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THE NOTION OF VICTIM

Article 2 of the new Criminal Procedural Code of Ukraine as the first guideline of criminal proceedings provides for the protection of individuals, society and the state against criminal offense. Thus, the new code has changed the priorities in solving problems of criminal procedure. First of all, currently lawmakers do not put the protection of rights and legitimate interests of the criminal proceedings, as stated in the CPC 1960, but promote higher goals (to improve law and order in society).

Therefore, the state must protect not only those who are in the criminal process as a result of the decision of officials or by their own will, but also those who have not acquired the status of the participant of

criminal proceeding. However, they are actually the victims of crime and according to international standards they have the right to "availability to justice mechanisms and compensation for damages" (Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985).

Changes in new criminal procedure law correspond to new concept of criminal proceedings. Thus, significant innovation is the legal recognition of victim not only individual, but also the legal entity in new CPC. It seems this is a positive change in the criminal procedure in Ukraine, as thereby the range of subjects suffered from criminals who need protection greatly expand. New CPC provides protection only to property rights for legal entity. However, practice also demonstrates the need to regulate issues of recovery reputation of the legal entity in case of causing harm in course of criminal offense as provided in CPC of Russian Federation (Part 1, Art. 42).

Unlike the CPC of Ukraine 1960, which established mandatory recognition of a person injured in the course of criminal offense, the actual reason is decision of the officer conducting the procedure, and only after criminal proceedings there is formal authority (the new CPC do not fully bind the acquisition of rights and obligations of the victims with their need to legal registration of procedural status by special document (Part 2, of Art. 55 of the CPC). Only if clear and reasonable data exist it is possible to assume that the relevant statements given arbitrarily, the prosecutor makes a reasonable decision to refuse to recognize the person injured, which can be challenged in court (Part 2, Part 5 Art. 110, Part 5 Art. 55 CPC).

This order, on the one hand, greatly simplifies the acquisition of statutory rights of victims of criminal offenses at the stage of the pre-trial investigation, on the other hand under conditions of permanent staff of employees it leads to extra work in course of investigation that is likely to be overloaded by applications of victims who need immediate investigation without necessary statutory procedures for verification. I think for solving this problem it is necessary to enhance the staff of pre-trial investigation and provide the possibility to draw up application by injured person to court.

Part 6 of Article 55 of the new CPC provides recognition as victim relatives or family members according to their applications in cases where due to criminal offenses death of person occurred. The problem arises: if an individual has no close relatives or family members, and he/she is an orphan, who has no governmental support? These individuals are not always because of their age or helplessness can give their consent to recognize them as victims in course provided by Part 7 Article 55 of the CPC, and thus they remain without protection by law.

I think that, by analogy with the provisions of Paragraph 12 Part 2 Article 36 of the CPC due to right of prosecutor to bring a civil action on behalf of state and citizens who according to their physical state or financial situation, failure to adulthood, old age, incapacity or limited legal capacity

are unable to defend their rights, prosecutor should be authorized to admit such persons as victims. This addition, in my opinion, will be consistent with the priority in solving problems of criminal proceedings, namely, the protection of persons against criminal offenses (Article 2 of the new CPC).

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HANDELSVERTRETUNG IN DEUTSCHLAND

Der Handelsvertreter ist Mittler zwischen dem von ihm vertretenen Unternehmer und dessen Kunden.

Seine Tätigkeit beschränkt sich aber nicht auf die reine Vermittlungstätigkeit. Er hat den Unternehmer insbesondere auch über die Entwicklungen im Markt sowie über die Reaktionen und Wünsche seiner Kunden zu informieren. Darüber hinaus übernehmen moderne Handelsvertretungen in immer stärkerem Maße zusätzlich Dienstleistungen, wie die Lagerung und Warendisposition, Kundendienste und Regalpflege sowie Verkaufsförderungen durch den Einsatz von Werbematerial. Unter einem Handelsvertreter ist daher ein Dienstleistungsunternehmer zu verstehen, der als Vertriebspezialist für ein anderes Unternehmen die Aufgabe des Verkaufes im weitesten Sinne übernimmt.

Die Bedeutung des Handelsvertreters für die Wirtschaft zeigt die amtliche Statistik, nach der es in der Bundesrepublik rund 64000 Handelsvertretungen gibt, die einen Warenumsatz von ca. 400 Mrd. DM im Jahr bewegen. 67% der deutschen Industrie arbeiten nach einer Studie des Ifo-Instituts für Wirtschaftsforschung mit Handelsvertretungen zusammen.

Das Handelsvertreterrecht ist in den §§ 84 - 92c HGB geregelt. Erste Vorschriften fanden sich bereits im Handelsgesetzbuch von 1897. Eine grundlegende Reform erfuhr das Handelsvertreterrecht aber erst 1953 durch das Gesetz zur Änderung des Handelsgesetzbuchs (Recht der Handelsvertreter) vom 6. August 1953, das am 1. Dezember 1953 in Kraft trat. Durch diese Novelle wurde u. a. der Ausgleichsanspruch des Handelsvertreters nach Beendigung des Vertragsverhältnisses (§ 89 b) in das deutsche Recht eingeführt.

Zu einer weiteren Änderung des deutschen Handelsvertreterrechts hat die Harmonisierung des Handelsvertreterrechts innerhalb der Europäischen Gemeinschaft geführt. Der Ministerrat der EG hat am 18. Dezember 1986 eine Richtlinie „zur Koordinierung der Rechtsvorschriften