
POSITION OF THE INJURED PARTY IN KOSOVO CRIMINAL PROCEDURE

Dr. Azem Hajdari,
University of Pristina

ABSTRACT

Injured party shall be considered the person who has suffered any damage from the commission of a specific criminal offense. The injured party in criminal proceedings has the capacity of a party, but which in essence changes from state prosecutor and defendant capacity which also have the capacity of a party in criminal proceedings. The injured party has a significant role in resolution of a criminal case, especially to those criminal offences which statement of the injured party constitutes sole evidence. The injured party as a procedural subject is entitled to submit the proposal for prosecution, to propose evidences, to seek for compensation of damage, to file a complaint against court decision rendered in the first instance for several types of criminal offences, for procedure expenditures, and property claim request as well as to be represented by his attorney at law or victim's advocate. Also, when the injured party appears in the capacity of a witness he has all the obligations that generally have witnesses.

Key words: Injured party, court, proceedings, evidence, damage.

Introduction

During the commission of several criminal offences to particular persons shall be inflicted concrete material, health and moral damage. Such individuals in criminal proceedings are called injured parties. The position of injured parties in criminal proceedings is regulated by the Criminal Procedure Code of the Republic of Kosovo. This Code to injured parties recognizes the position of a party, so they also within a concrete criminal case may have the capacity of the injured party or witness. Despite the capacity in which it appears, the injured party may give an irreplaceable contribution in fair resolution of criminal offence. Of course it is a matter of court to decide in which cases shall approach examination of the injured parties as witnesses. The necessity to interrogate the injured parties as witnesses often is presented in practice as inevitable. Such a situation may appear especially in those cases in which for concrete criminal offences, in addition to statement of victim, there are no other evidences, based on which criminal proceedings bodies could render a decision.

As procedural subject the injured party is entitled to file a proposal for prosecution to state prosecutor, to propose concrete evidences, to submit legal property claim, to pursue legal remedies, to see, copy and photograph files and material evidences, to present a request for protection measures and to be represented by his attorney at law or victim's advocate. However, when the injured party is appeared in criminal proceedings as a witness of case he is obliged to positively respond to summons of procedure body, to give statements concerning the issue and to speak the truth. Although statement of the injured party is very important in resolution of criminal case, it is not always considered as such by criminal procedure body. This was also noticed also in studied cases of Basic Court of Prishtina, Gjilan and Mitrovica. Therefore, when the court has doubts concerning his statement, it must conduct the necessary verification. This means that the court *a priori* cannot underestimate statements of the injured party and the evidence presented by him.

1. Meaning of the injured party and its position to criminal proceedings

A relatively large number of criminal offenses foreseen by the Criminal Code of the Republic of Kosovo have as a consequence to damage a person, respectively persons to whom they have been committed.¹ This damage may be material, health and moral. A person who has been a subject of violation of any right, respectively to which has been caused damage by a criminal offence is called the injured party. He may be a natural or legal person.²

Procedural position of the injured party during historical development of criminal proceedings marks a gradual movement which is characterized by the possession of certain authorizations for realization of prosecution function, and then continues towards narrowing of these possibilities. As a matter of fact is known that in accusatory criminal procedure the injured party as fundamental subject exercises the prosecution function. By passing in inquisitorial procedure, by exercising prosecution *ex-officio* by the state body- inkvirentit, the injured party loses the plaintiff capacity and remains solely as a proving object.³ In Kosovo contemporary law, by bearing in mind the fact that prosecution is conducted *ex-officio* by the state prosecutor, which when it comes to prosecution is based in general social interest, the position of injured

¹ See: The Criminal Code of the Republic of Kosovo (Code No. 04/L-082) which entered into force on January 1, 2013, Chapter XVI addressing offenses against life and body, Chapter XIX which address offenses against the rights in labor relations, Chapter XX which are regulated criminal offenses against sexual integrity, Chapter XXII specifying criminal offenses against public health, etc.

² Hajdari Azem, Criminal Procedure Law, Prishtina, 2014, pg. 134.

³ Sahit Ejup, Murati Rexhep, Criminal Procedure Law, Prishtina, 2013, pg. 165.

party concerning its role to criminal prosecution is immensely ameliorated. He cannot exercise the prosecution function, as this privilege was granted until the entry into force of the new Criminal Procedure Code,⁴ but to him nevertheless to a certain extent is given the possibility to influence in the initiation and course of criminal proceedings, by presenting for several criminal offences proposal for prosecution and by acting on state prosecutor side. In fact the provision of article 62 obliges procedure body during the whole course of criminal proceedings to have into account reasonable needs of the injured party, especially in cases when he is a child, a person disturbed by mental capacity or mental disabilities or a victim of sexual or gender violence.⁵ This obligation contains: a) due to the fact in contemporary conditions are extended to the maximum victimization of people through commission of several types of criminal offences, and b) due to the fact in various situations victimization difficult to be identified, whereas in some others the fact of criminal offence commission may be identified even a long time after its commission.

At the end it must be emphasized the fact that the Criminal Procedure Code of the Republic of Kosovo (article 62) grants to the injured party the capacity of a party in criminal proceedings. This capacity I consider to be of a specific nature, such that differs fundamentally from the defendant and state prosecutor position. This due to the fact, despite of the given contribution in commission of the criminal offence by the injured party the legislator does not make him equal to the defendant as well as does not accord him the authority to exercise the prosecution function. Regardless of this, as abovementioned, the injured party easily may influence in initiation of criminal proceedings and to contribute in resolution of criminal case and realization of its interests in criminal procedure. In fact, it may be said that the injured party in criminal proceedings is a party with particular specifics.⁶

2. Role of the injured party in resolution of criminal case

By the solutions specified in Criminal Procedure Code of the Republic of Kosovo it has clearly defined the role of each subject in criminal proceedings. The key role undoubtedly belongs to basic subjects of criminal proceedings (court, state prosecutor and defendant). But a significant role in resolution of criminal case was attributed also to other subjects, including the injured party.⁷ There is no doubt that contribution of the injured party in resolution of criminal case it might come into expression solely in those criminal cases in which there are injured persons by the commission of criminal offence to which is conducted criminal proceedings. The injured person in criminal procedure may have the capacity of a party (when he proposes prosecution) and of a witness. Despite of the capacity in which he appears the injured party may give an irreplaceable contribution in fair resolution of criminal offence. Of course it is a matter of court to decide in

⁴ According to the Criminal Procedure Code of the former Yugoslavia which was applicable in Kosovo until April 6, 2004, and the Provisional Criminal Procedure Code of Kosovo which was applied in Kosovo from April 6, 2004 until January 1, 2013, (See: UNMIK Regulation, No. 2003/25) the injured party had the possibility to exercise criminal prosecution function. According to these two legal acts of the injured party had the possibility to submit private lawsuit for criminal offenses prosecuted by private lawsuit or indictment in cases where the state prosecutor did not undertake a criminal prosecution or withdraw from it for criminal offenses prosecuted ex officio where he had suffered any damage. The injured party exercised prosecution also according to Albanian customary law. This possibility was specified also in the Canon of Lekë Dukagjinit, See: At Shtjefën Gjeqovi, Canon of Lekë Dukagjinit Tirana, 1999, 109 Nye.

⁵ This obligation refers to the police, State Prosecution, and Court. As it results, obligation to take care for reasonable needs of the injured parties has to do with all criminal proceedings participating bodies and it extends to all levels of conducting criminal process.

⁶ Hajdari Azem, Commentary, The Code of Criminal Procedure, Prishtina, 2016, pg 160.

⁷ See article 62, 63, 214, etc., of the Criminal Procedure Code, Code No. 04 / L-123 of the Criminal Procedure, which entered into force on January 1, 2013.

which cases shall approach examination of the injured parties as a witness.⁸ The necessity to interrogate the injured parties as witnesses often is presented in practice as inevitable. Such a situation may appear especially in those cases in which for concrete criminal offences, in addition to statement of victim, there are no other evidences, based on which criminal proceedings bodies could render a decision. Thus, to criminal offences against property or to criminal offences against sexual integrity, not infrequently except the injured party criminal report that against him has been committed a criminal offence, prosecution bodies have no other reliable data. In such situation inevitably should be interrogated the injured party as a witness, as well as such necessity may appear even when the perpetrator of criminal offence is unknown.⁹ Consequently, information obtained by the injured party in criminal proceedings may have a great significance as in resolution of criminal case, as well as in court decision-making. All this is based on the fact that the injured party is a person who suffered the consequences of a criminal offence and faced directly with the actions of defendant by perceiving the manner of commission of criminal offence.

Information provided by the injured party in criminal proceedings when it comes to its examination, have to deal as with important facts in criminal proceedings, as well as by circumstances aiming the realization of his broader rights, based on which it may be said that he is a double procedural figure.¹⁰

Statement of the injured party given in criminal proceedings often is presented as one of the most important evidences, and sometimes it is sole evidence, which by respective verification leads to clarification of a case. In fact, to many criminal offences the injured party may be the only witness which cannot be replaced by any other proving means. There are examples of important statements of the injured party, even to criminal offences of murder. This especially comes to expression to those cases when the victim does not die immediately, which by telling his story before death, explains the occurrence which could not be explained differently. However, in most of the cases the injured party (victim) by providing statement when describing the criminal offence and the inflicted damage barely is more credible than the defendant. Of course in all cases when there are dilemmas concerning the authenticity of the injured party statement is necessary that the same to be verified by other evidences for instance: theft of things in the apartment shall be verified through record on examination of crime scene, the degree of bodily injury through forensic-legal expertise etc. This due to the fact "Researches indicated that only 50 % of the injured parties and witnesses in essence give correct statement"¹¹ This conclusion in any circumstance should not influence in direction that statements of the injured parties should taken as incorrect. This due to the fact where there are reservations in their accuracy the same should be verified and thereafter the same as any other evidence must give their belonging value in resolution of criminal case.

3. General overview on injured party authorizations in criminal proceedings

Criminal Procedure Code of the Republic of Kosovo to the injured party as a procedural subject interested about the course and conclusion of criminal procedure accords several rights but at the same time several obligations which are linked to the capacity that he may have in criminal proceedings (simply as an injured party or witness). Such rights and obligations shall be elaborated in the continuation of this scientific paper.

⁸ When court approaches examination of the injured party as a witness, he actually shall be equated with rights and obligations to other witnesses as related to his summon as well as in terms of giving testimony.

⁹ Sahiti Ejup, Rexhep Murati, Elshani Xhevdet, The Criminal Procedure Code of the Republic of Kosovo, Commentary, Prishtina, 2014, pg. 223.

¹⁰ Ibid.

¹¹ Vodinelic Vlado, Svjedojinje gove kategorije u krivino procesno jnauci i kriminalistici, JRKKP, Br.2, Beograd, 1988, pg. 22.

3.1. The rights of the injured party in criminal proceedings

Regardless of the fact whether the injured party in criminal proceedings is presented simply as an injured party or witness to him the Criminal Procedure Code of the Republic of Kosovo accords concrete rights. Such rights derive from consequences that he suffered by the commission of a concrete criminal offence, from which he has suffered any material or moral damage. These rights basically shall be focused on the possibility of presenting a proposal for prosecution, presenting of evidences and compensation of damage.

3.1.1. Presentation of proposal for prosecution

Proposal for criminal prosecution is an accusatory act through which the injured party intends to initiate criminal proceedings for the criminal offence which he has suffered any damage. This accusatory act is submitted to the competent state prosecutor, which initially evaluates the fulfillment of formal and content conditions, and thereafter shall be oriented in concrete decision-making concerning it for instance conducting investigations. The proposal of the injured party for criminal prosecution shall address key issues related to the defendant (personal data) and criminal offence (determining the type, circumstances of its commission, etc.),¹² as well as evidences based on which this act shall be supported.

Through proposal for prosecution the injured party may propose to the state prosecutor conducting certain investigative actions. The injured party is the only subject which by presenting the proposal for prosecution makes the state prosecutor to initiate prosecution. Therefore, in cases when criminal prosecution has been conditioned by the proposal of the injured party for prosecution (for instance to the criminal offence of intimidation, spread of diseases, abuse of foreign property, taking possession of movable property etc., the injured party is the person from whom depend on whether there shall be a criminal prosecution.¹³

Presentation of proposal for criminal prosecution constitutes one of the most fundamental rights of the injured party in criminal proceedings. This is actually is the right which raises the position of injured party in the level of a party in criminal proceedings and opens paths to him in order to influence in the course of criminal procedure, respectively in order to assist in resolution of criminal case. In fact presenting the proposal for criminal prosecution constitutes the sole liaison instrument by his position in exercising the criminal prosecution function which he had until the promulgation of the Criminal Procedure Code of 2013, where as abovementioned could be appeared also as private plaintiff and subsidiary plaintiff.

Consequently, the right to present a proposal for criminal prosecution constitutes a mechanism, perhaps the only one through which the injured party may initiate criminal prosecution which is an attribute of state prosecutor. Through this instrument he manifests his will to entrust to criminal procedure bodies proceeding of criminal case where he is presented as an injured party as well as challenges himself in order to prove the existence of criminal offence and its relation with the defendant. In fact through this mechanism the legislator wanted to reduce, respectively avoid vigilantism cases which could have been appeared concerning several criminal offences. All this makes clear the fact without these rights the position of the

¹² Hajdari Azem, Criminal Procedure Law, General Part,....., pg. 149 – 150.

¹³ Sahiti Ejup, Murati Rexhep, op.cit., pg. 165 – 166.

injured party in criminal proceedings would very humiliating, whereas the Criminal Procedure Code spirit would lack a very important mechanism in combating certain types of criminal offences.

3.1.2. Presentation of Evidence

The possibility of presenting evidences in criminal proceedings constitutes a universal right of the injured party. This means that such right belongs to the injured party regardless of the fact whether he in criminal proceedings has simply the capacity of the injured party or witness.

It is a rule that in cases when the injured party presents the proposal for prosecution evidences should be attached to such act. Consequently, even in these cases, as well as in cases when the injured party has the capacity of witness, he may present evidences during the whole course of criminal proceedings. Thus, the injured party is entitled during investigations to expose facts and to propose concrete evidences to the state prosecutor, but he may expose the same to the competent court as well, of course in cases when for the same learns or achieved to obtain after proceeding case to the court. In fact, the legislator did not exclude the possibility that the injured party to present evidences also through legal remedies.

The injured party through proposed evidences before procedure body as the main objective should have proving the existence of criminal offence and its relation to the defendant. This due to the fact by proving these two elements of criminal case it depend the realization of other rights belonging to him for example the realization of legal property claim. In fact, for any alleged right the injured party must provide evidences which undoubtedly support their existence. Evidences provided by the injured party must be considered in every type of criminal case where he suffered damage. "However, their crucial importance, as abovementioned basically comes to expression in those cases when for a concrete criminal offence, except victim statement, there are no other evidences based on which could render decisions criminal procedure bodies, as it happens in many cases of criminal offences against sexual integrity."¹⁴

Evidences in general, but especially those through which the injured party intends verification of relevant facts concerning concrete criminal case must be reliable and verified prior the same to be taken into account in decision-making by procedure body.¹⁵ This obligation is determined by the fact here we have to deal with the person which is interested in resolution of criminal case in certain terms (convicting the defendant).

By conducted research where have been involved 66 criminal cases involving damaged persons of the Basic Court of Prishtina, Gjilan and Mitrovica indicates that in 37 cases victims of crime provided evidences which had a direct effect on decision rendered, in 13 cases submitted evidences by victims were handled as auxiliary evidence (relative value) and in 16 cases in court cases there were no records that the injured parties did not provide concrete evidences. In these 16 cases victims of crimes are either dead or have had no available evidences regarding the case. This situation reflects the role of the injured party in resolution of criminal case. Generally speaking, I consider that procedure bodies in the future should more seriously approach evidences of the injured parties.

3.1.3. Inspection, copying and photographing documents and material evidences

¹⁴ Marina Panta, Matovski Nikolla, *Odbranitemiod krivično toprocesno pravo*, Skopje, 1980, pg. 22.

¹⁵ Compare: Sahiti Ejup, *Argumentation in criminal proceedings*, Prishtina, 1999, pg. 179 – 182.

Inspection, copying and photographing documents and material evidences also constitute an elementary right of the injured party in criminal proceedings. This right of the injured party has to deal with materials available to the state prosecutor and the court. However, by bearing in mind the importance and complexity of case, the legislator made it completely clear that “in order to make possible use of this right to the injured party *inter alia* is required previously to be verified the issue of legitimate interest existence of the injured party in relation to those files and materials. The existence of a legitimate interest of the injured party is a factual issue which must be ascertained by state prosecutor. Such may be the necessity to realize the property claim.”¹⁶

Inspection, copying and photographing documents and material evidences is in function to the injured party in order to become aware with the criminal case material, especially to this material which attacks, respectively affects its interest and to be given time that the same to study in order to take attitude towards it and eventually to be oriented in providing evidences which oppose that material. As it results it is about materials which relativize the gravity of criminal offence, respectively circumstances in which it was committed, or which in any other way hinder the realization of the injured party rights in criminal proceedings for instance the realization of legal- property claim.

According to results of this scientific paper where have been included 66 criminal cases of the Basic Court of Pristina, Gjilan and Mitrovica it results to have had 43 requests by the injured parties for inspection, copying and photographing documents and material evidences. From these requests abovementioned courts have approved 39, whereas have refused 4 such requests. Excluded requests had to do with the protection of the defendants’ interests which had exceeded the interest of injured party for inspection, copying and photographing documents and material evidences and influence in efficiency of criminal proceedings. This work practice of these courts is assessed to be developed in accordance with legal solutions concerning this issue, although abovementioned courts in several cases could have been more flexible regarding enabling this right to the injured parties.¹⁷

3.1.4. Presenting property claim

By commission of the criminal offence to third parties may be caused any material or moral damage. Therefore, due to the existing connection between inflicted damage and criminal offence, the injured party has the possibility to present in criminal proceedings the proposal for realization of property claim, even though is known that review of this issue is a subject of civil proceedings and its resolution should be presented in contested procedure.

Procedure for resolution property claim is called attached procedure, because as such it is attached to criminal procedure. Therefore, court shall resolve that within criminal proceedings only if its resolution does not prolong considerably conducting of this procedure.¹⁸ The proposal for realization of property claim in criminal proceedings may be presented by the authorized person to pursue this claim in civil contest. This right in the first place belongs to the injured party, his legal heirs or to persons which under civil law rules were passed over the request.¹⁹ As it results for reviewing property claim in criminal proceedings is required to undertake the initiative by the authorized person. However, the competent court is obliged *ex-officio* to

¹⁶ Hajdari Azem, Commentary, pg. 565.

¹⁷ Studies criminal cases dealt with adjudicated cases of the Basic Court of Pristina, Mitrovica, Gjilan during the period of time 2008-2016.

¹⁸ Hajdari Azem, Criminal Procedure, Commentary, Prishtina, 2010, pg. 55.

¹⁹ Pavišić Berislav, Vučković Milojko, Veić Petar, Radolović Aldo, Zakon o kaznenom postupku, s komentarom, lietraturo misuds kompraksom, Zagreb, 1998, pg.128.

verify the amount of damage in cases when the amount of damage is considered an element of criminal offence or its qualifying circumstance. Such are those cases when court in criminal proceedings scrutinizes and decides for the committed criminal offence of robbery, fraud, access to computer systems as well as in cases of applying seizure measure of material benefit.

According to paragraph 2 of article 458 of the Criminal Procedure Code a property claim may pertain to compensation for damage, recovery of an object or annulment of a particular legal transaction. On behalf of compensation of damage the injured party may require compensation for material damage, lost profit as well as compensation of moral damage which has to do with the violation of any personal right such as honor, authority, experiencing physical or spiritual pain etc. There is no dilemma that is difficult to determine the exact compensation for moral damage, but the court must always insist that compensation, as far as possible to reach the level that would satisfy the interest of the injured party. In these terms, courts should make attempts that such satisfaction of interest of the injured party to be balanced with the real damage inflicted to him in a concrete case.

The injured party by property claim may require for return of item if the item taken is in a good condition. There is no dilemma that the injured party, in accordance with legislation in force, even in this case may require for compensation of damage, however by bearing in mind the fact object taken during the commission of a criminal offence may have of special value to him (for instance the stolen watch was a memory from someone) he may not be satisfied by compensation of damage. Based on this fact the Criminal Procedure Code article 464 provides the possibility to require the return of object. In this course if a property claim pertains to the recovery of an object, and the court finds that the object belongs to the injured party and is in the possession of the defendant or one of the participants in the criminal offence or in the possession of a person to whom they gave it for safekeeping, it shall order in the judgment that the object be handed over to the injured party. The item is handed over to the injured party after conducting criminal proceedings. Such cases usually are applicable when required items serve as evidence in criminal proceedings, by means of which it comes to their temporary seizure.²⁰ In cases when the request includes items which undoubtedly belong to the injured party and which do not serve as evidence in criminal proceedings such items shall be handed over to the injured party even before proceedings are completed.²¹

In criminal proceedings the injured party by property claim may require the decay of legal transaction by property nature, for instance binding contract by force or put the injured party in error. In case of such a request, the court when considers that request is founded, by judgment orders the annulment of that legal transaction. Annulment may be complete or partial and he shall include also consequences derived from such transaction, of course by taking care in these cases not to violate the rights of third parties.

By 66 studied criminal cases of the Basic Court of Prishtina, Gjilan, and Mitrovica it turns out that abovementioned courts by means of rendering judgment concerning criminal cases which were subject of trial decided for property claims of the injured parties solely in 5 cases. In all other cases the abovementioned courts have instructed the injured parties to realize their property claims in civil contest. Based on this fact I consider that in practice the court which resolves criminal case should decisively to approach to resolution of property claim, due to the fact it is difficult for the injured party by its own expenses to conduct an expensive civil contest in which is quite uncertain if succeeds. On the other hand the instruction of the injured party to realize property claim in civil litigation, to the injured party which is instructed improperly it may be created the persuasion that his request shall be rejected even in the

²⁰ Paragraph 3 of article 468 of the Criminal Procedure Code specifies that Items that serve as evidence shall be sequestered temporarily and at the end of proceedings shall be returned to the owner. If such item is urgently needed by the owner, it may be returned to him or her even before the end of the proceedings, if he or she undertakes to bring it in upon request.

²¹ Sahiti Ejup, Murati Rexhep, op. cit. pg. 167.

contentious procedure. The possibility of such understanding of instruction given by the court, shall be always present as far as shall exist persons which lack elementary knowledge in the field of justice. Of course, in order for this issue to take positive direction is required for judges who deal with criminal cases to be trained in terms of raising their performance regarding decision-making on property claims.

3.1.5. Presenting appeal against judgment rendered in the first instance court

Besides the rights abovementioned, to the injured party belongs also the right to file a complaint against judgment rendered in the first instance. This right of the injured party is greatly reduced. This due to the fact that the Criminal Procedure Code of the Republic of Kosovo accords this right to the injured party only concerning appealing imposed criminal sanction for the criminal offences against life and body, against sexual integrity, against public traffic safety and costs of criminal proceedings. Although the legislator does not explicitly emphasize, I consider that the injured party has the right to attack judgment rendered in the first instance also concerning property claim, as long as it is involved in court decision-making.

By studying 66 cases of the Basic Court of Prishtina, Gjilan and Mitrovica turns out that the injured parties had attacked the judgments of these courts in 9 cases. In 4 cases appealing judgment of Basic Court is done because of judgment concerning criminal offences against life and body and those against public traffic safety and in 5 cases because of the decision on property claim. As it results in 5 cases when the courts in criminal proceedings have decided on property claims those decisions have been subject of appeal by the injured parties. This situation makes us understand that judges who deal with the resolution of criminal cases have lack of professionalism regarding decision-making when it comes to property claims. Therefore, it is necessary to train them so in the future they shall raise the level of performance concerning this issue.

3.1.6. Several other rights of the injured party

Except rights elaborated abovementioned, the injured party in criminal proceedings has the following two fundamental rights:

1. The right to request assignment of appropriate protective measures. He has this right in relation to himself and its close family members, when argues the existence of risk to his life or his family.
2. The right to be represented in criminal proceedings by a lawyer (defense counsel) or victim advocate.
3. The use of these rights is a matter of the injured party itself. This means for instance if he considers himself capable to defend its own interests (personal, property or moral) he does engage at all defense counsel or victim advocate.

3.2. Obligations of the injured party in criminal proceedings

Generally speaking addressing obligations of the injured party in criminal proceedings constitutes an issue which is handled in a very limited manner. This due to the fact when it is discussed for obligations of the injured party basically it is meant for cases when he in criminal proceedings has the capacity of a witness to the case. Therefore, when the injured party has the capacity of a witness he as any other witness is obliged:

1. To respond to summon of procedure body. In these cases if he does not do that may be accompanied by force to procedure body.

2. To give statements concerning the issue. In the capacity of a witness the injured party does not enjoy the right to silence. This means if he chooses he may be punished by fine or detained in accordance with respective solutions of the Criminal Procedure Code.
3. To tell the truth. This means that for false statement the injured party in the capacity of a witness may become subject of criminal prosecution.

These obligations of the injured party the legislator determined by motive to ensure criminal-procedural efficiency but also to advance the objectivity of a concrete criminal cases resolution.

Conclusion

Modest results of this scientific paper led me to these conclusions:

1. The injured party is the person who suffered material, health or moral damage from the commission of a concrete criminal offence. He may be natural or legal person.
2. Procedural position of the injured party during historical development of criminal procedure has undergone significant changes. In accusatory criminal procedure the injured party was a basic subject which exercised the prosecution function. In inquisitorial procedure the injured party loses the capacity of plaintiff and remains only as a proving object, respectively proving means. In Kosovo contemporary law the position of injured party concerning its role to criminal prosecution has been greatly ameliorated. He now may affect in prosecution through presenting the proposal for prosecution, but he is not entitled to exercise the function of criminal prosecution.
3. The injured party in criminal proceedings may have simply the capacity of the injured party, but he may have also the capacity of witness to the case. In cases when he appears in the capacity of a witness in relation to him are applicable all legal solutions granted to witnesses in general. In these cases he is obliged to respond to procedure body summon, to give statements concerning subject of trial and tell the truth about it.
4. The injured party as procedural subject has numerous rights in criminal proceedings. He is entitled to present the proposal for prosecution, proposal and presenting evidences, inspection, copying and photographing case file, presenting property claim, presenting the appeal against judgment in the first instance concerning criminal sanction for several criminal offences, to seek the payment of procedure costs, to be represented by a lawyer of victim advocate and to present request for protective measures in accordance with determined criteria by legislation in force.
5. Kosovo courts relatively often had reservations concerning provided evidences by the injured parties so they almost without exception dealt with the issue of their verification, as well as in those extremely few cases (5 from 66 cases) have decided on property claims presented by the injured parties. In these terms, I consider that courts should handle with the highest degree of reliability evidence provided by the injured parties, especially when they result to be among few evidences related to the case, and they should dedicate more regarding resolution of property claims, because by not resolving them in criminal proceedings often creates persuasion to the injured parties over the impossibility of their realization in civil contest, that is also costly to them.

References

1. Canon of Lekë Dukagjinit, See: At Shtjefën Gjeqovi, Canon of Lekë Dukagjinit Tirana, 1999,
2. Hajdari Azem, Commentary, The Code of Criminal Procedure, Prishtina, 2016,
3. Hajdari Azem, Criminal Procedure Law, Prishtina, 2014,
4. Hajdari Azem, Criminal Procedure, Commentary, Prishtina, 2010,
5. Marina Panta, Matovski Nikolla, Odbranitemiod krivično toprocesno pravo, Skjopje, 1980,
6. Pavišić Berislav, Vučković Miloško, Veić Petar, Radolović Aldo, Zakon o kaznenom postupku, s komentarom, lietraturo misuds kompraksom, Zagreb, 1998,
7. Sahit Ejup, Murati Rexhep, Criminal Procedure Law, Prishtina, 2013,
8. Sahiti Ejup, Argumentation in criminal proceedings, Prishtina, 1999,
9. Sahiti Ejup, Murati, Rexhep, Elshani Xhevdet, The Criminal Procedure Code of the Republic of Kosovo, Commentary, Prishtina, 2014,
10. The Criminal Code of the Republic of Kosovo (Code No. 04/L-082),
11. The Criminal Procedure Code of Kosovo,(Code No. 04 / L-123),
12. UNMIK Regulation, No. 2003/25),
13. Vodinelić Vlado, Svjedojinje gove kategorije u krivino procesno jnauci i kriminalistici, JRKKP, Br.2, Beograd, 1988.