

PROTECTED WITNESS AS AN INSTRUMENT IN THE LEGAL SYSTEM

Shkumbin Leka

International University – Struga, R. N. Macedonia

Abstract: A witness is any person who has information about a committed criminal act, his / her perpetrator and other important circumstances, that is data and information necessary and decisive for proving the crime. The witness receives the status of a protected witness because of the danger that threatens his life, health, physical integrity, personal or family safety. He can be heard in a special way, given a pseudonym, giving the proposition with the help of audio-visual means, with a hidden image and a changed voice.

The protection of witnesses is the protection of an endangered witness or another person involved in a trial, including defendants or other clients, before, during, and after the trial. For some witnesses protection is required until the trial is over, for some it provides a mole identity or can live in the rest of its life under the protection of power. Witness protection is usually required in trials against organized crime, where there is a risk that the witness will be intimidated by colleagues or defendants.

The protection of witnesses refers to a number of methods and measures that can be taken at all stages of the criminal procedure to ensure the safety and security of witnesses in order to ensure their co-operation and witnessing. Measures to be taken to protect witnesses should be proportionate to the threat and be time-limited.

Witness protection is a measure that can be applied to acts of organized crime, terrorism, trafficking in human beings, weapons, narcotics, crimes against the state and international law, that is, in the most severe forms of criminality.

Keywords: court proceedings, crime, danger, life, assets.

Introduction

Witness is any person who possesses information about the crime, its perpetrator and other important circumstances, ie the data and information necessary and decisive to prove the crime. The witness receives protected witness status because of the danger to his life, health, physical integrity, personal or family safety. He may be heard in a special way, given a pseudonym, given the audio-visual statement, with a disguised face and altered voice.

Witness protection is the protection of an endangered witness or other person involved in litigation, including defendants or other clients, before, during, and after the trial. For some witnesses, protection is required until the trial is over, and for some, identity is provided or they can live the rest of their lives under government protection. Witness protection is usually required in organized crime trials, where there is a risk that the witness may be intimidated by colleagues or defendants.

Witness protection refers to a number of methods and measures that can be taken at all stages of the criminal procedure to ensure the safety and security of witnesses in order to ensure their co-operation and testimony. Measures to be taken to protect witnesses should be proportionate to the threat and limited in time.

Witness protection is a measure that can be applied to acts of organized crime, terrorism, human trafficking, weapons, narcotics, crimes against state and international law, or the most serious forms of crime.

Witness protection measures are grouped into three categories (Kramer, 2014):

- Police protection / targeted reinforcement and good police practices;
- Court and procedural measures;
- Protective witness protection programs.

Materials and methods

Since the entry into force of the Law on Witness Protection, through the courts in Macedonia, proceedings have involved approximately hundreds of individuals, witnesses who have received endangered or protected witness status, or a person with a hidden identity. This figure was obtained by parallel requests for information from the courts, the public prosecution and police, as well as through the detection of court cases in which it was found that there was a threatened or protected witness. Research has shown that in Macedonian practice, from judicial to expert and beyond. publicly, the term "protected" witness is widely used, although so far only one witness has been protected in Macedonia, while all others have been threatened or individuals with a hidden identity.

The legal distinction between protected and endangered witnesses is not evident even in the judgments of the courts, ranging from the Basic to the Supreme Court of the Republic of Macedonia, which use different terms for the same witness in their judgments. From the analysis of the available material from the current application of the Law on Witness Protection, certain conclusions have been drawn about anomalies in the practical application of this law, which directly reflect the legality of the judgments, the basis of this evidence, and the degree of human rights protection in the proceedings. , where this evidence is applied.

Results and discussion

"Protected" or "endangered" witnesses

A protected witness is a person who is guaranteed legal and physical protection, which means that he or she will be protected from prosecution if he or she is involved in the crime and possibly repression against him or her family. Most often the whole procedure is slowed down to provide witnesses who can explain or supplement the material evidence against persons who have committed a misdemeanor.

The Law on Witness Protection defines what constitutes a protected person. It is a witness, a collaborator of justice, a victim that occurs in the capacity of a witness and their close relatives. There are three categories of persons that may appear in this capacity (www.jpacademy.gov.mk/).

The first category is a witness who possesses information about the commission of the crime, its perpetrator and other important circumstances, that is, data and information relevant to the criminal procedure that are necessary and decisive for proving the crime. Failure to provide this information may endanger his or her life, health, freedom, physical integrity, or property.

The second category is a collaborator of justice - that is, any person charged, convicted or belonging to a criminal group, gang or other association, or involved in an organized crime crime, but agreeing to cooperate with the authorities responsible for detecting, prosecuting and adjudicating crimes, in particular as a witness in criminal proceedings for a criminal group, gang or other association or for any organized crime related crime Hal;

The third category of witnesses are victims who appear as witnesses. It is any person who is violated or endangered by any of his or her personal or property rights, possessing information relevant to the criminal proceedings by which his or her life, health, liberty, physical integrity or property of a greater extent would be exposed. threatened and agreed to cooperate with the judicial authorities in the capacity of a witness in criminal proceedings.

A person protected by law may become a person who, because of the potential danger of being exposed to intimidation, threat of retaliation or danger to life, health, liberty, physical integrity, or property of greater magnitude, disagrees in the capacity of a witness to testify on the following: crimes (Article 3 of the Law):

- against the state;

- against humanity and international law;
- in the field of organized crime;
- for which the Criminal Code prescribes a prison sentence of at least four years.

The term “intimidation” has two aspects (Dimovski, 2014):

- the first involves a direct or indirect threat directed at the witness, the collaborator of justice, the victim, which occurs in the capacity of a witness and their close relatives;
- the latter implies that this threat may influence the person's willingness to testify as a witness in criminal proceedings.

Endangered witness is a person who has the evidence or ability to give evidence that is likely to be reduced as a result of a mental disorder or significant intellectual or social activity or as a result of physical disability or illness. An intimidated witness is a person whose quality of evidence may be diminished by fear of suffering because of the testimony at trial. Endangered and intimidated witnesses can be assisted through special measures so that they can give their evidence in the best possible way. Special measures may cover one or more of the following (: www.cps.gov.uk >Home> Victims and Witnesses):

- providing evidence through a video link from a separate room in the courthouse;
- doing a video interview;
- interrupted screens in the courtroom so that the witness could not see or be seen by the defendant;
- emptying the courtroom from an audience;
- removing wigs and bits of clothing from court staff;
- assist in communicating in court;
- accepting limited media coverage.

Intimidation occurs when an accuser is threatened or persuaded by a witness not to give evidence to the police or the court or to provide evidence in support of the accused.

Respect for the defendant's human rights in criminal proceedings in the case of a threatened (protected) witness

When a person is charged with a crime, it becomes a criminal charged. The state must prove guilt through reasonable suspicion before convicting and convicting the accused of the crime. In the United States, criminal defendants are provided with certain constitutional rights that relate to the control of how the state conducts the investigation, trial, and punishment of the accused. Defendants' rights refer to the right to (www.nolo.com/legal.../defendants-rights-during-court-trial-29793.html):

- silence – the accused is not forced to speak. If the defendant decides to remain silent, the prosecutor cannot summon him as a witness, nor can the judge or defense lawyer compel the defendant to testify,
- confronting witnesses – the defendant be able to ask the witnesses to come to court, “look at the defendant in the eye” and be interrogated by the defense,
- public trial – attendance at the court of relatives and friends of the defendant, citizens and journalists,
- jury trial – the accused of the crime to be checked by a jury,
- speedy trial – not to delay the trial,
- Lawyer representation – if the defendant cannot afford to have a lawyer of his own, the court may appoint a lawyer ex officio,
- getting a proper representation – having a lawyer who knows the job to defend the defendant,
- Failure to test twice for the same offense – to protect the accused from being examined more than once for the same offense.

And under EU law, defendants in crime have rights during the trial, both in the investigation, in the trial and after the conviction. Defendants have the right to be fully informed about what is going

on in any court proceeding about who is conducting the investigation, how to obtain the legal protection, rights and role of the various participants and officials in the trial (https://e-justice.europa.eu/content_rights_of_defendants-_in_criminal_proceedi).

Witness protection can also have a negative impact, which can lead to its abuse and distrust in the statement of the endangered witness. By using a protected witness, the accused and the defense are denied the right to certain questions about the witness.

The rights of the defendant and his or her defense counsel shall also be denied with the possibility of excluding the defense counsel, in addition to excluding the public. However, the Criminal Procedure Code provides that the judgment cannot be based solely on the statement of the endangered witness, obtained by applying the provisions concealing his identity or appearance, for the purpose of protecting him and protecting his close relatives (Article 365. paragraph 3 of the LCP).

Normative arrangement

Modern law, however, entails respect for the procedural role and protection of the witness against certain threat and retaliation. Without that protection, in certain circumstances, the witness would not be able to fulfill his or her duty of testimony. All criminal justice systems have an obligation to regulate and provide for the protection of persons cooperating with criminal justice authorities in the process of investigation or trial, to make them close to the system and to protect them from the risk of serious physical or emotional injury. Witness protection measures, such as taking actions for (: <https://www.unodc.org/.../witness-protectio>), are regulated and prescribed by law:

- help to protect them from psychological and practical obstacles to testimony before and during the trial,
- proactive measures before, during and after the hearing or trial of at-risk witnesses,
- court procedures to ensure the safety of witnesses during testimony,
- Origami for the protection of undercover witnesses.

The challenge of providing assistance and taking measures to protect witnesses is set before all countries that today face organized crime that has a transnational dimension. Adequate witness protection measures can be taken in each country, but measures must be taken to protect against dangers from the outside through the implementation of international cooperation mechanisms.

Witness protection procedure

Witness protection shall be exercised in accordance with the legal regulations governing criminal proceedings and with specific laws on witness protection.

Witness protection is achieved as:

- procedural, governed by the provisions of the LCP, and
- Extrajudicial, in line with the Law on Witness Protection.

The procedure of the protected witness testimony in the criminal procedure in the Republic of Macedonia refers to the conditions of protection and the manner of their protection and examination. The conditions for the protection of certain witnesses are set out in Article 226 of the Criminal Procedure Code, and the manner of their protection and examination during the procedure, in Articles 227 to 231 of the Law.

The conditions for witness protection provided for in Article 226 of the LCP provide:

(1) If it is probable that by giving a statement or answering a particular question, the witness, the collaborator of justice or the victim, or the injured party would expose himself or herself or his or her close relative to serious danger to life, health or physical integrity, the endangered witness may abstains from giving or exporting data until conditions are provided for its protection.

(2) The protection of the endangered witness consists in a special way of examining and participating in the procedure by applying protective measures.

Article 227 regulates the protection of endangered witnesses in the pre-trial procedure, which refers to:

(1) Undertaking measures by the public prosecutor to take measures to protect the endangered witness relating to the determination of a pseudonym of the endangered witness, as well as the specific manner of participation in the procedure and examination. The examination of the endangered witness in the pre-trial procedure is not attended by the defendant and his counsel, nor by the injured party and his legal representative.

(2) seal the endangered witness's data in a separate envelope and use the alias of the endangered witness.

(3) The endangered witness may not be asked questions that would directly or indirectly reveal his identity, place of residence, employment and family members.

(3) persons who in any capacity will find out the information about the endangered witness are obliged to keep it as classified information.

The manner of protection and examination of witnesses during the procedure are regulated by Articles 229 and 230 of the Law, which consist of:

(1) pseudonym examination when the examination of the witness refers only to concealment of personal data,

(2) Examination by means of technical means of transmitting the image and tone if the special manner of participation in the procedure and examination of the endangered witness concerns other than the concealment of the data and the concealment of the appearance of the endangered witness. The examination is carried out with the help of technical devices for transmitting the image and tone, and the image of the endangered witness and his voice are changed. The endangered witness may be located in a separate room during the examination, which is physically separate from the room where the judge and other participants in the proceedings are.

The out-of-court witness protection procedure, in accordance with the Law on Witness Protection in the Republic of Macedonia, regulates the procedure and conditions for granting witness protection and assistance and defines protection measures. Witness protection measures shall also apply to justice collaborators and witnesses, as well as to close witnesses, justice assistants and witnesses. The measures for protection of witnesses and other persons determined by the Law on Witness Protection are as follows:

- keeping identity confidential;
- providing personal protection;
- change of residence, that is, residence;
- change of identity.

Credibility of endangered (protected) witness

The reason for granting protected witness status lies in the danger of the witness being subjected to intimidation or threats of retaliation. The competent court is most responsible for maintaining a balance in the entire procedure involving persons with protected witness status. It is important to know the way a protected witness is treated both during the investigation and during the trial; the approach to his examination and examination should be well thought out in order to guarantee his full protection and to successfully complete the criminal proceedings.

The endangered witness in the most important part of the procedure, ie the investigation and the evidence, takes the key place in the testimony process, ie presenting and establishing the important facts in the procedure. Through the use of "endangered or protected witness" in the history of foreign law, from which this institute is actually taken, and in our legislation, many important cases have been resolved, from decades ago, when it was first applied in the United States. right, to defeat the Sicilian mafia "Cosa Nostra", which operated in the US and then in Italy.

Right to Compensation for Damaged-Endangered Witnesses

The right to compensation of protected, endangered witnesses who may also appear as injured parties has not been regulated in the Republic of Macedonia because according to the provisions of the Law on Civil Procedure, it has been clearly established what each lawsuit should contain (Article 98), and according to those provisions, the right to compensation for damage to a person acting with concealed identity or protection cannot be determined. This issue is not even regulated by the Law on Enforcement.

The lawsuit is an initial civil action whose form and content is determined by law. It makes a single claim through the court. By filing a lawsuit with the court, a procedure, process, litigation is opened, thereby creating a duty for the court, as a state authority, to examine the merits of the claim contained in the lawsuit and make a judgment granting or rejecting that request. The lawsuit should always be drawn up so that, on the basis of what it contains, it can always be judged, as if the court had established the truth of all that the plaintiff asserted in the lawsuit, and that the claim should be so constituted, that a clear and enforceable (enforceable) judgment, or payment order, may be made on the basis thereof (Javadar, 2017).

The question of compensation for protected witnesses is a legal question that needs to be addressed if the court in the criminal proceedings upheld the claim for damages - endangered witnesses or not. If the court or public prosecutor has proposed an appropriate degree of protection and allowed the protection, they should not be involved in this procedure, including the issue of compensation. If the court accepts that it cannot determine the damage in a criminal proceeding due to non-execution of a judgment, there is a legal possibility before the endangered person to seek damages in a civil lawsuit. Witnesses cannot appear as plaintiffs under the pseudonym given by the court during the criminal proceedings, nor authorize a proxy who will conduct the proceedings on their behalf and on their behalf, without displaying a power of attorney to disclose their true identity. Endangered witnesses have the opportunity to use the absolute three or five year time limit for filing a lawsuit, with their true identity if the danger of witnessing under protection has passed, or having their identity disclosed. immediately after the criminal proceedings have ended (unless the judgment is subject to extraordinary remedies and there is no possibility of a retrial, and thus a retrial as a witness) and thus exercise this right.

Witness protection in Macedonian court practice

Witness protection is a novelty in the fight against organized crime in Macedonia, and it is usually the most widely used in litigation related to organized crime, trafficking in weapons and weapons, crimes against the state, etc. The credibility and reputation of the person to be granted the status of a protected witness shall be decided upon a proposal by the Public Prosecutor of the Republic of Macedonia. We have not yet reached that level of goodwill for consistent enforcement and treatment of protected witnesses. The competent court is, of course, most responsible for maintaining a balance in the overall procedure involving persons with protected witness status. Quite the contrary, we immediately begin to define the facts presented by the protected witness, without elaborating on his background and generally checking the circumstances surrounding him (Kalajdziev, 2012).

The current application of the Law on Witness Protection imposes certain conclusions on inconsistencies in the practical application of this law, which directly reflect the legality of the judgments based on this evidentiary means of protecting a witness, as well as the degree of protection of human rights in proceedings where this means of proof has been applied.

One of the main problems in the practical application of the Law by the domestic courts arises from the very beginning of these proceedings. Thus, the courts uncritically, without giving proper explanation, decide to give a person protection under the Law and to grant endangered witness status, without giving any explanation as to the reasons why such a need arises.

The courts do not take into consideration the legal definition of a witness when making decisions. Without clear indications (and appropriate evidence) that the witness's life, health,

freedom, physical integrity, or property of a larger extent are endangered by his testimony in the proceedings, the court must not grant a person a threatened witness status.

In deciding whether or not to grant such status to a person, the court must bear in mind that by granting such status to a particular person, it somehow limits the rights of the defense, since if the identity of the witness is unknown, the defense loses the opportunity to attacks the witness's statement by denying his credibility to testify.

If the court gives protected witness status to a multiple convicted person, the defense loses the opportunity to challenge his credibility.

In certain cases, the credibility of his or her testimony depends on the witness's personal characteristics or abilities, and again, without the defense knowing the witness's identity (and thus his or her abilities and abilities), he or she loses the ability to successfully challenge the statement.

The transgression of the presumption of innocence

The Institute for the Presumption of Innocence is one of the legal foundations against which any suspect or accused of a crime is found innocent until proven guilty by a final court decision. according to Article 13 of the Constitution of the Republic of Macedonia, anyone charged with a criminal offense shall be presumed innocent until proved guilty by a final court decision. Hence, as a constitutionally guaranteed right, a person who has been violated the right to presumption of innocence may seek protection before judicial authorities.

With the ratification of the European Convention for the Protection of Human Rights, it has become an integral part of the legal system of the Republic of Macedonia and positive law. Article 6 of this Convention deals with the right to a fair trial, which includes the presumption of innocence and reads:

“Everyone has the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal established by law, and his civil rights and obligations or the merits of any criminal charges against him. The verdict is pronounced publicly, and journalists and the public can be excluded during all or part of proceedings in the interest of morality, public order or national security in a democratic society when the interests of the minor or the protection of the private life of the child so require. the parties to the dispute, or where the court deems it necessary because, in special circumstances, publicity could prejudice the interests of justice. Everyone charged with a criminal offense shall be presumed innocent until proved guilty according to law. ”

As a general principle, the presumption of innocence is also part of the Code of Criminal Procedure, which clearly states in Article 2 that a person charged with a crime shall be presumed innocent until proven guilty by a final court verdict. All state authorities, the media and other entities are obliged to abide by the rule, and with their public statements on the ongoing proceedings must not violate the rights of the accused and the injured party, as well as judicial independence and impartiality.

Closely related to the protection of this right is public information on litigation by state authorities and the media, which have a great deal of responsibility for the transmission of information and should always take this principle into account while respecting the professional standards for proper information.

The Code of Ethics of the Journalists of the Republic of Macedonia emphasizes that special consideration should be given to the presumption of innocence when reporting on crime-related or trial-related events, whereby the accused may not be found guilty before committing the crime. the court. Also, journalists have an obligation to protect the defendant's private life, his integrity and dignity and not to rely on reports of guilt or innocence.

Availability of banned information

Prohibited or Classified Information is information that is protected against unauthorized access or use and is designated by degree of classification.

According to Article 6 of the Free Access to Information Act, the following are prohibited:

- 1) information which by law constitutes classified information with an appropriate degree of secrecy;
- 2) personal data the disclosure of which would constitute a breach of personal data protection;
- 3) information on archive work that has been identified as confidential;
- 4) information the disclosure of which would violate the confidentiality of the tax procedure;
- 5) information obtained or compiled for investigation, criminal or misdemeanor proceedings, for the conduct of administrative and civil proceedings, the disclosure of which would have harmful consequences for the course of the procedure;
- 6) information relating to commercial and other economic interests, including the interests of monetary and fiscal policy, and the disclosure of which would have adverse consequences on the performance of the function;
- 7) information from a document that is in the process of being drafted and is still subject to harmonization with the information holder, the disclosure of which would give rise to a misunderstanding of the content; and
- 8) information that infringes industrial or intellectual property rights (patent, model, sample, trademark and service mark, designation of origin of the product).

The Law on Personal Data Protection regulates the protection of personal data as basic freedoms and rights of natural persons, and in particular the privacy rights related to the processing of personal data. "Personal data" means any information relating to an identified natural or identifiable natural person, and a person who can be identified is a person whose identity can be identified directly or indirectly, especially on the basis of a personal identification number of the citizen or on the basis of one or more features specific to his physical, physiological, mental, economic, cultural or social identity.

The protection of personal data is guaranteed to any individual without discrimination based on his / her nationality, race, skin color, religious beliefs, ethnicity, sex, language, political or other beliefs, material status, ancestry, education, social origin, citizenship, place or type of residence or any other personal characteristics.

Access to banned or classified information is prohibited or exercised in a procedure established by law. Access to this information, in a manner different from that established by law contrary to the law prescribing appropriate penalties.

Sentencing

The punishment is defined as the evil inflicted on the perpetrator for the crime. Punishment in any modern criminal justice system must meet certain generally accepted conditions, which are also its basic characteristics (Josifovski, Dimitrov, 2018):

- It is a public-law sanction (it can only be prescribed, pronounced and executed by the state).
- It must be equal for all regardless of national, religious, racial or social background.
- It must be lawful (prescribed by law and rendered in accordance with the law in a procedure that guarantees the defendant an impartial, fair trial).
- It must be divisible so that the punishment can be individualized, depending on the degree of guilt and the severity of the consequence.
- It must be personal, that is to say only the delinquent, not members of his family or other close relatives.
- It must not be a torture of the convicted person or a diminution of his human dignity.

The purpose of punishment is defined in Article 32 of the Criminal Code. Besides serving justice, the purpose of punishment is:

1. Preventing the perpetrator from committing criminal offenses and retraining them
2. To educate others not to commit crimes.

Pursuant to Article 34 of the Criminal Code, the perpetrator of a crime is sentenced to a punishment prescribed for the committed crime, and a milder punishment than that prescribed may be imposed only under the conditions provided by this Code. For crimes committed on the basis of benevolence a fine may also be imposed when it is not prescribed by law or when it is prescribed by law that the offender shall be punished with imprisonment or with a fine, and the court shall sentence imprisonment as the main punishment.

According to the Law on Determining the Type and Determination of the Sentence, the judge determines the type and determination of the amount of the criminal sanctions based on the following objective criteria (Article 10 of the Law):

1. objective categorization of the crime; and
2. the former life of the perpetrator of the crime.

The aggravating and mitigating circumstances affecting the sentence are grouped into the following categories (Article 14 of the Act):

- I. Degree of criminal responsibility,
- II. Reasons from which the crime was committed,
- III. The magnitude of the endangerment or injury to the protective good,
- IV. Circumstances under which the offense was committed,
- V. Contribution of the victim to the commission of the offense,
- VI. The former life of the offender,
- VII. Personal circumstances and behavior after committing the crime,
- VIII. Other circumstances concerning the offender's personality and

IX. The former offense is of the same kind as the new offense, the offenses are committed with the same motives, the time spent from the previous conviction, ie, the withholding or remission of imprisonment.

The frameworks in which penalties would move should be recognizable by the perpetrators of crimes, and thus as a warning of illegal behavior. The sentence is pronounced on the basis of:

- The legal determination of the sentence;
- Judgment of sentence by individualization of sentence;
- The sentence in terms of the settlement of the public prosecutor with the suspect;
- Penal policy.

Determining the type and measuring the amount of criminal sanctions

– Objective categorization of the crime – the crimes prescribed in the Criminal Code and other material laws, are categorized into horizontal categories;

- The former life of the perpetrator of the crime;

– the former life of the perpetrator of the crime is determined on the basis of vertical categories provided by law.

I. Untried

II. Up to two final verdicts for criminal offenses punishable by up to 5 years in prison

III. Up to three final judgments, at least one of which is for a crime punishable by up to 5 years in prison

IV. Three final judgments or two sentences with an effective prison sentence of more than 6 months or one sentence with an effective sentence of at least 3 years

V. Five or more sentences or two sentences of at least 5 years in prison or one sentence of at least 8 years in prison

Horizontal rows, based on the prescribed criteria, set the minimum and maximum penalty limits that could be imposed on the perpetrator in months, depending on which vertical category the offender would be classified.

In each vertical category, the average value of the sentence (in months) is determined from which the court will begin to calculate the mitigating and aggravating circumstances and on the basis of which it will individualize the amount of the sentence for the particular offender.

Aggravating and mitigating circumstances are calculated by adding, or subtracting, points, with the starting point being the mean value of the penalty specified in each vertical category.

Agreeing on the type and amount of the sentence between the public prosecutor and the defendant within the framework of the settlement of the investigative procedure and the summary procedure until the indictment is filed, a fine of less than 50% of the sentence imposed by the application of the law may not be agreed. in regular court proceedings. When agreeing with the public prosecutor and the defendant in the evaluation phase of the indictment, a sentence of less than 60% of the sentence that would have been imposed by applying the provisions of the law in regular court proceedings may not be agreed.

Conclusion

Witness protection refers to a number of methods and measures that can be taken at all stages of the criminal procedure to ensure the safety and security of witnesses in order to ensure their cooperation and testimony. Measures to be taken to protect witnesses should be proportionate to the threat and limited in time.

A particular witness, who will receive protection as a threatened witness during the proceedings, may further be included in the Witness Protection Program, under the conditions established by law, thereby becoming a protected witness.

The protection afforded by the court, by specifying the manner of questioning, the assignment of a pseudonym and testimony through audio-visual aids, should further be approved by the Witness Protection Council, which, in accordance with the provisions of the same law, may include a specific person in the protection program, which may mean changing his / her identity, residence, or even a change in the country in which he or she lives, depending on the degree of threat that needs to be properly assessed.

In principle, every witness is a potentially endangered witness. His testimony will always get a reaction from some of the participants in the proceedings, but it is for the court to make a serious assessment and give an explanation as to whether a particular witness has a justified danger that cannot be resolved other than by giving protection.

The need for protected or concerned witnesses to be involved in proceedings must be strictly defined and relate to the most severe forms of organized crime in cases where evidence cannot otherwise be provided or the witness's testimony must already be confirmed collected evidence, and this cannot be done by public testimony.

References

1. Dimovski S., (2014), Protected Witness as an Instrument in the Macedonian Legal System, Bato and Divine, Skopje.
2. European e-Justice Portal - Rights of defendants in criminal proceedings, https://e-justice.europa.eu/content_rights_of_defendants_in_criminal_proceedi.
3. Josifovski, Z., Dimitrov, E., (2018), Sentencing according to the Criminal Code, with special reference to the Rulebook on Sentencing, Review of Scientific Article, UDC 343.242 (094.8) (049.3) (497.7).
4. Kalajdziev, G., (2013), Protected Witness Must Move From Subject to Political Abuse to Institution for Consistent Fight against Organized Crime, Akademik, Skopje 2013 [www.akademik.mk/zashtiteniot-svedok-mora-da-se -pridvizhi-od-p](http://www.akademik.mk/zashtiteniot-svedok-mora-da-se-pridvizhi-od-p).

5. Kramer, K., (2014), Witness protection as a key tool in addressing serious and organized crime, http://www.unafei.or.jp/english/pdf/PDF_GG4_Seminar/Fourth_GGSeminar_P3-19.pdf.
6. Tran, J., (2018), Criminal Defendants' Rights, www.legalmatch.com ›...› General Criminal Law ›Criminal Law; Criminal Defendants' Rights, www.nolo.com/legal.../defendants-rights-during-court-trial-29793.html.
7. Law on Witness Protection Official Gazette of the Republic of Macedonia No. 38/2005, Skopje
8. Victim Assistance and Witness Protection, <https://www.unodc.org/.../witness-protectio...>United Nations Office on Drugs and Crime.
9. Vulnerable or intimidated witnesses, www.cps.gov.uk ›Home› Victims and Witnesses.
10. Javadar, K., (2018), Article for Legal Advice, Types of Labor Lawsuits, www.akademik.mk/.../Vidovi-tuzhni-za-zashtita-vo-rabotnite-odno.