

cybercrime to be stopped not only in Ukraine, but also throughout the world.

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WITNESS PROTECTION PROGRAMMES (WPPs): THE INTERNATIONAL CONTEXT

In the interest of a fair and effective criminal justice response to organized crime, terrorism and other serious crimes, government and police agencies provide protection for informants and witnesses against intimidation, violence and reprisals. Witness protection is especially important in the fight against crime and gangs, as intimidation of informants and potential witnesses is one of the defining characteristics of criminal organizations. Offering protection to these informants and witnesses is necessary in order to obtain and sustain their collaboration. Effective and reliable witness protection programs have proven their value as essential tools in the fight against serious crime [1].

The United Nations Office on Drugs and Crime (UNODC) has defined WPPs as "formally established covert programme(s) subject to strict admission criteria that (provide) for the relocation and change of identity of witnesses whose lives are threatened by a criminal group because of their cooperation with law enforcement authorities". 1 Given the financial impact for the state and drastic changes in the life of the persons concerned, such programmes are considered a last resort. They are thus reserved for very important cases in which the witness's testimony is crucial to the prosecution and there is no alternative way of ensuring the security of the witness.

Witness protection units. While in some countries witness protection is based on legislation, in others it has evolved naturally as part of police activities. WPPs are run by covert units, staffed by specially trained officers, whose operations are highly confidential. Such units operate within various institutional structures. In some countries they are part of the police force, while in others they are organisationally separate from the police. In this case they may be located within a ministry (e.g. Ministry of Justice) or the State Prosecutor's Office or else operated by an independent multidisciplinary body.

It is argued that a WPP can function well within any of those structures, as long as protection remains separate from investigation to ensure objectivity and minimise the risk of admission to the programme becoming an incentive for witnesses to give false testimony [3].

Admittance criteria. Protection may be given to different types of person – victim-witnesses, collaborators with justice, and other participants in a criminal case (e.g. innocent bystanders, prosecutors or undercover agents). The extent of protection for each group varies between countries.

Collaborators with justice. The testimony of persons engaged in a criminal activity and closely connected to the offender may have crucial value in the prosecution of organised crime. This explains why these so-called "collaborators with justice" or "*pentiti*" are a sizeable part, if not a majority, of persons admitted to WPPs. However, in many jurisdictions *pentiti* are also subjected to specific regulation concerning *inter alia* benefits granted in exchange for information.

WPPs are based on the principle of neutrality, which means that participation should never be seen as a reward for testimony. Witnesses are admitted according to a set of predetermined criteria, including:

- The level of threat to the witness's life (the key element);
- The importance of the case;
- The decisive relevance of the testimony for the prosecution;
- The impossibility of obtaining the information from another source;
- The personality of the witness and their potential to adjust to a new life;
- The family situation of the person (in particular the number of family members to be covered by the programme).

Life within the programme. On entering a WPP, the witness signs a memorandum of understanding with the protection authority, enumerating a series of agreed actions. Non-compliance may result in being excluded from the programme, which in practice seems to be limited to serious violations of the programme's conditions.

Witnesses are relocated (mostly within the country, but in exceptional cases also abroad) and kept in secure locations. When necessary, they are repeatedly moved to avoid their whereabouts being tracked down. Once settled, they are discouraged from travelling outside the new home area.

They are supposed to cut all ties with their past. This involves getting rid of all belongings and avoiding direct contact with any individuals they knew in their pre-WPP life including family members who are not part of the programme (WPPs increasingly admit a limited number of family members, especially in societies characterised by strong family ties). Any contact with the witness – including by law enforcement authorities – must be arranged by the protection unit and is undertaken through secure communication channels.

Many witnesses are given a new identity, with the number of personal details changed varying from country to country (e.g. in the UK and the Netherlands only essential elements are modified, while in Italy changes are more far-reaching). As a consequence some or all personal documents, such as driving licences, birth certificates, diplomas etc. must be modified. However, the old identity continues to exist, enabling the witness to return to it if the programme is terminated. It has been noted that the growing use of electronic databases and biometrics adds to the challenge of dissociating the new from the old identity.

Witnesses benefit from financial assistance, which in most cases is temporary (on average 1-2 years). The level of such support is normally at the protection authority's discretion. It should not surpass, however, the witness's previous legal income, as it should not serve as reward for testimony. In addition, witnesses are provided education and professional training and are assisted in finding new jobs (and even subsidised loans, e.g. in Italy). In many cases they are not allowed to practice their original professions – especially registered ones like lawyers or accountants – to avoid being tracked down through this channel [2]. Despite various forms of support from the state, participation in a WPP means a drastic and often permanent change in the witness's life, which for some is too difficult to handle. As a consequence there are cases of witnesses withdrawing from the programme, regardless of the danger it may entail.

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