

„Victim Protection in Criminal Proceedings Legislation: A pan-European Comparison"

Country Report: Greece

Authors:

T. Papakiriakou, G. Tsolias, C. Rogatsios

A. Does your country's legal structure differentiate between the civil and criminal legal consequences of an offence?

If so:

1. What consequences are laid down by civil law (e.g. damages, compensation for pain and suffering)?

According to the Greek Civil Law the perpetrator of a crime is obliged to compensate for the material damage and/or satisfy in money the victim for reasons of detriment to personality and solatium (pain and suffering). The Greek Civil Law is not using expressly the word "crime". However, it provides for the above mentioned obligations when an "illegal act" has taken place. According to the definition of the art. 914 of the Greek Civil Code, an "illegal act" is every illicit and culpable causing of damage to a third person. This fact leads to the conclusion that criminal offences incur civil and criminal liabilities at the same time.

The purpose of the **compensation** is the full restoration of the material damages caused to the victim by the illegal act. If the victim has suffered health or body damage, the Greek Civil Law takes into account not only the present damage but also any future one. This means that whatever the victim will be deprived of or will spend in addition due to the increase of its expenses is considered as future damage (art.929 C.C.). If the damage concerns the death of a specific person, the perpetrator is obliged to compensate anyone who had the right to claim alimony and services from the deceased (art. 928 b).

In the case of an illegal act the Court, apart from the compensation for the property damage and according to its reasonable judgment, can award the victim with **pecuniary relief on account of detriment to personality**. The victims that suffered health and pride damages or that have been deprived of their freedom, have mainly relevant claims. In case of death this pecuniary relief can be awarded to the family of the deceased on account of pain and suffering (art. 932 C.C.). The purpose of the pecuniary relief is, in general, the restoration of the victim's moral damage and the consolation of the family of the deceased.

What consequences are laid down by criminal law (e.g. fine, custodial punishment)?

The sanctioning system of Greek PC consists of **principal penalties** (arts. 51-55 PC), **accessory penalties** (arts. 59-68 PC) and **measures of security and reform** (arts. 69-76 PC). The accessory penalties may be ordered in addition to principal penalties. In some cases the order of the accessory penalties is obligated by the law (e.g. *confiscation* of the perpetrator's vehicle and imprisonment in case of drugs transportation). Measures of security and reform may be ordered when for a number of reasons penalties may not be inflicted on the offender; may be ordered as a substitute (e.g. confinement in a psychiatric institution for an insane

perpetrator) or complement punishment (e.g. deportation of the foreigner perpetrator after the execution of the custody penalty).

Principal Penalties:

a) Custodial Penalties:

☐ ☐ Confinement in a penitentiary (art. 52 PC) either for life, or for a fixed term between five (5) and twenty (20) years.

☐ ☐ Imprisonment (art. 53 PC) from ten (10) days to five (5) years. This kind of penalty can be converted into a pecuniary penalty of an amount between 5 to 60 euro per day (art. 82 PC) or into public welfare work (art. 82 para 6 PC) and can be suspended from three (3) to five (5) years.

☐ ☐ Confinement in a Psychiatric Institution (art. 54 PC).

☐ ☐ Detention (art. 55 PC) from one (1) day to one (1) month in a police station. This kind of penalty can be converted into a pecuniary penalty of an amount between two (2) to five (5) euro per day (art. 82 PC).

b) Pecuniary Sanctions:

☐ ☐ Monetary penalties (art. 57 PC) from 150 to 15.000 euro.

☐ ☐ Fine (art. 57 PC) from 30 to 600 euro.

☐ ☐ Special Penal Statutes next to custodial penalties contain heavier pecuniary penalties: e.g. Act 1729/87 on Drugs threatens to impose the monetary penalty of up to 600.000 euro; Act 2331/95 on money laundering threatens to impose the monetary penalty of up to 150.000 euro.

Accessory Penalties

☐ ☐ Confiscation (art.76 para.1 PC) of the offense's instrumentality or proceeds.

☐ ☐ Publication of the judgement of conviction (art. 68 PC).

☐ ☐ Deprivation of Political and Civil Rights (art. 59-64 PC).

☐ ☐ Prohibition for exercising a profession (art. 67 PC).

Measures of Security and Reform.

☐ ☐ Protective and Educational Measures relating to minors: educative and therapeutic measures, censure of the minor, entrusting his diligent guardianship to his parents, family council or guardians, relevant organizations and confining to an state institution (art. 121-122 PC).

□□Protective Measures against abnormal or habitual offenders: custody of the offender in mental insanity or deaf-muteness in therapeutical institution (art. 69 PC).

□□Protective Measures against Alcoholics and Drug Addicts: order the admittance to a special therapeutical institution (art. 71 PC).

□□Deportation of foreigners (art. 74 PC).

□□Internment to Work Institutions (art. 72 PC).

□□Confiscation (art.76 para.2 PC) of dangerous objects used in a crime such as drugs, weapons, etc.

Are there mixed forms (e.g. higher damages, compensation ordered as a sanction, symbolic compensation)?

The victim of the crime can be a party to the criminal proceedings (civil party-action) against the perpetrator, next to the prosecuting State, by aiming at the adjudication of the State's public claim for punishment and at the same time, at the victim's private claims for compensation for material and moral damage. In practice, the victim brings before the criminal court, the minimum of his claims for moral damages caused by the wrongful act, for two (2) reasons: first, according to CCP (art. 63) this is the only way to be a party to the criminal proceedings and influence the decision of the court and second, the court's verdict finding the defendant guilty, also holds the victim liable for the claimed (minimum) damages. Then the victim, brings the rest of his claims for damages (which is the main part) before the civil court, having the advantage of the criminal's court's verdict.

Although, criminal's court verdict have both sanctioning (penalty) and compensatory (claim for damages) characteristics, in Greek theory is not considered as a mixed form.

2. What form do the procedural means of enforcing civil and criminal legal consequences take? What are the decisive differences for instance in the procedural position of the victim or in the courts duty to discover the facts?

The Greek Law provides for two different and autonomous procedures for the civil and the criminal process. It provides for different courts, different rules and different proceedings. The illegal action and the liability of the perpetrator is, therefore, examined, estimated and established independently. This fact makes possible the delivery of two totally different judgments concerning the same facts.

In the **civil process** the victim is a litigant party. The civil procedure is dominated by the principle of the free disposal of the object of the process and by the debate system. This means that the procedure begins after the bringing of an action by the victim. Moreover the furtherance of the civil process is based exclusively on the motions that the victim, the

perpetrator and the other litigant parties submit. If the victim, as claimant, fails to prove the true facts and the legal prerequisites in order to support its claim for compensation then the claim is denied.

In the **criminal process**, on the contrary, the victim is a witness, a means of evidence. The criminal procedure is dominated by the principle of the mandatory criminal prosecution and the inquisitorial system. This means that the beginning of the criminal process is obligatory and takes place ex officio if there are indications of committing a crime. The Public Prosecutor, the Judicial Council and the Court investigate ex officio all the facts of the case and gather all the means of evidence. As a result the perpetrator can be convicted even if the victim does not participate vividly or at all in the criminal process.

Are there mixed forms? If so: what procedural model do they have?

See above A.1.

B. Does your country's legal order take efforts by the perpetrator which aim to provide personal conciliation with the victim (mediation) or compensation for the material or immaterial damage done to the victim into account? Will it acknowledge symbolic acts of compensation?

If so:

I. General Questions

1. Which perpetrator efforts to mediate or compensate will be considered (please give an overview in key-words)?

Regarding the efforts of the perpetrator to mediate after a criminal act, the Greek Criminal Law does not include any relevant provisions. In other words a state obligation to support a procedure of conciliation or mediation is not provided for by the Criminal Law. The perpetrator is always responsible to initiate the settlement of the dispute but only in the cases of certain crimes especially provided for by the law. One can distinguish three (3) categories in which the Greek Law stipulates directly or indirectly the settlement between the perpetrator and the victim as well as the compensation towards the victim:

The **first category** includes the crimes prosecuted **upon indictment**. Regarding the initiation of the criminal prosecution by the Public Prosecutor, one should discern between the crimes prosecuted **by force of office (ex officio 36 C.C.P.)**, that means apart from the victim's will, and the crimes prosecuted **upon indictment (50, 36 and 46 C.C.P.)**, that means only when the victim is wishing to initiate the criminal proceedings. In these offences, the settlement between the victim and the perpetrator rests upon the discreet capacity of the victim. Thus, the victim can state that he/she does not wish the prosecution of the perpetrator (117 P.C.) or surrender from indictment (117 P.C.). Furthermore the victim can withdraw the indictment before or during the formal criminal procedure in the first or the second instance court (52 C.C.P.). Finally the victim has the right of not filing the indictment at all (50 C.C.P., 117 P.C., 118 P.C.). In these

cases, the victim does not need to justify its decision and to declare that he/she was compensated or that he/she accepts the apology of the perpetrator. There is no need to state its interest about the continuance of the case. Basically it is a private dispute concerning an offence of minor importance or a totally personal action. In such cases the Law provides the victim with the opportunity to decide whether he/she wishes the implementation of a sanction or not. Some indicative examples of such crimes are the following: simple bodily injury (308, 315 P.C.), malicious calumny (363, 368 P.C.), non-intentional/intentional abduction (327, 328 P.C.), threat (333 P.C.), destruction of property (381, 383 P.C.), drawing bounce check (art. 79, Act 5960/1933). The offence of rape (336 P.C.) is a special case. In this case the crime is prosecuted ex officio but the prosecution may stop if the victim states that the publicity arising from the criminal procedure will result to its serious psychological injury (344 P.C.)

The **second category** of the victim's compensation which leads to the acquittal of the perpetrator is its **factual repentance (remorses)**. In this case, the perpetrator commits the crime and then repents, changes its mind and either returns the object (or the amount of money that he/she took or compensate the victim) to the victim either averts the consequences of its action. The factual repentance (remorses) is stipulated in the Greek Criminal Law in lots of offences e.g. forgery (219 P.C.), perjury (227 P.C.), arson by negligence (267 P.C.), destruction of property (384 P.C.), fraud (386 P.C.), misappropriation of funds (393 P.C.), larceny (372 P.C.), embezzlement (375 P.C.) etc.

The **third category** regarding the victim's compensation concerns specific criminal offences. These offences are expressly stipulated by the Law and prosecuted ex officio. This category is the most direct, explicit and authentic provision concerning the mediation and the compensation towards the victim.

Thus according to the Act 2721/99 is stipulated that in specific misdemeanours the perpetrator is acquitted from any punishment if he/she compensated (satisfied in money) entirely the victim on its own will, until the rendition of a first instance judgment. This compensation includes the payment of the capital, the default interests and the trial expenses. Finally the victim or its heirs should state that this compensation took place indeed. These proceedings are provided for by Law in the following offences: commonly dangerous offences (289 par.2 P.C.), misdemeaning embezzlement (379 par.2 P.C.), misdemeaning fraud and misappropriation of funds (393 par.2 P.C.).

In special criminal laws the acquittal of the perpetrator is stipulated in the following cases:

a) the perpetrator charged with drawing bounce checks is acquitted when/if he/she compensates the victim (art. 79 Act 5960/1933);

b) the perpetrator charged with tax evasion is acquitted when/if he/she pays the due insurance contributions to the State (art.1 par. 5A Act 86/1967);

c) the perpetrator charged with smuggling up to 70.000 Euros is acquitted when/if he/she pays the fine (art.158 Act 2960/2001);

d) the perpetrator charged with tax evasion is acquitted when/if he/she compromises with the Tax Department (art.25 par. 5 Act 1882/1990)

2. Does it make a difference whether the legal rights of a natural person or those of another holder of legal rights (e.g. a company, the general public, the state) are concerned?

The Greek Criminal Law does not differentiate the acts of compensation whether the victim is a natural person, a company, the general public or the State as long as the option of compensation is clearly provided for by Law.

In detail:

II. Does your country's legal system support a perpetrators efforts which are aimed at providing conciliation with the victim (mediation) or compensation for the damage caused.

In all the above mentioned cases the efforts of compensation are private between the victim and the perpetrator. There is not in any case a State surveillance. If the agreement and the compensation of the victim is achieved the perpetrator states this fact before of the competent judicial body (Public Prosecutor, Judicial Council, Court) in order to start the process of its acquittal.

a) before formal criminal investigation is initiated (e.g. in mediation or restitution proceedings initiated or accompanied by the state).

In the case of the above mentioned categories (offences upon indictment, factual repentance, compensation), the criminal prosecution is not initiated (50 C.C.P.) if the victim does not file a complain or declare expressly that he/she does not wish the prosecution of the perpetrator during the formal criminal investigation. If the victim submits an arraignment (indictment) and in the meanwhile collects the compensation then he/she has the right to surrender from the indictment or to withdraw it and state that he/she does not wish the prosecution of the perpetrator. Then the Public Prosecutor has the right not to press charges and to withdraw it in the records (art.43 par.1 and art. 47 C.C.P.)

b) before the formal criminal court procedure begins.

If the victim states that he/she surrenders from the indictment or withdraws it or has been compensated then the Judicial Council mandatorily issues a decree and drops the charges (309 par.1b, 310 C.C.P.). In the case of the

tax debts, the agreement for the settlement of the liabilities entails the suspension of the criminal prosecution (art.25 Act 1882/1990). In the case of the insurance debts, if the perpetrator pays even one (1) day before the trial the whole process ends (art.1 par.5A Act 86/1967).

c) as part of the formal criminal court procedure

If the victim at the beginning of the proceedings states that he/she withdraws the indictment or surrenders from it or that he/she has been compensated -when the Law provides for it- then the Court without examining the facts of the case delivers a judgment with which drops the charges (370 b C.C.P.) or acquits the perpetrator for reasons of remorse (factual repentance). This statement can also take place in the second instance Court.

d) as part of the execution of punishment stage?

See below III.4.

If so:

1. By which means does your legal system support these efforts?

See above B.I.

2. Which factual conditions (e.g. seriousness of the offence, confession by the perpetrator) are associated with these means?

The compensation of the victim is stipulated expressly by the Law and is implemented only in these cases.

3. What rights and obligations do the victim and perpetrator have in these proceedings?

As mentioned above the mediation and compensation proceedings rests with the discretionary capacity of the parts and as a result there is not a relevant provision in the legislation neither about the process neither about the rights and the obligations of the parts.

4. Can these proceedings be forced against the victim and/or perpetrator's will?

In the case of the offences that are prosecuted upon indictment there should be an agreement from both parts. In the case of the factual repentance and compensation the charges are dropped or the perpetrator is acquitted mandatorily even against the will of the parts, according to a part of Greek theory.

III. What consequences do the perpetrator's efforts to provide for personal conciliation with the victim (mediation) or compensation for the damage caused have in relation to criminal proceedings in general and in particular to the criminal sanction?

1. Do mediation or compensation efforts negate criminal culpability (always or only as long as other conditions are fulfilled)?

No. Only in the offenses expressly provided by law the fact of the fully compensation negates the punishability of the offence.

2. Is it possible for the investigative authorities to (finally) drop criminal proceedings after successful mediation or compensation efforts?

Yes. See above B.II.

Does the failure of such efforts act as an impediment to proceedings being dropped by the investigative authorities?

Yes. Only the fact of the full compensation leads to the unpunishability of the perpetrator.

3. After successful mediation or compensation efforts can the courts drop proceedings without a judgement, can it refrain from punishment within a judgement or give a milder sentence?

No. Courts are not entitled to dismiss the case and drop proceedings without a judgement in case of efforts. Courts can refrain from punishment within a judgement for three (3) reasons:

☐☐ When the victim revokes the criminal complaint in case that the prosecution is lodged only and if the victim desires so.

☐☐ When the perpetrator shows his remorse (on his free will) after the offence, before being questioned by the authorities about the offence, by returning the stolen or embezzled property (art. 379 para.1 PC), by replacing the damaged object or compensating the victim (art. 384 PC), by returning the money from a fraud or compensating the victim (art. 393 para.1 PC) by surrendering stolen proceeds to the authorities (art. 395 PC) and by returning to the debtor an amount equal to the unlawfully charged interest (art. 404 para. 6 PC).

☐☐ When the perpetrator fully compensates the victim until the decision of the first instance court is issued, by paying the full amount, its interest and the court fees (expenses of the trial for the State) in those offenses expressly provided by law: Common dangerous offenses (arson, floods, explosions, poisoning etc. see art. 289 para.2 PC), embezzlement (art. 379 para. 2 PC), fraud and intentionally incurring losses to another's wealth (art. 393 para.2 PC).

Exception of these rules appears in three Special Penal Statutes, where the Public Prosecutor (not the court as asked) before the trial can drop proceedings:

□□Act 1882/90 on Tax Evasion (art. 25 para. 5) stipulates that when a friendly settlement about paying debts to the State is agreed between the perpetrator and the representants of the State, the Public Prosecutor suspends the prosecution and the penal procedure until the full amount is paid. When the full amount is paid, the criminal proceedings are terminated by an act of the Public Prosecutor.

□□Act 86/67 on paying Social Security debts (art.1 para. 5) stipulates that once the debts are paid one day before the trial, the Public Prosecutor terminates by his act the criminal proceedings.

□□Act 2960/01 on Contraband (art. 158 para. 1) stipulates that when the tax evasion from the contraband is no more than the amount of 70.000 euro, the prosecution is not put in action, or is abrogated in case that the perpetrator pays at once.

Mitigating Circumstances

Article 84 para 2 PC stipulates that the sentence is decreased in those instances where the court takes the view that mitigating circumstances are present. These are of general application in the sense that they apply to all crimes and all defendants, unless otherwise stipulated in a criminal statute. The Penal Code avoids giving an exhaustive list, but offers five (5) situations. The decreasing of sentencing in these case is laid down in art. 83 PC. Situations d' and e' of art. 84 para 2 PC concern victim, direct and indirect: According to situation **d'** the sentence is decreased if the perpetrator showed remorse and attempted to repair the damage caused or restrict its consequences. According to situation **e'** the sentence is decreased if the perpetrator showed good behaviour for a relatively long period of time following the commission of the offence.

Punishment Assessment

According to Penal Code, punishment assessment depends on the personality and the behaviour of the perpetrator. The Penal Code contains specific guidelines to sentencing because of the limits of the threatened penal sanction (sets out the minimum and / or the maximum limits). Art. 79 para. 1 PC stipulates that, when sentencing an offender, the court must take into account the graveness of the criminal act committed and the personality of the perpetrator. Pursuant to art. 79 para. 2 PC, the offence's graveness shall be calculated in accordance with the damage or the danger caused. Art. 79 para. 3 PC stipulates that regarding the perpetrator's personality, the court shall take into account the perpetrator's behaviour during and committing the offence, the remorse he showed and his willingness to restrict the consequences of his offence.

Does, on the other hand, a failure of such efforts act as an impediment to the procedural possibilities described or can it even lead to the perpetrator being punished more severely?

Yes. Only the fact of the full compensation leads to the unpunishable of the perpetrator. Moreover, the possibility of a more severely punishment in case of a failure of the compensation, is not laid down to any article of PC. However, in practice, the refusal of the perpetrator to compensate the victim, although he is economically able to do so, may lead the court to impose a more severe penalty.

4. Can successful mediation and compensation efforts by the perpetrator have an effect on the actual form of punishment (e.g. priority given to restitution rather than a fine, early release from penal custody, more relaxed or „open“ execution of a custodial sentence e.g. the prisoner is permitted to leave the prison during daytime to go to work)?

According to art. 77 PC, if the perpetrator is condemned to monetary penalty or fine and at the same time to compensate the victim, but he is not able to pay both penalty and compensation, the payment of the compensation is preferred (preceded).

According to Penal Code, only custodial sentences ordering imprisonment are suspended by the Court. The relevant procedure differs according to length: imprisonment up to two (2) years (art. 99 para. 1 PC), between two (2) and three (3) years (art. 100 PC) and between three (3) and five (5) years (art. 100 A) can be suspended for a period ranging between three and five years.

Art. 100 para. 2 PC stipulates that the penalty of imprisonment between two (2) and three (3) years, can be suspended after taking into account the perpetrator's conduct following the commission of the offence, the degree of remorse he has shown and his willingness to restrict the consequences of his offence.

According to art. 100 para. 3 PC suspension could be made conditional upon the convicted person first fully compensating the victim, satisfying any restitution or civil's nature money demand which the court has awarded to the victim and paying the court fees.

According to art. 82 para. 6 PC, a custodial sentence which exceeds one month and has already been converted into a pecuniary penalty can be converted into the sanction of offering public welfare work. Art. 82 para. 6 PC stipulates that this kind of work may be given from the perpetrator to the handicapped victim if both the convicted person and the victim agree. Defective execution of public welfare work result in termination of the conversion and (re) execution of the custodial sentence (art. 82 para. 9 PC).

According to Act 1882/90 on Tax Evasion (art. 25 para. 5) when a friendly settlement about paying debts to the State is agreed between the perpetrator and the representants of the State, the Public Prosecutor suspends the execution of the penalty imposed.

According to Act 86/67 on paying Social Security debts (art.1 para. 5) when the debts are paid or there is a friendly settlement about paying, the Public Prosecutor suspends the execution of the penalty imposed.

An early release of the prisoner under the condition of revocation is laid down in art. 106 para.1 PC which stipulates that after a decision of the Judicial Council the prisoner is obligatory released after a certain period of time, unless his behaviour while carrying out the custodial sentence makes imperative his continued detention in order to avoid the perpetration of further offences. The early release has nothing to do with the compensation of the victim.

Can, alternatively, the failure of such efforts lead to more severe sentencing or execution of punishment (e.g. refusal to accept instalment payments for fines, the refusal to grant early-release from prison, the refusal of privileges in prison)?

No.

IV. Can the investigative authorities or the criminal courts require personal conciliation between victim and perpetrator (mediation) or compensation for the material and immaterial damage done?

1. Is it possible to (preliminarily) drop proceedings on condition that the perpetrator attempts to achieve personal conciliation with the victim or that he (completely or in part or symbolically or excessively) compensates for the damage caused?

Only the fact of the full compensation leads to the unpunishable of the perpetrator and the drop of proceedings and not the attempt. The compensation in part (not fully) is laid down in art. 84 (para.2 sit.d') as an mitigating circumstance.

2. Can suspension of the sentence to probation be linked to the condition that the offender makes the effort to reach a personal settlement with the victim or compensates for damages caused (fully or partially or symbolically or excessively)?

No. See above B.III.4.

3. Can personal conciliation between the perpetrator and victim or (complete, partial, symbolic, excessive) compensation for damage caused be ordered as part of a criminal court's judgement?

No. In court practice the court itself can propose to postpone the trial, in case there is a possibility that the perpetrator compensates the victim.

How do these orders affect the type and severity of the punishment?

Are they an addition to the real punishment or do they replace it?

This question cannot be answered.

4. Can the victim require the investigative authorities or the courts to make an order as described in questions 1-3?

No.

5. What consequences does a failure on the perpetrators part to fulfil the conditions and orders described in questions 1-3 lead to ?

As told before, only the fact of the full compensation leads to the unpunishable of the perpetrator and the drop of proceedings and not the attempt. Consequently, there cannot be orders or conditions.

However, during the execution of the penalty, according to art. 82 para. 6 PC, a custodial sentence which exceeds one month and has already been converted into a pecuniary penalty can be converted into the sanction of offering public welfare work. Art. 82 para. 6 PC stipulates that this kind of work may be given from the perpetrator to the handicapped victim if both the convicted person and the victim agree. Defective execution of public welfare work leads to the consequence of termination of the conversion and (re) execution of the custodial sentence (art. 82 para. 9 PC).

6. Can criminal legal or criminal procedural mechanisms be used to secure a claim against the perpetrator's assets for the victim's benefit?

If so: does the victim have a right to such mechanisms

No, in the area of Criminal Law there is not any procedural mechanisms to secure a claim against the perpetrator's assets for the victim's benefit.

V. What consequences do the conciliatory or compensatory efforts a perpetrator makes have on the rights of the victim under civil law (e.g. on damages or compensation for pain and suffering) or on potential civil law litigation?

1. Do successful conciliatory or compensatory efforts on the perpetrators part nullify the victim's rights under civil law (automatically or under particular conditions, completely or in part)?

As told before, Greek law provides for independent proceedings and rules for civil claims and penal sanctions. The compensation of the victim during the criminal proceedings influences also the civil trial, as long as the claim for damages is settled by payment. If the perpetrator compensates the victim as claimed, the victim's right under civil law is nullified and in practice both parties withdraw from the civil procedure.

Do unsuccessful conciliatory or compensatory efforts on the perpetrators part have consequences for the victim's rights under civil law?

Claims for the damages (material and moral) remain and the civil court will proceed the case. Moreover, for the assessment of the claims for moral damages, the court will take into account whether the perpetrator or the victim is to blame for the failure of the compensation.

2. Do successful conciliatory or compensatory efforts on the perpetrators part settle (i.e. end) civil law litigation?

If so: Does this require a special declaration by the victim or the perpetrator? Does a court decision follow?

Yes. Compensation and settlement end the civil procedure by two (2) ways: Either the victim withdraws from his claims before the civil court starts the trial, or both parties sign a special declaration of the settlement, which is given to the court and becomes a part of the minutes of the trial hearing. However, in both cases, a court decision to legalize the settlement does not follow.

Do unsuccessful conciliatory or compensatory efforts on the perpetrators part have consequences for civil law proceedings?

No.

3. Do successful conciliatory or compensatory efforts on the perpetrators part have consequences for the execution of judgements already made under civil law or for the execution of other declarations (e.g. documents providing for immediate rights, in-court agreements)

The procedure of execution of judgement cannot take place and can be avoided if there is an officially proved settlement or compensation.

Do unsuccessful conciliatory or compensatory efforts on the perpetrators part have consequences for the execution?

No.

C. Which position does the legal system in your country grant victims?

1. What informational rights do they have?

The victim if he/she appears in the capacity of damaged complainant (art. 63 C.C.P.) maintains the same informational rights with the perpetrator: knowledge of all the documents via an attorney (art. 101, 309 par.2 section 6), knowledge of the prosecution proposal concerning the committal of the defendant (308 par.2 C.C.P.), knowledge of all the acts of the interrogation (97 C.C.P.), knowledge of the indictment which states: the place and the date of the trial, the court, the witnesses and the documents (321 par.3 C.C.P.).

2. What opportunities do they have to influence the development of criminal proceedings or to actively participate in them?

As mentioned above (B.I.1) the criminal prosecution is initiated in certain offences only if the victim is willing to do so (offences prosecuted upon

private criminal complain). The victim has the right to appear with an attorney from the filing of the complain to the conclusion of the criminal proceedings (96 C.C.P.). Apart from this fact the victim has the exact same rights as the defendant. He/she can be present at the trial (339 par.1 C.C.P.) since the victim is mandatorily summoned to the Court too (321 par.3 C.C.P.). The victim is, if necessary, examined as a witness not under oath (221 d C.C.P.), can summon witnesses (326 par.2 C.C.P.) and address questions (333 par.2 C.C.P.). Furthermore the victim is entitled to make statements (333 par.2 C.C.P.), remarks (358 C.C.P.), to submit several demands. Finally it is the victim's right to ask for the postponement of proceedings (349 C.C.P.), to produce evidence and to institute any legal remedie.

Do crime victims have the opportunity to use the assistance of a lawyer and to be represented by one? Do they have a right to have a lawyer paid for by the state?

As we have stated above all the crime victims are entitled to be represented by an attorney (96 C.C.P.)

In the case of certain offences specifically described in the Greek Penal Code e.g. the trade of human beings and slaves (323-A P.C.), the solicitation to prostitution (349 P.C.), the procuration to prostitution (351 P.C.) and the sodomy of a minor (351 A P.C.), the victims are entitled to be assigned an attorney at the cost of the state.

In how far is the position of the „victimised witness" different to that of other witnesses?

The "victimised witness" is a litigant party of the criminal procedure, has the same rights as the defendant and also the ability to influence the process of the trial in order to achieve the conviction of the defendant

3. What further legal and practical mechanisms are used to help protect the victim or reduce the stress caused to him/her by criminal proceedings?

If the members of the Court believe that the presence of the defendant influences the sincerity of the testimony of the witness they can order the temporary removal of the defendant. However his/her attorney remains and the defendant is informed by the President of the Court about the testimony.

The victim can ask that the discussion of the case should take place without any audience in order to protect the privacy of its life e.g. in a rape trial (330 C.C.P.).

In the case of a trial concerning terrorism and criminal organisations the witness can testify without revealing his/her name or other personal elements for safety reasons. The testimony is obtained via sound and visual systems specially designed for this purpose. If the Public

Prosecutor or a part of the procedure demands for the disclosure of the name, the witness is obliged to do so (Act 2928/01 art.9)

In the cases of offences such as the trade of human beings and slaves, the solicitation to prostitution, the procurement to prostitution and the sodomy of a minor, the foreign victims which enter and still live illegally in Greece are not deported until the rendition of an irrevocable decision against the perpetrator (Act 3064/02 art.12 par. 2)

4. On the other hand: what obligations are placed on crime victims?

Victims are obliged to testify as witnesses (209 C.C.P.)

D. Are there state or private institutions in your country that grant crime victims compensation for damage caused and support independent of efforts on the perpetrators part?

According to Act 1897/90 the State has the obligation to compensate the victims of terrorism actions, to grant disablement pension to the victim or the family in case of death (widow's, orphan's and parents allowances) and pay all the expenses for medical and hospital care.

Under Act 3064/02 (art.12 para.2) the State has the obligation to help victims of sexual offences (art. 349, 351 PC) and victims of trading human beings (art. 323A' PC) and slavery (art. 323 PC) by providing them with a shelter, nourishment, medical and hospital care, psychological support, legal aid and interpreter.

Minor age victims (babys, children, juveniles- up to 17 years old) can be supported in state or private institutions and hospital's special departments for young persons. Although Greece under Act 2101/92 has ratified the International Convention on the Rights of the Child, signed under United Nations auspices on 20 November 1989, in force since 2 September 1990, criminal law statutes have not yet been fully harmonized with the Convention.

The Public Prosecutor for the juveniles (art.27 PC) when parents commit a crime against their child, has the right as a representant of the State (art. 1532 CC) to order the above mentioned state institutions or hospitals to give shelter and support to the juvenile until the Court delivers a judgement about the custody of the children.

E. What is the current factual situation regarding the use, acceptance and success of the possibilities your country's legal system offers for personal conciliation between victim and perpetrator (mediation), compensation of the damage caused to the victim and symbolic compensatory acts on the perpetrator's part?

In the court practice, the compensation of the victim was always an important reason for the perpetrator to ask for a milder penalty and try to convince the court that a conciliation has been achieved. In the court practice, the judges tried informally to conciliate the perpetrator and the

victim, especially in financial crimes. This practice and intention of the courts recently legislated with Act 2721/99 and nowadays officially the compensation of the victim is applied by the courts.

F. Which particular aims are part of the legal political debate in your country to improve and increase victim protection?

Particularly:

Is there a desire to provide for simpler and faster means of satisfying crime victims' interest in mediation or compensation?

Is there a desire to provide for or to further develop a unitary process which simultaneously satisfies the states interest in punishment as well as the victim's conciliatory and compensatory interest?

The State has the intention to legislate towards the aim of a personal conciliation between the perpetrator and the victim, especially by compensatory acts. The State under Act mandated the setting up of Commission to draft a new CCP. In the proposition Report of the Commission for a new CCP, under art. 71 is enacted the institution of mediation between the perpetrator and the victim, in front of the Public Prosecutor who has the right to drop proceedings and not prosecute the perpetrator.

According to the explanatory report for Act 2721/99 towards the Greek Parliament, the personal conciliation (mediation) aims to immediate compensation, restitution of social balance and peace and bears witness to the leniency of the State.

A recent government bill proposes the implementation of the compensation procedure under Act 2721/99 to further financial-economic crimes, with a view to dropping the proceedings and settling the dispute by dismissing the case.