Attachment No. 4 A – legal remedies for the injured

Criminal law does not provide for specific remedies for victims of trafficking in human beings. Persons injured by this crime can benefit from the remedies available to all injured on a general basis.

The injured person has the right to:

– file a complaint against the decision to refuse or discontinue an investigation or inquiry and to review the case file (Article 306 of the Code of Criminal Procedure, Article 325a para. 2 of the Code of Criminal Procedure)

– file an indictment in the case of a repeated, i.e. following the consideration of the above mentioned complaint lodged by the victim, issue of a decision to refuse or discontinue the proceedings (Article 55 of the Code of Criminal Procedure, Article 330 para. 2 of the Code of Criminal Procedure). The injured person shall have one month from the date of service of the order for repeated discontinuation or refusal to file an indictment.  Other persons injured by a given act may also join the proceedings initiated as a result of the indictment. The indictment of the injured person must be drawn up and signed by an ex officio or selected representative.

– appeal from a decision rendered in the court of first instance if they are party to criminal proceedings (Article 425 of the Code of Criminal Procedure). The injured person gains the status of a party by entering the proceedings as a subsidiary prosecutor, who may act alongside or instead of a public prosecutor (Article 53 of the Code of Criminal Procedure). The injured person becomes a subsidiary prosecutor by filing an indictment in the circumstances referred to in Article 55 of the Code of Criminal Procedure or by filing a statement on entering such proceedings if the indictment was filed by a prosecutor (Article 54 of the Code of Criminal Procedure).

If the injured person acting as a subsidiary prosecutor does not speak Polish sufficiently, they shall be served with a translation into a language which they speak, of the decision subject to appeal or concluding the proceedings, unless they consent to the verbal announcement of a translated decision concluding the proceedings and not subject to appeal (Article 56a of the Code of Criminal Procedure).

– appeal against a decision on the conditional discontinuance of proceedings issued during a session (Article 444 of the Code of Criminal Procedure). The possibility for the injured party (not yet being a party to the proceedings) to file an appeal against such a resolution is justified by the stage at which it is issued. The hearing, at which the issue of conditional discontinuance of proceedings is decided, shall take place at the session prior to a possible court hearing. The injured person has the right to make a statement of intent to appear in the proceedings as a subsidiary prosecutor until the beginning of the court proceedings at the main hearing.

As far as the victim's benefits are concerned, i.e. compensation, redress, reimbursement or financial support from the State, there are adequate criminal and civil law regulations to enable the enforcement of claims, as well as separate regulations on obtaining assistance from the State. Again, there are no specific solutions for victims of trafficking in human beings. The table below presents the legal solutions in this area.