensation, namely: compensation of fear, stress, trauma, honor, violation of authority, inflicting shame or in other words, spiritual damage. In all these cases, the victim cannot realize effective and fair compensation, therefore, in this regard, it is necessary that the legislators, in cooperation with all relevant factors aware of this problem or victim hood, concretize some kind of compensation for these damages, although it is very difficult, however, so far the literature considers this problem as a flaw.

Considering the above-mentioned conclusions, these recommendations are given:

1. Concretization of compensation for domestic violence and victims of violent extremism and terrorism.
2. Concretization of compensation for spiritual and emotional damage.

The recommendations given, can have an impact on the prevention of crime and especially on violence, respectively domestic violence. A challenge but also an adequate solution would be to determine the compensation of damage for each criminal offense separately.

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