

REPORT ON THE STUDY VISITS HELD IN POLAND AND NORWAY IN 2014



In the first half of 2014, two study visits in the area of crime victims and witness support were organized within the framework of the cooperation between Norwegian Courts Administration and the Ministry of Justice of Poland. The visits were an additional value to the project *“Strengthening the position of crime victims and support for witnesses in criminal proceedings”* supported by a grant from Norway through Norway Grants and co-financed by the Polish funds. The aim of the visits was to share good practices in the area of victims and witnesses support and presentation of the system of justice in both countries. Moreover, the visits aimed at exploring possible ways of strengthening the cooperation between Norway and Poland in the area of witness support. Thanks to the visits both sides could observe how the system of care works in

each country and discuss the best solutions towards improving it. All costs of the visits were covered by Bilateral Funds.

Study Visit of Representatives of the Norwegian Court Administration in Warsaw, 31st of March – 3rd of April 2014

Program of the visit:

- meeting with the Undersecretary of State in the Ministry of Justice – Wojciech Węgrzyn and representatives of Department of International Cooperation and Human Rights – presentations of principal duties of the Department and system of assistance in the area of crime victims support
- visit in a child- friendly hearing room in Nobody's Children Foundation
- visit in a Regional Court for the Capital City of Warsaw
- visit in a Regional Court for the Praga-South district
- visit in a Crime Victims Support Center – *the Blue Line*.

Participants:

From the Polish side:

- Wojciech Węgrzyn – Undersecretary of State of Ministry of Justice,
- Marzena Kruk- Head of the Crime Victims and Promotion of Mediation Division,
- Michał Lewoc – Head of the Prevention of Domestic Violence Team,
- Katarzyna Pawlicka- Judge in the Crime Victims and Promotion of Mediation Division,
- Agata Oklej - Senior Specialist in the Crime Victims and Promotion of Mediation Division,
- Tomasz Cabala - Chief Specialist in the Crime Victims and Promotion of Mediation Division,
- Przemysław Nozdryn-Plotnicki - Chief Specialist in the Crime Victims and Promotion of Mediation Division,
- Wojciech Deptuła – Specialist in the International Procedures of Human Rights Protection Division,

- Iwona Leschied – Chief Specialist in the Proceedings before the European Courts of Human Rights Division,
- Michał Sarnicki – Chief Specialist in the Treaties Division,
- Representatives of institutions in which the meetings were organized;

From the Norwegian side:

- Bernt Bahr, Chief Judge, Nedre Romerike District Court,
- Jenny Melum, Adviser, Norwegian Courts Administration,
- Sigrid Bellamy, Group leader (volunteer), Norwegian Red Cross,
- Heidi Bruvoll, Court Manager, Nedre Romerike District Court,
- Marthe Hamran, Senior Adviser, Norwegian Courts Administration;



During the visit in Poland, guests from Norway participated in a meeting with the Undersecretary of State in the Ministry of Justice, Wojciech Węgrzyn, as well as employees of the Department of

International Cooperation and Human Rights. In the meeting the activity undertaken by individual cells in the Department was presented to the Norwegian side. Section of Crime Victims and Promotion of Mediation presented activities undertaken in the range of crime victims support. Particular attention was focused upon the institution of the Fund of the Crime Victims Support and Post-penitentiary Support - a purpose fund which allows support for those harmed by crime and in need on a large scale. Details regarding this solution have been presented in the latter part of the report.

Over the course of the visit guests from Norway have had the opportunity to be in the Regional Court for the City of Warsaw as well as the Regional Court for the Praga-South District in Warsaw. During the visit mechanisms of action of the judiciary were presented. Representatives from the NCA were able to meet and talk to judges about criminal cases that touch upon subjects, which allow supporting victims of crimes and witnesses during court proceedings. The discussion concerned developing procedural rules that judges use as well as the rules of user service centers in courts. The view on the practical aspect of the judiciary in Poland serves as a perfect basis for discussion on the subject of development that can be implemented as a part of further cooperation.

In order to present the rules of action regarding supporting victims of crimes, the Norwegian partners also visited entities that deal with supporting victims of crimes on a day-to-day basis - The Institute of Health Psychology *Blue Line* and the Nobody's Children Foundation. The visit in the Institute of Health Psychology was related to the rules regarding the support offered by the Crime Victims Support Centres, means of financing such help, range of services and ideas that will allow for fuller realization of the mentioned help. Over the course of the visit in the Nobody's Children Foundation solutions related to hearings of children witnesses were presented in the so-called "child-friendly hearing room". The Foundation possesses a wealth of experience in the range of hearing and helping the youngest victims of crime. Moreover, the Foundation is a pioneer in the area of the child-friendly hearing rooms. It is the first entity in the country that has created such a place.

The Fund for Crimes of Victims and Post-penitentiary Support - the rules of providing help to those harmed by crime in Poland

On the 15th of November 2012 the Directive of the European Parliament and Council has entered into force (nr 2012/29/EU), establishing minimal norms in the spheres of law, support and protection of victims of crimes. The directive places the responsibility on the member countries to ensure free use of confidential support services for victims of crimes and members of their families. According to Article 8 of the Directive, victims of crimes must be ensured access to support services consisting of providing information and counseling, emotional and psychological support as well as practical care which often has key significance for victim rehabilitation and help in dealing with any forms of criminal proceedings. The mentioned support should be provided as early as possible from the moment a crime was committed, regardless of whether the crime was reported.

In Poland help to victims of crimes is provided largely thanks to means from the Fund of the Crime Victims Support and Post-penitentiary Support – a national purpose fund created on the basis of art. 43 of the Executive Criminal Code of 6th of June 1997. The holder of the Fund is the Minister of Justice. All regulations regarding the Fund is found in the Regulation of the Minister of Justice on the Fund of the Crime Victims Support and Post-penitentiary Support of 6th of February 2014. The regulation determines the operation of the Fund and provision of services to people hurt by crimes.. The means from the Fund may be spent on:

- organizing and financing legal aid, including alternative methods of dispute resolution;
- covering costs related to psychotherapy or psychological aid, including organization and financing a first-contact person;
- covering costs of healthcare, medical supplies, including orthopedic equipment and health means if they are required in recovery of an injury resulting from the crime or the aftermath;
- covering costs related to general preparatory education and jobs, also on the basis of individual education, appropriate to age and educational needs of the entitled person;
- covering costs of temporary housing or providing shelter;
- financing timely assistance to existing obligations in the area of rent for housing unit to which the person has a legal title and the unit is not used by another persons;

- adjusting an apartment or housing unit to the needs of a victim of crime in the case where the physical mobility has decreased as a result of the crime;
- financing public transportation use or covering transportation use resulted to receiving funds;
- covering costs of food coupons;
- covering costs of buying clothes, underwear, shoes, cleaning supplies and hygiene supplies;

The Fund is supplied with financial means that come from fines and other pecuniary provisions adjudicated by courts. With the aim of using the mentioned measures for offering help the Holder of the Fund organizes open competitions for bids related to helping victims of crime. In order to receive financing from the Fund interested entity should submit an offer. Means from the Fund can be donated only to entities not related to the public financial sector and not working with the purpose of making profit, including associations, foundations, organizations and institutions, churches and other faith-based societies. In result of the competition, entities that achieved a sufficient amount of points are offered contracts regulating the implementation of the task. Victims of crimes in need of help can go straight to the entity that provides such help. The contracts remain in force until another open competition is held. In the open competition in 2014, 31 entities from the entire country were granted a donation. A total sum of approximately 4 000 000 € was distributed in result of the competition.

Child Friendly Hearing Room

The reason for which child-friendly hearing rooms were established is to ensure that children, victims of exploitation and violence, are offered friendly conditions of an interview that allows to minimize their stress and provide credible evidence.

With this in mind on the day of 27th of January 2014 an act from 13th of June 2013 regarding the change of the act- penal code and act- criminal code came into force. The purpose of changes made was to extend the group of persons giving testimony in friendly hearing rooms. In case of the most serious crimes against sexual liberty and decency, this mode is also used for adult victims.

At this stage in the entire country, in courts as well as in other locations, there are 76 child-friendly hearing rooms which received a certificate granted by the Ministry of Justice and the

Nobody's Children Foundation. The Ministry and the Foundation have been implementing a project of certifying child-friendly hearing rooms since 2008 as part of the *Coalition on friendly hearing of children*.

Because of the new regulations there still exists a need of preparing a greater number of child-friendly hearing rooms. According to the content of transitory provisions, if the appropriate court lacks a room fulfilling the requirements, hearing of particular groups of witnesses can be undertaken in a different location. Provisions allow this for no longer than until 27th of July 2015.



All demands in area of suitability of furnishings and technical standards of child friendly hearing rooms are defined in Regulation of the Minister of Justice relating to the preparation of interrogation undertaken under conditions specified under art. 185a-185c of the criminal code of 18th of December 2013.

As a part of the *Strengthening the position of crime victims and supporting witnesses in criminal proceedings* there is a plan for creating a minimum of 20 more child-friendly hearing rooms in Poland.

Study Visit of Representatives from the Ministry of Justice and the Nobody's Child Foundation in Oslo, 19th - 22nd of May 2014



In the days of May 19-22 2014 there was a study re-visit of representatives from the Ministry of Justice and a Director of International Cooperation in the Nobody's Child Foundation in Oslo. The visit aimed at introducing how witness support is organized in Norway. More specifically, the visit sought to give a broader understanding of the witness support program which is carried out by the Norwegian Red Cross in co-operation with the Norwegian Courts Administration.

Additionally, the visit aimed at providing an overview of the Norwegian justice system. The meetings took place at the Regional Court in Oslo.

Program of the visit:

- Introduction to the Norwegian judiciary and organization of witness support
- Guided tour around the court house
- Cooperation with NGOs. Introduction from the Norwegian Red Cross
- Witness support in Oslo District Court
- Witness support in practice
- Providing support to victims and witnesses in the 22 July case in Oslo.
- Next steps in the cooperation between Poland and Norway in the field of witness support
- Discussion about the pilot study
- Discussion about the project activities. Feedback from the study visits, and inputs on the Training of Trainers.



Participants:

From the Norwegian side:

- Bernt Bahr, Chief Judge in Nedre Romerike District Court
- Jenny Melum, Adviser, Norwegian Courts Administration
- Anne Cecilie Fossum, Norwegian Red Cross
- Sigrid Bellamy, Norwegian Red Cross
- Markus Iestra, Oslo District Court
- Marthe Hamran, Norwegian Courts Administration

From Polish Side:

- Marzena Kruk, Head of the Crime Victims and Promotion of Mediation Division
- Katarzyna Pawlicka, Judge in the Crime Victims and Promotion of Mediation Division
- Agata Oklej, Senior Specialist in the Crime Victims and Promotion of Mediation Division,
- Tomasz Cabala, Chief Specialist in the Crime Victims and Promotion of Mediation Division
- Maria Keller-Hamela, Manager of International Cooperation, Nobody`s Child Foundation

Care Taking of Witnesses in Courts in Norway

- Background

Prior to the improvement of the conditions for witnesses in Norwegian courts, the situation was characterized by a lack of concern for the witnesses in the Court Houses. No institution or organization were mandated or held responsible for witness support. Most witnesses were called too early to the court, and nearly everyone had to wait extensively before asked to come to the court room. Most court houses in Norway do not have guards in the waiting area, and witnesses were left to themselves.

Witnesses are very important for the society and the rule of law, and thus –the question was: Do the witnesses receive support according to their importance? Should something be done to improve the service given to witnesses?

Most Norwegian Courts have over the last years conducted seminars arranged by the Norwegian Courts Administration on better service for court users. As a result of an increased focus on the needs for users of the courts, regular user surveys and meetings with stakeholders in the criminal

justice system have been introduced. It is important that users should have immediate access to an information desk operated by professional service personnel when they enter the Court House.

In cooperation with the prosecution, it is envisaged that the witnesses should not attend the hearing before it is their turn to give a statement. Earlier, witnesses were asked to come to the court at 9 a.m. This practice has been ended. There is now also an emphasis on the preparation of brochures, information online, and a "mobile app" for witnesses. All together these measures, including the mentioned regularly meetings with stakeholders in Judiciary, have served as steps of vital importance for improving conditions for witnesses and other court users. The work on improving service for court users and the introduction of witness support, have obviously improved conditions for victims and witnesses (and also other users). For witness support see next section.

Organization of Witness Support in Norway

- Background

Surveys in England show that victims and witnesses want to:

- Feel safe and comfortable at court
- Be fully informed about what will happen on the day in the courtroom,
- Have their time valued, and
- They would like their contribution to be appreciated

Experience has shown that a witness who is able to concentrate on his/her statement will help to provide the court with the best possible basis for its decision. If witnesses receive as much information as possible about what is to happen, for example who is who in the court room, and where everyone will be sitting, they will feel less uncertain when they make their appearance in the courtroom.

- ***What is Witness Support?***

The Witness Support is intended first of all to give compassionate support and guidance to witnesses and then provide practical information about the hearing. This means that people conducting witness support should have knowledge of judicial and legal system, have the ability to get in touch with people, as well as providing factual information and act supportive. Those who perform Witness Support must be able to communicate without involving themselves in the case. They should not give advice on what the witness should say or not say. The mission ends when the witness leaves the Court House. Witness support should be neutral and impartial in all matters.

- ***History***

The Norwegian Court Administration (NPC) decided in 2005 to start a two year program on developing and initiating Witness Support in Norwegian Courts. In January 2006, witness support was established in two Norwegian Districts Courts, i.e. in Oslo and Trondheim. The scheme proved to be well received by witnesses, lawyers and prosecutors. In 2007 the Ministry of Justice decided that NCA would be responsible for developing and disseminating Witness Support. Witness Support is now part of the regular activity in the Judiciary. From 2008 NCA gives some financial support to courts that establish Witness Support, and appointed a National Witness Support Coordinator. Several Courts established in 2008 and 2009 Witness Support. Now (July 2014) there is Witness Support in all (6) Appeal Courts and in 30 (out of 66) District Courts.

- ***Cooperation between Norwegian Courts Administration (NCA) and the Red Cross***

The Norwegian witness support model is inspired by experiences and practices in England and Sweden.. In above countries the Courts cooperate with different charity and volunteer institutions. This means that witness support is performed through volunteers and is thus unpaid work.

In Norway, the NCA has established a partnership with the Red Cross. Those who perform witness support are recruited by the Red Cross. It means that the service is neutral- there are no ties to the parties, or to the prosecution. They are not employed by the courts, and it seems probably good that the witnesses see that staff has the red cross emblem, and thus understand

they are present in the best interests of the witnesses, and without thought of payment or self-interest. Those recruited to the witness service is often retirees or students, but it can also be people who work shifts.

Witness Support is mainly directed at witnesses in criminal cases. Nevertheless there is every day in addition lots of civil cases in the Court House. Witnesses in civil cases may also be unsure of what faces them in court and may need guidance, thus witness supports will of course provide the necessary assistance to those as well.

In Norway it was decided to organize witness service through volunteer work. Witness Support may also be performed as paid work, but it requires well trained, dedicated staff members, who are able to put the human aspect first.

- ***Bonuses***

Witness Support provides a notion of predictability and security for witnesses. It is believed that a witness who feels secure is a better witness for the court and consequently the community. In addition, the measure implies that the courts provide better service for Court users. Good witness service means that several witnesses feel well treated in court, and the scheme will hopefully in the long term lead to fewer witnesses trying to avoid appearance in court. Needless to say, without truthful accounts from witnesses, the courts will have difficulty in executing its task to carry out the administration of justice..

- ***Recruitment***

Recruitment of volunteers for witness support has been a collaboration between the local court and the NGO (in Norway Red Cross). The Red Cross has recruited volunteers by informing of witness support as a new activity at information meetings for people who are interested to begin volunteering in general. The Red Cross has also recruited witness support from other voluntary activities that the organization carry out. Court and NGOs have also put ads in the local newspaper, and they have also received coverage in the local media because the media have found it interesting to mention the collaboration between a court and an NGO. It has also been set up posters in colleges and universities to arouse the interest of students. Courts and NGOs have conducted interviews with all interested parties, and made sure to find people

who are knowledgeable about social issues, interest in the work, and ability to listen to others and assist people in a vulnerable position.

- ***Training***

The training of people in witness support focuses on the rights of witnesses as well as their obligations, and how one as a volunteer should treat people who are in a vulnerable position. In order to be able to do a good performance, it is of vital importance to train the volunteers (or other witness service personal). They should know the basis of the Justice system, especially what is happening in the hearings, and first of all - how to treat victims and witnesses, especially vulnerable witnesses.

The potential witness support volunteers are given six hours of training, conducted by judges, lawyers, prosecutors and psychologists. Before they are certified for working in witness support they also have to be present in some main hearings.

During the training, there is a judge that tells about the legal system and about the rights and duties of witnesses, a lawyer who tells about his task as a defender and a prosecutor who tells about the role of prosecutors and police. There is also a person from the Red Cross telling about volunteering and how to approach people who are nervous, and how to terminate the connecting in a proper way. Another theme is how crime victims typically react when they have to appear in court and perhaps see the offender again. This subject is often presented at the training by a psychologist Another important practice, is that when a court seek to initiate the witness support, it will receive an invitation from another court that is already carrying out the witness support programme. This interaction is facilitated by the NCA.

- ***Experiences***

According to user surveys and statements from witnesses and participants in Judiciary, the conditions for witnesses and other court users has improved due to the increased focus on facilitation for court users, and the introduction of witness support.

- ***Summary***

The study visits allowed those involved in the project's implementation to gain new experiences. Thanks to presented legal and practical solutions, performance of victim and witness support

systems in criminal justice of both countries may be compared and an assessment can be made on which solutions are worthy of adoption. The Polish participants of the Oslo visit were most impressed by an innovative – even by European standards – system of witness support. It appears, that in case of a decision being made regarding an introductory project in the area of witness support, the Norwegian solution is well received by both witnesses, as well as other participants of criminal proceedings. During direct conversations representatives of both sides were able to familiarize themselves with each other what will definitely allow for better implementation of the project, as well as bring an opportunity of future cooperation in other areas.