Cracow, 25th March 2018

Polish responds to Third Study Commission Questionnaire 2018
Marrakech, Marocco

Generally in Polish criminal law protection of vulnerable witnesses and victims has developed hugely on the course of last several years. It has encompassed all types of witnesses or victims which has been mentioned in the Questionnaire.

When it comes to children and other victims of sexual abuse or domestic violence, the main principle is that such vulnerable victims should be heard only single once during preliminary proceeding. It is conducted during special session appointed by the judge. Defendant’s lawyer and prosecutor have the right to participate in this hearing. It is conducted with obligatory participation of psychologist. It takes place in specially arranged room (called blue room) and it is video recorded. Afterwards it is played during court hearings.

When it comes to vulnerable witnesses mainly the same rules have had the application but furthermore such witnesses can be heard via videoconference during court hearings. In this case all questions asked by defendant or his/her lawyer can be asked through the judge who reformulate each question which could be offensive or pose influence on a witness.

When it comes to witnesses that need protection from potential retribution for giving evidence against criminal organizations the main way of collecting their testimonies is videoconference. During such court hearings via videoconference the place of location of such witness is unknown to the parties, sound of his/her voice and his/her appearance are anonymized as well.

Addressing the particular question you asked I can add to what I said above as follows.

Ad. A) Main rule in this respect is to save every vulnerable witness or victim from repetitive hearings and personal contact with wrongdoer which could cause re-victimization.

Ad. B & C) The main way to protect the interests of defendant or other parties is the regulation which states that this kind of hearings undertaken during pretrial proceedings are conducted by a judge with the participation of defendant’s lawyer and psychologist. Besides special regulation gives a judge right to re-hear such witness during court proceedings but only on condition that his/her
testimony may be relevant to the resolution of the case, and only once, unless important circumstances emerge which need to be re-interviewed, or accused, who did not have a defense attorney during the first interrogation of the aggrieved party (art. 185a sec. 1 of The Polish Penal Code of 1997). Generally judges apply this exception very rare.

Please do not hesitate to ask additional questions.

Since I handle this kind of cases almost on daily basis it would be a great pleasure for me to present PowerPoint presentation on this topic during our forthcoming meeting in Marrakech.

Kind regards,
Bogdan Jędrys
On behalf of Polish “Iustitia”