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Analysis Report and Recommendations

"Moving Forward:

Promoting Greater Efficiency and Effectiveness
in the Fight against Trafficking in Human Beings
in Kosovo"



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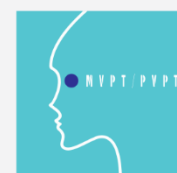
KINDLING A BETTER WORLD

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LIST OF ABBREVIATIONS

List of Abbreviations	
AI (GRK) No 01/2017	Administrative Instruction (GRK) No 01/2017 on the Manner of Compensation Including the Calculation of the Compensation for Multiple Damages. Approved on 127 meeting of the Government of Kosovo, with the decision No. 01/127, date 13.01.2017.
AI (GRK) No 02/2017	Administrative Instruction (GRK) No 02/2017 On Registers For Applicants And Decisions Issued On Compensations. Approved on 127 meeting of the Government of Kosovo, with the decision No. 02/127, date 13.01.2017.
Law No. 04/L-218	Law No. 04/L-218 On preventing and combating trafficking in human beings and protecting victims of trafficking Approved by Assembly, date 31.07.2013, and promulgated by the Decree of the President of the Republic of Kosovo No.DL-43-2013, Date 19.08.2013
Law No. 05/L-036	Law No. 05/L-036 On Crime Victim Compensation Approved by Assembly, date 28.05.2015, and promulgated by the Decree of the President of the Republic of Kosovo No.DL-009-2015, Date 15.06.2015

Introduction

The purpose of the current report is to provide an overall and comprehensive analysis on the function of the Crime Victim Compensation Committee, hereafter referred to as the 'Committee'¹, which has been recently established for the examination of compensation claims in the context of Crime Victim Compensation Program in Kosovo.

This Analysis and Recommendations Report has been developed within the framework of the EU funded project "Moving Forward – Promoting Greater Efficiency and Effectiveness in the Fight against Trafficking in Human Beings in Kosovo" implemented by Family and Childcare Centre (KMOP) in cooperation with European Public Law Organization EPLO (GR) and Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) in Kosovo (funded by the EU Office in Kosovo). The Project commenced in January 2017 and will last until January 2020 with the overall objective to increase the efficiency and effectiveness of the fight against Trafficking in Human Beings (THB) in Kosovo by increasing the ability of the Kosovo institutions to effectively coordinate and implement all anti-THB efforts, in line with EU Acquis best practices and Kosovo's overall development priorities.

This report follows the development of a Manual (deliverable D1.4.1) detailing the operational aspects of the Committee and constitutes part of the project activities supporting the enhancement of an integrated victim compensation system in Kosovo, developed in the context of the technical assistant actions of the project. Although, the Victim Compensation Program foresees the compensation of victims of violent crimes including, but not limited to, victims of trafficking, the latter are expected to be one of the main beneficiaries of the Program. In line with the provisions of the Law No.04/L-218 "On preventing and combating trafficking in human beings and protecting victims of trafficking", victims of trafficking have the right to state compensation in cases where compensation from the perpetrators is feasible or the perpetrators are not identified, prosecuted or convicted. Ensuring therefore, an otherwise attainable right of such victims.

Background Information

The right of victims to compensation was established in the Criminal Procedure Code of 2013. Law No. 05/L-036 On Crime Victim Compensation, establishing and detailing the functioning of the

¹ The terms 'Committee' and 'Commission' have been used interchangeably when referring to the Victim Compensation Program. For example, Law No. 05/L-036 On Crime Victim Compensation refers to a 'Committee', whereas AI (GRK) No 01/2017 and AI (GRK) No 02/2017 refer to the same institution as 'Commission'. The term 'Committee' was adopted and used throughout this report, in line with the relevant definition in the official English translation of Law No. 05/L-036 establishing the operation of the Victim Compensation Program.

Crime Victim Compensation Program, was adopted on May 2015 and the articles regulating the compensation of victims entered into force one year later, on May 2016.

Moreover, two Administrative Instructions (AI) further detailing its operations were issued on January 2017. AI (GRK) No 01/2017 determines the manner in which the compensation is awarded, including the application, calculation and decision-making processes, and AI (GRK) No 02/2017 regulates the form and manner of the record keeping of all applications and decisions on compensation. The relevant application forms and instructions for the applicants for compensation were released by the Ministry of Justice on May 11, 2017. Subsequently, a Secretariat providing the necessary administrative and technical support to the operations of the Committee was established on May 24, 2017.

Given the short period of time since the launch of the Program, at the time of the writing of this report in July 2017, no application for compensation has been yet submitted to or reviewed by the Committee.

Purpose and Contents of the Analysis & Recommendations Report

For the purposes of the current report, desk research and legal analysis of the relevant legislative documents were conducted during May and June 2017. Additionally, the contents of the report have been developed based on and in line with the input of the relevant authorities on the current status of operations of the Victim Compensation Program provided in July 2017 by the Ministry of Justice. At the time of the writing of this report in July 2017, no application for compensation has been yet submitted to or reviewed by the Committee, so this report could not be based on empirical evidence.

The research and analysis undertaken in the process of analyzing the existing legislation for the purposes of the Manual developed within the framework of the project was critical in identifying key issues that might benefit from further consideration and critical approach. Respective analysis identified potential operational and legal issues, hurdles and bottlenecks that could potentially be further operationalized.

The key issues are broadly separated into two basic categories: operational and legal aspects. The later are mostly related to provisions that could benefit from further clarification in order for the level of legal certainty to be increased and for uniform implementation of the existing legal framework to be achievable. The former is mostly associated with operational aspects of Crime Victim Compensation framework, which could potentially contribute to the enhancement of the Committee's operations.

In between, concerns are voiced regarding the implementation of the legal framework for victims of trafficking. In line with the aims of the project and taking into consideration the broader scope of

the works of the Committee – i.e. compensation of victims of violent crimes including, but not limited to, victims of trafficking – particular attention has been paid in reviewing the existing framework from the scope of victims of trafficking, who are expected to comprise a significant percentage of potential beneficiaries. In this case a potential risk is identified that such victims might in practice have to choose between their right to safety or their right to compensation.

Following the aforementioned identification and analysis, a series of suggestions and recommendations are set forth in the last part of the report. Among others, the concluding remarks of the report identify and provide recommendations on key areas for the provision of capacity building and training to the Committee and Secretariat which, based on the findings of the current report, could contribute to the further operationalization of their function. It should be highlighted that since the Victim Compensation Program's purpose is to support victims of crimes in general, and not only victims of trafficking, the establishment of the necessary synergies with parallel efforts made in the field remains crucial.

1. Legal Aspects and Recommendations

The functional analysis of the existing legislation brought forth a number of issues or details, which could potentially create uncertainties in the implementation or interpretation of existing provisions and/or room for operational bottlenecks. What follows is a short description of each issue and the potential threats that may arise, followed by recommended actions.

1.1 The right to a new application and reexamination of applications

If not so provided in another legal provision, it is unclear under Law No. 05/L-036 whether applicants are granted a right to a new application or reexamination of their initial application when a decision on the original application has been rendered. This consideration is important in cases when following the decision on an application, new evidence or supporting documents were obtained or new claims for damages occurred following.

Similarly, in cases of incomplete or incomprehensible applications, additional documentation may be asked of the applicant and his/her application may be rejected due to failure to provide the said documentation within the set timeframe (Art. 33, §2, Law No. 05/L-036). In this case, it is also unclear whether applicants are or should be entitled to a new application or reexamination of their initial application, if the available information or documents were made known or available to them after the said timeframe expired. It might be proven beneficial if these issues were taken into consideration by the authorities and the legislation was clarified and supplemented accordingly.

1.2 Application deadlines

Applicants claiming immediate access to victim Compensation according to Art. 9 Law No. 05/L-036 should file their application no later than 6 months after the last criminal act occurred according to Art. 31, §1, of the same Law. However, and according to the provision of Art. 9 §1, they cannot file such an application before three months have passed from the detection or reporting of the crime. Effectively, the deadline in such cases is reduced to 3 months and in some cases, it does not commence before the deadline set in Art. 9 §1. There might be cases where this period may prove to be inadequate.

For example, in the case of victims of trafficking, who under the provisions of Law No.04 /L-218 and, for reasons relevant to their own safety, may be placed outside the country or may bear limitations when providing their personal data for a specific period of time. Similarly, such victims of criminal offenses, have the right to a reflection period which might last up to 90 days (Art 20, §2.9, Law No.04 /L-218) during which they may decide whether to cooperate with the authorities (Art 38, §6, Law No.04 /L-218). It is thus possible that these victims might end up not being entitled to compensation, due to the limited application timeframe provided by Law. Also, their right might be

restricted due to the limited time for the fulfillment of main prerequisite for immediate access to compensation, their obligation of reasonable cooperation in the investigation and prosecution of the perpetrator (Art. 9, §2, Law No. 05/L-036).

The implementation of the aforementioned provision could, in practice, prove to be problematic, especially since the victims of trafficking related offenses are among the victims that could benefit from such types of compensation. It is thus advisable that the said provisions were reviewed under this scope. More importantly, it would be helpful to examine whether the effective 3-month deadline should be extended or defined in a different manner (see also section 2.2).

1.3 Maximum amount of compensation

Art. 14 §3, AI (GRK) No 01/2017 can be viewed as unclear on the issue of the maximum amount of compensation for physical pain or injury to be awarded under article Art. 13 Law No. 05/L-036. The term "maximum of compensation cumulatively foreseen for all injuries provided under article 13 of the Law" may be construed both as a reference to the threshold set under Art. 13 §3 (7,000 Euros) and as an amount comprised by the sum of thresholds set in §1, 2, 3 of the same article, namely 11.500 Euros. It is evident in the Application for Compensation provided to applicants that the State opts for the former interpretation. Yet it might be proven helpful, and future legal disputes might be avoided, if the issue is further clarified in Art. 14 §3 of AI (GRK) No 01/2017.

1.4 Treatment of applications for compensation for a loss of a close relative

Art. 20 AI (GRK) No 01/2017 generally points towards articles 15 and 16 on the issue of a non-direct victim of a crime claiming compensation for a loss of a close relative. However, a direct reference is only made to the documentation exception of article 16, §2. This provision refers to "special categories or victims". Upon implementing this provision, the Committee might face difficulties on deciding whether an application under Art. 20 AI (GRK) No 01/2017 should be treated procedurally and substantively in the same manner as a "special category victim" application or if other considerations set in article 15 are also relevant. It might be proven useful if Art. 20 AI (GRK) No 01/2017 is reviewed under such practical scope, in order to avoid possible implementation inconsistencies on issues such as necessary documentation supporting an application, amount of compensation due etc.

1.5 Medical expenses

According to Art. 16 Law No. 05/L-036 "The right to compensation for medical and hospitalization expenses shall be recognized and calculated in accordance with the list of prices for medical services under the public health care system issued by the Ministry of Health". This provision should not be understood in a manner that allows a victim not to be entitled to compensation for a

medical and hospitalization expense, in case this particular expense is not, for any reason, included in the Ministry of Health list of prices for medical services. Towards that end, Art. 15 §5, AI (GRK) No 01/2017 helpfully defines the aforementioned list as guide, rather than an exclusive catalog of possible expenses an applicant may claim.

1.6 Circumstances influencing the compensation

Art. 20, §1, Law No. 05/L-036 provides grounds on which compensation may be refused or the compensable amount may be reduced. Some of the terms used (such as “on account of the victim’s conduct before, during or after the crime”, or “sense of justice”) are rather general and broad, as expected from a Law provision. However, since the interpretation of such terms is critical, two risks may rise:

- implementation of the provision may in practice prove to be non-uniform, resulting in different Committee decisions regarding similar or comparable cases
- compensation may be denied or reduced based on merits that are prima facie irrelevant with the specifics of the said case on ground, such as “victim unethical conduct” or “public order”.

Some guidance on the implementation of the above is provided only regarding a *deceased victim’s conduct before the crime*, where according to Art. 11, §3 of AI (GRK) No 01/2017: “Criminal past of the deceased shall be considered only if the victim was involved in serious criminal offences that would make compensation a breach of the sense of justice or public order, or compensation would be an unfair use of public funds.”

In this respect, it might be beneficial that AI (GRK) No 01/2017 provided more concrete guidance on the implementation of Art. 20, §1, Law No. 05/L-036. To that end, review of existing case law of courts may prove useful.

Additionally, given the similarities between the provision of this article and article. 8 of the ‘European Convention on the Compensation of Victims of Violent Crimes’ of 1983, the Explanatory Report subsequent to the Treaty, and more specifically paragraphs 33 to 37, might serve as general guidance towards the interpretation of said articles, ensuring consistent and accurate implementation.

1.7 Administrative disputes

Art. 34, §7, Law No. 05/L-036 states that the applicant has the right to initiate an administrative dispute against the decision of the Committee, pursuant to applicable legislation. Knowledge of applicable legislation, especially regarding administrative disputes, might be a complex issue for any person, especially for one lacking legal education. It would be a good practice if applicable legislation and legal means available to an applicant were known to him/her beforehand. If the authorities would not deem necessary to include such information in AI (GRK) No 01/2017, it would

be a good practice for such information and details on the applicable process to be included in the notification sent to the applicant, alongside the Committee's decision.

1.8 Cross-border cases' deadlines

Art. 27, §2, AI (GRK) No 01/2017 states that in the case of a foreign cross-border situation, the Ministry of Justice will review the application and, within 60 days, inform the applicant on whether his/her application is possible and acceptable under the laws of the State where the criminal offense was committed. However, in §3 of the same article it is stated that if compensation is not possible under the laws of the said State, the applicant will be notified within 30 days of receipt of the information. Also, §4 provides, that if such compensation application is admissible in the said State, the applicant will be notified as soon as possible.

At this point, it is unclear which deadline is applicable and whether the aforementioned deadlines should be interpreted as complimentary to each other (example: 60 days within receipt of an application or 30 days after receipt of information from the Foreign State, whichever is more favorable to the applicant). The interpretation and implementation of such provisions might prove to be critical, especially under the scope of possible administrative disputes. It might thus prove useful if Art. 27, §2, 3, & 4, AI (GRK) No 01/2017 were reviewed, and amended, if necessary, in order for interpretative inconsistencies to be avoided.

Additionally, Art. 27, § 4, 10 AI (GRK) No 01/2017 states that the applicant shall be informed "as soon as possible". In most cases the same AI designates a specific period of time (usually 60 days) within which notification to the applicant should take place. If no specific merits are relevant regarding exceptional circumstances set in Art. 27, § 4, 10 AI (GRK) No 01/2017, it might be a better practice for a specific deadline to be set as well.

2. Compensation of Victims of Trafficking

Law No. 05/L-036 is applicable in many cases of crimes that are considered to be violent, yet without doubt victims of trafficking are expected to be among the main beneficiaries of the legal framework introduced. Chapter VI of Law No.04/L-218 "On preventing and combating trafficking in human beings and protecting victims of trafficking", and especially articles 42 and 43, directly addresses the need for state compensation to be awarded to victims of trafficking, adults and children alike, who could not receive full compensation from the perpetrators of the crimes, either because it was not feasible or because the perpetrators of the crimes were for any reason not identified, prosecuted, or convicted.

Not only are the aforementioned rights fully recognized but the State also acknowledges its responsibility to establish a Commission which could handle such claims and also regulate the substantive and procedural issues attached with receiving, awarding and denying such claims (Art 42, § 7, 8 & 9).

It could be argued that the aforementioned provisions are among the drive forces which led to the introduction of Law No. 05/L-036 and AIs (GRK) No 01 and No 2/2017.

At first glance and in principle, the provisions included in Law No. 05/L-036. and AIs (GRK) No 01 and No 2/2017 seem to be compliant with the requirements of Chapter VI of Law NO.04/L-218: “State Compensation is envisaged for material, emotional and physical harm caused to victims of Trafficking, adults, children and non-Kosovo nationals alike”. The Crime Victim Compensation Committee of Art. 23 Law No. 05/L-036 is in conformity with what is suggested in Art 42, § 7 & 8 of Law No.04/L-218. The sub legal act for its competencies and procedures has been issued (AI (GRK) No 01 /2017). Also, Art 11 sub paragraph 1.1 clearly stipulates that a victim may claim compensation even if the perpetrator is not known or was never brought to justice in any manner. Finally, the provisions of Chapter V of Law No. 05/L-036 facilitate the award of compensation to foreign victims of trafficking.

However, in practice, a series of procedural issues may arise which might, to an extent, affect the right of victims of trafficking to claim compensation.

It was already implied under section 1.2 that according to Art.9 §1, of Law No. 05/L-036 applicants for immediate access to compensation cannot file such an application before three months have passed from the detection or reporting of the crime. Effectively, the deadline in such cases is reduced to 3 months and it does not commence before the deadline set in Art. 9, §1. It was supported that in many trafficking victim cases, the said period may prove to be inadequate.

This consideration raises a more general issue: it is often that the safety of victims of trafficking has to be ensured, especially when the perpetrators of such crimes are not apprehended (Art. 19, Law No.04/L-218). Moreover, victims might be hesitant to provide their full personal data to the Crime Victim Compensation Committee via an application, especially when they understand they are to be archived and processed by other public officials.

Also, victims of trafficking have a right to a reflection period which can last up to 90 days (Art 20 §2.9 of Law No.04 /L-218). During the reflection period victims, and especially children and their legal guardians, may decide whether to cooperate with the authorities (Art 38, §6, Law No.04 /L-218). Thus, the main prerequisite for immediate access to compensation, the reasonable cooperation (Art. 9, §2, Law No. 05/L-036), would also have to, in some cases, be established within the short remaining period.

In all the aforementioned scenarios, the right of claim to immediate access to compensation, when existent, may be sacrificed. Yet, article 31 §4 of Law No. 05/L-036. provides a legal basis for the survival of the basic compensation claim.

In practice, a prolonged period of inability to claim compensation due to safety or other considerations might be interpreted by trafficking victims that they would have to choose between their right to safety or their right to compensation. Unfortunately, due to the lack of cases being

fully processed at this point, no empirical evidence can be drawn regarding the existence and functions of procedural and substantive safeguards or lack thereof.

It is important that Law No. 05/L-036 and AIs (GRK) No 01 & No 2/2017 are reviewed under this scope. Possible concerns of trafficking victims should be voiced and when based on plausible grounds, they should be addressed. The opinion of the National Anti-Trafficking Coordinator and the National Authority against trafficking in this procedure might prove to be useful. Having dealt with a series of trafficking cases and being in possession of significant field experience, the aforementioned authorities may provide valuable input and suggestions regarding procedural and substantive safeguards. Such review of existing legislation and procedures might facilitate (Ministry of Justice and the Committee) on making access to compensation more accessible to victims of trafficking

3. Operational Aspects and Recommendations

In addition to the legal aspects detailed above, the functional analysis has also brought into forth a number of operational areas in need of further rationalization. The following section details these aspects and provides relevant recommendations for the further operationalization of the function of the Committee.

3.1 Standard operating procedures

As the Victim Compensation Program became operational only recently, the function of the Committee could potentially benefit from the adoption of a systematic process of operations. The functional analysis in the first part of the current report could potentially contribute towards that direction. Additionally, in line with the procedural steps presented in section 7. of the Manual previously developed by the Project (see Deliverable D.1.4.1), the establishment of a standard operating procedure detailing the manner and timeframe that each application is handled – from the point of receipt to the point that the final decision is rendered – could potentially increase the effectiveness of the Committee's operations in terms of time and workload management.

The functional analysis and the relevant procedural steps for the assessment of the claims in section 7. of the Manual have been developed based on the operations detailed in the relevant law and AIs that have been so far published. However, taking into consideration the anticipated workload of the Committee, the complexity of the application process for the applicants, and the only recent establishment of the Victim Compensation Program the inclusion of an additional step in the envisaged process is recommended.

More specifically, it is proposed as a good practice for workload management to insert a process of 'Initial Review' before the 'Preliminary Review' in step 4. During this stage, and before an application is forwarded for assessment to the Committee, it could be examined in terms of completion and comprehension, determining whether all the requested information and supporting documentation

have been provided in good order. In cases where applications are incomplete or incomprehensible, a deadline for remediation is extended to the applicant, in line with Art. 33, §2 & 3, of Law No. 05/L-036, and only upon expiration of this deadline or full remediation of the deficiencies the application is forwarded to the Committee for assessment.

The 'Initial Review' process could be potentially performed by administrative personnel, streamlining the number of applications and, thus, saving time for the Committee from examining of incomplete applications, which are anticipated to be rather common, especially during the first period of implementation of the Victim Compensation Program.

3.2 Systemization of decision making

A challenging aspect, especially during the first months of operation of the Committee, is anticipated to be the standardization of expenses and the comparability of compensations awarded in similar cases. Additionally, as foreseen by Article 11, §5, of AI (GRK) No 01/2017) the Committee should establish systems for assessing compensation eligibility in cases of crimes not foreseen by the Law which the Committee deems compensable. To that end, a systematic review of cases which could potentially have merit for compensation to various levels and degrees may prove very useful.

Additionally, while taking into consideration potential budget limitations, it is recommended that, together with the recordkeeping requirements and the required data for the annual financial reporting of the Committee to the Ministry of Finance on the number of applicants and amount of compensations awarded, the Committee establishes a digitalized statistical database that includes all the aforementioned required information in addition to data on the nature of crimes, damages, injuries and medical expenses.

The inclusion of all the pertinent variables in a unified and well coded database starting from the very beginning of the operation of the Victim Compensation Program will allow for systemic statistical representation and evidence-based analysis of the works of the Committee on fixed intervals. Permitting therefore the regular monitoring of its operations and granting the opportunity for early intervention and adjustments, if needed. Ideally, the authorities would soon be able to research the technical and financial aspects of the venture and accordingly deploy a relevant plan that is in line with existing budget limitations and foreseeable Program funds.

3.3 Data protection and recordkeeping system

It is apparent that processing and recording of sensitive personal data of significant scale is envisaged throughout the Victim Compensation Program. AI (GRK) No 02/2017 envisages a specific process, form and manner of record keeping. It is thus recommended that the establishment of an appropriate systemization of records according to the relevant provisions should be prioritized at this stage.

It should be noted, that such processing of data relates to core privacy rights of victims, witnesses, experts and (alleged) perpetrators and, under circumstances, it might raise concerns regarding the legitimacy of some of its aspects. Regular conformity checks with applicable Data Protection Law, alongside instructions and guidance, can be provided by the National Agency for the Protection of Personal Data. Accordingly, the Ministry of Justice and the Committee might benefit from steady cooperation and consultation with the aforementioned Agency. Such cooperation should also prove beneficial when issues that have not yet been resolved occur, such as the minimum and maximum acceptable periods of data retention which are kept in the registers defined by AI (GRK) No 02/2017.

3.4 Possible bottlenecks

Some potential bottlenecks, both budget and timewise, that have been identified and should be taken under consideration during the operations of the Committee against the deadlines envisaged by the Law and the available budget, include the translation, issuance and reissuance of documents in the following cases:

- In cases of a foreign victim of trafficking, the documents are acceptable in any language and the Ministry of Justice assumes the obligation of translating the documents (Art. 24, §3, AI (GRK) No 01/2017).
- Expenditures for the issuance of documents that are ascertained by the Committee as significant for the determination of the type and level of damages may be covered as procedural expenses for filing the application (Art. 24, §1, AI (GRK) No 01/2017).
- Expenditures for the issuance of additional documentation required by the Committee are in all cases covered by the Ministry of Justice (Art. 24, §2, AI (GRK) No 01/2017).
- The reissuance of documents that were lost, damaged or destroyed, will be made at the cost of Ministry of Justice (Art. 6 AI (GRK) NO 02/2017)
- The Ministry of Justice shall cover necessary translation costs of documents in national (Art. 26, §6, AI (GRK) No 01/2017) and foreign cross-border situations (Art. 27, §8, AI (GRK) No 01/2017)

3.5 Application form

According to Law No. 05/L-036: third persons may also be applicants for compensation, despite not being the direct victims of the crimes included in article 6, in the following cases:

- Compensation for disturbance of mental health due to the loss of a close relative
- Compensation for the loss of maintenance due to the loss of a main caregiver.
- Compensation for funeral expenses of a victim of the said crimes

However, the application form does not make a direct reference to those cases, save to an indirect reference in part 7 of the application. Part 2 of the application form applies to third person applying *on behalf of the victims* and *not on their own right*. Part 2 of the instructions for completing the application stipulate that third parties should fill in their information in part 2 of the application.

However, in this part of the application the issue of the applicant expressly stating whether he/she is claiming compensation on his own right or on behalf of a crime victim (or under both capacities) is not dealt with. In this regard, it might be useful to review the application form from the scope of a third person which under Law No. 05/L-036 may have a claim for compensation.

3.6 Provision of information to applicants

The victims' right to information should be regarded as a guiding principle throughout the operations of the Victim Compensation Program. Art. 10, §1, of AI (GRK) No 01/2017 clearly states that the victim 'shall be provided with reliable information at all times'.

In line with the above, as well as the requirement to provide general guidance to the applicant, including information on how to complete the application and the relevant supporting documentation (Art. 28, §3, Law No. 05/L-036), detailed instructions on the completion of the application, the required supporting documentation, as well as general information for claimants have become available through the website of the Ministry of Justice.

However, given the fact that the process has only recently been established, the complexity of the applicable legislation, and the possibility that not all applicants might have the opportunity to seek assistance during the application process from victim advocates or organizations providing free legal assistance, it would be considered a good practice not only to simply inform the interested parties on rights, but also to provide detailed, explicit and easily comprehensible information on the exercise of those rights. The example of the process for the initiation of an administrative dispute against the decision of the Committee (Art. 34, §7, Law No. 05/L-036) is one of the procedures that is recommended to be clarified to the applicants (see also section 1.7).

3.7 Institutional cooperation and Program visibility

In various sectors of the operations of the Committee, exchange of information and cooperation with relevant authorities is needed, such as the Police, officials involved in the criminal process, state authorities, independent authorities (e.g. the National Agency for the Protection of Personal Data) authorities of self-governing local communities and bodies, in addition to close cooperation with the Ministry of Health for the calculation of damages (for example Art. 12, §3, Law No. 05/L-036). Thus, the development of synergies with the aforementioned institutions for the exchange of information and data in a timely manner is deemed crucial for the operation of the Victim Compensation Program.

In parallel with the above, the development of synergies could be utilized to also increase the visibility of the Victim Compensation Program and sensitize relevant stakeholders, authorities, and institutions to promote the Program, but also to inform victims and potential claimants for their

right to compensation. Especially the Police, as the first point of contact with victims, Victim Advocates and Victim Support Organizations.

Concluding Remarks & Recommendations

A cross cutting observation stemming from the current analysis report is that significant steps towards the advancement of the operations of the Victim Compensation Program have been made over the past few months. In view of the findings of the second part of this report, a few areas that could potentially benefit from further rationalization and which would significantly enhance the operational capacity of the Committee and ensure the sustainability of the Program are summarized below:

- It is suggested that the authorities consider clarifying the applicants' right to a new application and/or reexamination of application in cases of new supporting evidence or documents becoming available after the rendering of a Committee decision or after the expiration of the applicable timeframe for remediation of an incomplete application (section 1.1).
- It is recommended that that authorities consider clarifying Art. 14 §3 of AI (GRK) No 01/2017 regarding the maximum amount of compensation provisioned for physical pain or injury (section 1.3)
- The review of Art. 20 AI (GRK) No 01/2017 on the treatment of applications for the compensation for the loss of a close relative is proposed, in view of clarifying whether articles 15 and 16 are also applicable in such cases (section 1.4).
- It is suggested that a review of Art. 16 Law No. 05/L-036 and Art. 15 §5, AI (GRK) No 01/2017 regarding the calculation of medical expenses could be beneficial (section 1.5).
- It is recommended that the authorities might benefit from the provision of guidance on the interpretation of Art. 20, §1, Law No. 05/L-036 regarding circumstances influencing the awarded compensation (section 1.6).
- The clarification of the applicable deadlines in cross border cases is proposed (section 2.1.8).
- It is recommended that Law No. 05/L-036 and AIs (GRK) No 01 & No 2/2017 are closely examined under the scope of the victims' of trafficking access to compensation, especially in terms of applicable deadlines (sections 1.2 & 2.).
- The establishment of standard operating procedures and of a process for the initial review of applications, in terms of completion and comprehension, before the forwarding of applications to the Committee for review might prove beneficial for the Committee's operations. To this end, analysis of the procedural and operational aspects of the first applications to be considered by the Committee could provide helpful insight. (section 3.1).
- The systemization of claim assessment regarding crimes not foreseen by the Law, the systemization and digitalization of data collection and storage are proposed as good practices (section 3.2).
- A recommended good practice would be the establishment of an appropriate record keeping system in line with the applicable Data Protection Law and in close cooperation with the National Agency for the Protection of Personal Data (section 3.3).

- It is proposed that the impact of translation, issuance and reissuance of documents on the budget and timeframe of operations of the Committee is taken into consideration by the authorities (section 3.4).
- It is suggested that a review of the Application Form from the scope of a third party applying for compensation on his own right might prove beneficial for such applicants (section 3.5).
- The provision of detailed, explicit and easily comprehensible information to applicants on how to exercise their rights according to the law – especially on processes such as the right to initiate an administrative dispute against a Committee decision – is recommended as a good practice (sections 1.7 and 3.6).
- It is proposed that the further development of synergies and the strengthening of institutional cooperation could potentially contribute to the efficient exchange of information and cooperation among competent authorities, as well as the increase of the visibility and victim's access to the program (section 3.7).

Recommendations for the provision of support to the Committee and the Secretariat

Based on the initial plan formulated during the Inception Phase of the Project (January to April 2017) according to the relevant stakeholders' feedback, the next step following the current analysis was the provision of support for the establishment of the Secretariat, through the elaboration of a proposal about its organization and staffing and the drafting of the necessary regulatory documents for its establishment. Given the fact, however, that the Secretariat has been established and its members have been appointed in the meantime, the provision of technical support for the Secretariat to become fully operational is alternatively proposed as a next step. The relevant results will be outlined in a final summary report on the technical support provided, including an initial analysis of the recently established Secretariat.

It is anticipated that the establishment of the Secretariat will contribute significantly towards the efficient and successful operation of the Program. The current analysis indicates that the Secretariat could potentially support the works of the Committee in the following areas:

- Receipt of applications
- Record keeping, update and maintenance
- Initial review of the applications
- Submission of requests for additional information
- Provision of information to applicants
- Communication with other authorities
- Communication with foreign authorities in cross border situations
- Translation of documents
- Financials records and reporting
- IT needs and digitization of records.

However particular attention should be placed on its operational specifics. To that end and in line with the Project's operative framework, some key areas for the provision of support, mentoring or capacity building by the Project Team to the Committee and the Secretariat are proposed, including:

- Basic and advanced knowledge on the rights of victims of trafficking
- Basic and advanced knowledge on Antitrafficking
- Application of the law in the cases of adult and child victims of trafficking
- Operational assessment framework in the cases of adult and child victims of trafficking
- Participation of the Committee members in the project's planned joint trainings
- Training on the application forms
- Support in the development of Standard Operating Procedures, Streamlined Procedures, Action Protocols and Checklists regarding the operational aspects and day-today function of the Committee and the Secretariat, aiming at the advancement of the efficient and uniform implementation of the current legal framework.