

CRIMINAL PROTECTION OF WITNESSES (COMPARATIVE STUDY)

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ABSTRACT

The testimony of witnesses is one of the most important means of proving that the investigation of a crime is dealt with either in the preliminary investigation or in the trial. The investigation is not effective without the testimony. This testimony remains a living evidence of truth. The witness has a feeling of being hurt and feeling insecure that he or she may refrain from making or altering the truth.

The witness's cooperation with criminal justice agencies, from the law enforcement authorities to the trial, has an important role to play in combating crimes, especially organized crimes, given the seriousness of the perpetrators.

The concept of testimony is based on the news of the person who committed the crime, including the knowledge of the knowledge that has created from his examination of the crime of any sense of sight, hearing, touch, smell or other means available to him to understand anything related to the crime.

The legal protection of witnesses is in the criminal texts that criminalize acts of encroachment on witnesses in any form of infringement. Such protection is the objective of incriminating witnesses, coercing them, forcing them to change their testimony, giving false testimony and changing the truth, or procedural protection prescribed in most international conventions and national legislation, which is to protect them while giving testimony before the investigation and trial bodies.

KEYWORDS: *Protection Testimony, Witnesses, Means of Proving, Criminal Justice, Criminalize, Organized Crimes, Threats, Intimidation, Hide the Witness's Character, Procedural Protection*

Article History

Received: 24 Sep 2019 | Revised: 15 Oct 2019 | Accepted: 22 Oct 2019

INTRODUCTION

There is no doubt that the testimony of witnesses is one of the most important means of evidence dealt with in the investigation of a crime, whether the preliminary investigation or the trial, the investigation is not effective without that certificate, remains a certificate of living evidence to tell the truth⁽¹⁾. The witness may experience a sense of self-harm and feeling insecure that he or she may refrain from making or altering the truth. Therefore, the witness's cooperation with the criminal justice authorities, from the law enforcement authorities to the trial, has an important role to play in combating crimes, Perpetrators, This is also a key factor in the success of the judicial system in order

(1)Dr. Amin Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure - Comparative Study - University Publications House 2010 p.6.

to uphold the word of law and to achieve justice⁽¹⁾.

Criminal justice systems rely on witnesses to provide information and testimony necessary to detect, investigate, prosecute and convict criminal activity; Thus, the ability of witnesses to cooperate and give testimony without fear is a precondition for the systems to function properly and to achieve their intended objectives; this is particularly true of the investigation and prosecution of organized crimes and terrorist groups, because intimidation and reprisals are the elements of the way they operate.⁽²⁾

With the increase in violence and the emergence of organized crime, whose perpetrators are exploiting technological development in the implementation of their crimes, both domestically and transnationally, their plans have been characterized by precision, preparation and meticulous execution that lead to impunity, where terrorist crimes, money laundering, drug trafficking and trafficking in human organs have emerged, leading to the international community's commitment to address these crimes through international conventions. Investigations in both international and domestic cases have proved the importance of witness testimony in proving and denying the facts investigated and prosecuted.⁽³⁾

This importance appears in the obligations and duties of the witness, the most important of which is the obligation to attend the investigation and the trial, and the commitment to the oath and to give the truth.⁽⁴⁾

The witness plays a key role in the various stages of investigation, whether in the gathering of evidence, the stage of the primary investigation or the trial stage. This role increases in the criminal field because of the nature of the case. Most cases rely on witness testimony as the natural means of proving all acts and facts. The witness is good to express and to say what he saw.

The First Topic: The Concept of Criminal Protection for Witnesses

The testimony of witnesses is one of the most important means of proof in the above-mentioned crimes, which may lead to the perpetrator, and because this testimony is a living proof of the truth. An effective investigation of the crime cannot be conducted before the Public Prosecutor's Office and during the trial without witness testimony. The full use of this testimony as an evidence is a real challenge to the criminal justice systems; therefore, the perpetrators act against these witnesses by threatening and pressing them to prevent them from giving testimony or changing them, making many witnesses reluctant to testify for the fear of retaliation⁽⁵⁾; Laws must therefore go beyond the protection of witnesses against

(1)Dr.Tariq Ahmed Maher Zaghoul - Procedural protection for victims, witnesses and informants - Analytical study of comparative originality - House of Arab Renaissance 2017 p.5.

(2)FOURTH REGIONAL SEMINAR ON GOOD GOVERNANCE FOR SOUTHEAST ASIAN COUNTRIES Co-hosted by UNAFEI and the Department of Justice of the Republic of the Philippines 6-9 December 2010, Manila, the Philippines November 2011, TOKYO, JAPAN SECURING PROTECTION AND COOPERATION OF WITNESSES AND WHISTLE-BLOWERS. INTRODUCTORY REMARKS Haruhiko Ukawa Deputy Director, UNAFEI,p.vi.

(3)The Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) rely largely on witnesses and / or victims of violations committed in the territory of the former Yugoslavia. Witnesses have played and will continue to play a key role in the ICTY cases, including investigations into crimes in Bosnia. Laetitia BONNET, LA PROTECTION DES TMOINS PAR LE TRIBUNAL PENAL INTERNATIONAL POUR L'EX-YOUGOSLAVIE (TPIY), Droits fondamentaux, n° 5, janvier - décembre 2005.p.2. (<https://droits-fondamentaux.u-paris2.fr/fr/la-protection-des-temoins-par-le-tribunal-penal-international-pour-lex-yougoslavie-tpiy>).

(4)Dr. Nawaz Ahmed Yassin, Witness Protection in National and International Criminal Law, Comparative Analytical Study, National Center for Legal Publications, 1-2014, p.64.

(5)FOURTH REGIONAL SEMINAR ON GOOD GOVERNANCE FOR SOUTHEAST ASIAN COUNTRIES Co-hosted by UNAFEI and the Department of Justice of the Republic of the Philippines 6-9 December 2010, Manila, the Philippines

offenders by criminalizing threats and intimidation. Effective witness protection measures are urgently needed. These provisions are insufficient to deal with organized criminal gangs or organized terrorist groups.

Legislation should therefore stipulate how witnesses protect international and domestic legal protection – by modern means and techniques – to keep witnesses away from the impact of threats and intimidation and encourage them to testify without any risk to themselves or to their families⁽¹⁾; While in most cases it is difficult to cope with the threat to the lives of witnesses, the lives of some may already be in danger, especially in cases involving a transnational organized crime. Witness protection programs focus on ensuring physical security by giving them new names and keeping them in undeclared and safe places; as a general rule, and when necessary, people who may know each other in the program should not be kept close to each other. Protection may mean the frequent transfer of witnesses and their close family members to various locations (such as hotels, state institutions, public housing units, homes or apartments) to ensure their safety.⁽²⁾

We will discuss the definition of a witness in accordance with criminal law, jurisprudence and judiciary. We then review the Belgian experience, the French program, the American program and the Egyptian project concerning the protection of witnesses from a procedural criminal point of view. This requires a review of these programs to identify what distinguishes them from each other.

First: Definition of Witness

Definition of the Witness According to the Criminal Law

The concept of testimony is based on the news of the person who committed the crime, of any sense of sight, hearing, touch, smell or other means available to him to understand anything related to the crime⁽³⁾. It is to provide the information obtained by the person in one of his senses about a specific crime, or the person who has reached a sense of his or her senses about the incident in question, either directly or indirectly, and to match that fact to what he or she attests at any stage of criminal proceedings⁽⁴⁾.

We find the concept of testimony in French law to focus on the purpose of informing the person of his or her own personal knowledge of a certain incident that proves the validity of the occurrence. The French legislator defined in article 706-57 of the Code of Criminal Procedure the witness to be protected is not there A reasonable reason for suspicion of committing or initiating a crime, and is likely to provide important evidence relating to the proceedings, with the permission of the Attorney-General or the examining magistrate, and shall be made public through the police station or the security director. If a person is called because of his/her occupation, the address declared is his/her address⁽⁵⁾.

November 2011, TOKYO, JAPAN. VISITING EXPERTS' AND ADVISER'S PAPERS AND CONTRIBUTIONS Ms. Karen Kramer, Visiting Expert Senior Expert Division for Treaty Affairs United Nations Office on Drugs and Crime, p.23.

(1)https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/Good_Practices_for_the_Protection_of_Witnesses_in_Criminal_Proceedings_Involving_Organized_Crime.pdf.

(2) Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime, United Nations Office on Drugs and Crime, Vienna, UNITED NATIONS, New York, 2008, p.68.

(3) Dr. Amin Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure - op.cit. p.15.

(4) Dr. Ahmed Yousef Al-Suwaili - Criminal and Security Protection of the Witness - Comparative Study - Arab Thought House 2006, p.2.

(5) Article 706-57 Les personnes à l'encontre desquelles il n'existe aucune raison plausible de soupçonner qu'elles ont commis ou tenté de commettre une infraction et qui sont susceptibles d'apporter des éléments de preuve intéressants la procédure peuvent, sur autorisation du procureur de la République ou du juge d'instruction, déclarer comme domicile l'adresse du commissariat ou de la brigade de gendarmerie. Si la personne a été convoquée en

The definition of a witness in US law 1982 "Protection of witness and victim" states that any natural person who was aware of the existence or absence of facts relating to any crime, Kindly accepted his evidence as a proof of oath, or had reported any crime to a judicial officer or Prosecutors, corrections officers or judicial officers, or has been assigned to testify under a summons issued by the jurisdiction of any state court or other state or any court of the United States of America, or has previously been required to certify that it is applicable to them, Previous⁽¹⁾.

In Egypt's legislation, no specific definition of a witness is provided except in the Code of Criminal Procedure, from the provisions concerning the hearing of witnesses before the examining magistrate in articles 110-122 and the provisions concerning the hearing of witnesses before the court, which they organized in articles 277-290.

Definition of the Witness in Jurisprudence and Judiciary

A part of the criminal jurisprudence refers to the definition of a witness as any person other than the accused who is the subject of the prosecution and who is responsible for the information related to the case is proof or denied, the law is required to swear by truth before the judge⁽²⁾, As defined by another aspect of jurisprudence the person through which he reached information about the criminal incident⁽³⁾.

The Egyptian Court of Cassation dealt with the definition of the witness in a provision that "every person other than the defendant against whom the case was brought, It shall not be precluded from having been accused before, and it is probable that the case will be brought to him for facts related to the facts he has witnessed or to have made statements before the investigating authority without a right"⁽⁴⁾. As defined by the same court in another judgment, the concept of testimony has determined that the witness who saw something and saw it, and the name of testimony derived from the testimony is seeing the statement of the thing⁽⁵⁾. The testimony is also known as "a person's report of what he has seen or heard of himself or has generally recognized by his senses"⁽⁶⁾, Or is "an oral statement made by the witness in the Judicial Council and duly sworn in"⁽⁷⁾.

The definition of a "witness" may differ according to the legal system for purposes of protection. The function of the witness – as a person possessing important information for judicial or criminal proceedings – is relevant, not his status or form of testimony. With regard to the procedural moment in which a person is considered a witness, the judge or the Prosecutor does not need to formally declare this status in order to apply protective measures⁽⁸⁾.

Scope of Witness Protection

The scope of witness protection, whether in international conventions, conventions or legislation, is:

raison de sa profession, l'adressedéclaréepoutêtre son adresseprofessionnelle.Modifié par LOI n°2009-526 du 12 mai 2009 - art. 126.

(1) Dr. Ahmed Yousef Al-Suwaili - Criminal and Security Protection of the Witness – op.sit.p5.

(2) Dr. Mohamed Eid El Gharib - Explanation of the Code of Criminal Procedure - Part II - Golden Eagle House of Printing - Mansoura University 1997 p.1382.

(3) Dr. Hassan Sadiq Al-Marsafawi - Al-Marsafawi in Criminal Investigation - Establishment Knowledge in Alexandria 1990 p.165.

(4) Revocation 2/7/1953, Collection of Rulings of the Egyptian Court of Cassation, 4, No. 370, p. 1064.

(5) Revocation 21/10/1968, Collection of Rulings of the Egyptian Court of Cassation, 19, p. 841.

(6) Rejection of 15/6/1964, set of judgments of the Egyptian Court of Cassation, No. 518, p. 493.

(7) Revocation 21/10/1968, Collection of Rulings of the Egyptian Court of Cassation, 19, p. 841.

(8) Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime- op.cit.p.19.

Witness Protection Legal Protection

These are the criminal provisions that criminalize the acts of encroachment on witnesses in any form of infringement; such protection is the object of the criminalization of the encroachment on witnesses, coercion or forced them to change their testimony and to give false testimony and change the truth, or procedural protection, which is determined in the majority of international conventions and conventions and national legislation, namely, protecting them during the presentation of their testimony before the investigation and prosecution bodies⁽¹⁾.

Physical Protection of Witnesses

Policing measures taken by police to provide witness protection in their daily lives away from verification and trial procedures, partly by hiding their identities by the omission of some of their data, or entirely by omitting all data concerning witnesses by changing their identity to new identities, and also by changing their places of residence. Policemen have accompanied technological progress and, to protect them entirely, their testimony can be heard using modern technology remotely or by blocking their vision.

We believe that this type of protection requires the protection of witnesses from intentional harm or physical or mental harm. States must therefore take appropriate legal measures to protect these witnesses against any risks to their lives and safety, as well as their families.

Protecting their Families

The criminal protection of witnesses in international conventions and the majority of legislation was not limited to them themselves, but extended to their family members as well as the members of the wife's family and those living with them.

Second: Conditions for Granting Protection to Witnesses

The various legislation required different conditions according to their procedural legal systems. American law may require conditions for the protection of witnesses that differ from the conditions laid down in French law.

Conditions for Witness Protection in US Law

The Federal Criminal Code and the Criminal Procedure in Chapter 224 covered the protection of witnesses. In article 3521, it dealt with the provisions on the transfer and protection of witnesses. It authorized the Prosecutor to provide for the transfer of another witness or potential protection to a potential witness or witness of the federal or state organized criminal activity or other serious crime. Where the Prosecutor determines the offense involves a violent crime against the witness in connection with this procedure, or an offense set forth in chapter 73 of this heading addressed to the witness or the offense of a State which in its nature is similar to that offense,⁽²⁾.

(1) D. Rami Metwally Abdel Wahab - Witness Protection in Criminal Law –op.sit.p.106.

(2) Valachi was the first member of the Italian-American Mafia to break with omertà, the code of silence. In 1963, he testified before a United States congressional committee about the inner structure of the Mafia and organized crime. His cooperation was driven by the fear that he would be murdered by Vito Genovese, a powerful Mafia family boss. When Valachi appeared before the committee, he was guarded by 200 United States marshals. There were rumours that the Mafia had placed on his head a price tag of US\$ 100,000. He was the first person in the United States to be offered protection for testimony prior to the establishment of a formal witness protection programme. Valachi entered protective custody and remained in prison until the end of his natural life. He was kept isolated from other inmates and his contacts were limited to agents of the Federal Bureau of Investigation and staff of the Federal Bureau of Prisons. Valachi was so terrified of the

The Prosecutor may also provide for the resettlement and other protection of the immediate family, or any person closely associated with such witness or potential witness, if it is also possible to threaten the family or person because of the witness's participation in judicial proceedings⁽¹⁾.

Condition 1: Submit a Request for Protection

The US legislator also requires those who require witness protection to apply for accommodation, which is confidential. Due to the security concerns of the witness and his family, the participation of witnesses in the program is not disclosed publicly without the prior permission of the (OEO) Office of Enforcement Operations⁽²⁾.

This Request Includes the Following Data

Personal Data

The name, address, date and place of birth, sex, race, citizenship, identity number and a copy of the witness's criminal record, if any.

The Importance of the Issue

The request includes clarifying the importance of the case in terms of its impact on society by condemning the accused, especially if the crime is organized transnational, and carried out by international criminal gangs such as mafia gangs.

Risk Identification

The request must include threats and threats surrounding the witness, and identify individuals who pose a threat to the witness.

Summary of Testimony

The US legislator stipulated the request also include a summary of the testimony to be made by the witness and its importance in the trial, and copies of indictments and complaints in the prosecution phase.

Trial Date

It also requests that the request contain a realistic estimate of the date of the trial at which the witness will testify and the date of completion.

Mafia's revenge that he insisted on preparing his own food in prison, out of fear that they would try to poison him. Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime- op.cit. p.7.

(1)3521. Witness relocation and protection.

(a)(1) The Attorney General may provide for the relocation and other protection of a witness or a potential witness for the Federal Government or for a State government in an official proceeding concerning an organized criminal activity or other serious offense, if the Attorney General determines that an offense involving a crime of violence directed at the witness with respect to that proceeding, an offense set forth in chapter 73 of this title directed at the witness, or a State offense that is similar in nature to either such offense, is likely to be committed. The Attorney General may also provide for the relocation and other protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered on account of the participation of the witness in the judicial proceeding.

(2) Requests for protection of witnesses must be made as soon as it is known that the Witness Security Program candidate will be a significant and essential witness and will need relocation. Because of security concerns regarding the witness and his/her family, a witness's pending or actual participation in the Program is not to be publicly disclosed without the prior authorization The Office of Enforcement Operations (OEO). 9-21.400 - PROCEDURES FOR SECURING PROTECTION. <https://www.justice.gov/jm/jm-9-21000-witness-security#9-21.400>

Statement of Family Members

The request must include the names, statements, and nature of the witness's family members.

Condition 2: The Testimony Relates to Certain Crimes

The American legislator passed the Witness Protection Law after its amendment under the law of 14/10/1984; the Prosecutor may order the protection of the witness if the crime is organized federal crime or serious crimes involving violence against the witness.

US law requires the Prosecutor to obtain the necessary information to assess the appropriateness of including the witness requesting protection with the witness protection program in accordance with the instructions issued by the Prosecutor to determine the rules for the conduct of requests and data required in the request for protection. This information is extracted from the criminal record of the student for protection and psychological evaluation, since the prosecutor is committed to a written assessment of the case in which the witness will testify ⁽¹⁾.

Conditions for Witness Protection in French Law

The French legislator, in article 706-57 of the French Criminal Procedure Act, ⁽²⁾ stipulated the conditions relating to the non-disclosure of the place of residence of the witness, on the one hand, and other conditions relating to non-disclosure of the witness's personality. We will address these requirements as follows:

Conditions Relating to Non-Disclosure of Witness's Place of Residence

This article requires three conditions to conceal the address of the witness. It is necessary to rule out the suspicion of committing or attempting to commit a crime. In addition, the witness has the ability to provide important evidence to prove that he has committed a crime. And finally to issue the approval of the Attorney General or the investigating judge not to disclose the place of residence of the witness.

Condition 1: The Suspicion of Committing or Attempting to Commit a Crime must be Excluded

The non-disclosure of the address of the witness is necessary to ensure that there is no suspicion of committing or attempting to commit a crime, and from this provision, which did not specify the type of crime or determine its severity or seriousness, Hence, the interpretation of this provision should be broadly interpreted in the sense of excluding any person who has committed any of the prescribed protection of the witness. Thus, the provisions of article 706-57 of the French Criminal Procedure Act do not benefit the person who has committed any crime solely on suspicion of committing or attempting to commit it, whatever the type of the offense (felony, misdemeanor or offense)⁽³⁾. However, this interpretation of the legislative use of the term "Infraction" is derived from the adoption of a language other than that of article 706-58 of the Code of Criminal Procedure that the identity of the witness is not disclosed, or a misdemeanor punishable by imprisonment for at least three years.

(1) <https://www.justice.gov/jm/criminal-resource-manual-701-procedures-securing-witness-protection>.

(2) Article 706-57 "Les personnes à l'encontre desquelles il n'existe aucune raison plausible de soupçonner qu'elles ont commis ou tenté de commettre une infraction et qui sont susceptibles d'apporter des éléments de preuve intéressants la procédure peuvent, sur autorisation du procureur de la République ou du juge d'instruction, déclarer comme domicile l'adresse du commissariat ou de la brigade de gendarmerie. Si la personne a été convoquée en raison de sa profession, l'adresse déclarée peut être son adresse professionnelle. L'adresse personnelle de ces personnes est alors inscrite sur un registre coté et paraphé, qui est ouvert à ce effet." Modifié par LOI n°2009-526 du 12 mai 2009 - art. 126.

(3) Article 111-1 Les infractions pénales sont classées, suivant leur gravité, en crimes, délits et contraventions.

So we see support for a part of jurisprudence⁽¹⁾, that the broad interpretation of the term "infraction" is not appropriate to the wisdom of applying the provisions of article 706-57, namely, to encourage those who believe that they have certain elements of proof that are useful in revealing the truth in important cases to testify and protect. Calls for the exclusion of the suspect's suspicion of committing or attempting to commit a crime of any kind, contrary to the originally targeted intent of requesting him as a condition for not disclosing the address of the witness, for the fear of escape or obstruction of proceedings for prosecution or attempted commission of the crime.

We find that the French legislator has introduced the concept of the auxiliary witness, and has distinguished it from the ordinary witness. The auxiliary witness does not enjoy the protection prescribed for the ordinary witness. In article 113-1 of the Code of Criminal Procedure, it is not allowed to hear any person mentioned in a preliminary indictment or list has been fully charged and indicted only as an adjudicator⁽²⁾.

A person may be suspected of contributing to the commission of a particular crime and there is insufficient evidence to do so. The direct charge against him is that he is a plaintiff who harms his legal status and the presumption of innocence. He may be detained and restricted by a pre-trial detention. The other side hears his testimony may deprive him of the benefit of preparing his defense or reviewing the documents of the case⁽³⁾.

Condition 2: The Witness's Ability to Provide Important Evidence to the Proceedings

In addition to excluding or attempting to suspect that a crime has been committed, the legislator must demonstrate his ability to provide useful evidence to the proceedings and to uncover the truth. If he has only useless sentencing statements, he cannot be criminally protected.

The assessment of the importance of his testimony is useful and useful in revealing the truth to the prosecutor or magistrate, as decided by the French legislator. This can be drawn from the circumstances and circumstances of the commission of the crime, the extent of the witness's relationship with the facts and the parties to the crime and his ability to provide evidence to assist in the detection and arrest of the perpetrator⁽⁴⁾.

It is not necessary to be certain that the testimony of the witness is useful evidence of the procedure and helps to uncover the truth. It is sufficient that he has the ability to present such evidence, because the thorough investigation requires lengthy investigations to examine and assess the evidence, which is contrary to the wisdom of the protection of the witness.

Condition 3: Approval by the Attorney General or the Investigating Judge for Not Disclosing the Place of Residence of the Witness

The French legislator required the approval of the Attorney-General or examining magistrate not to disclose the witness's place of residence. The original is the obligation of the investigating authorities to prove all the data relating to the witnesses and the non-disclosure of the witness's place of residence is an exception.

(1) Dr. Amin Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure –op.sit.p.42.

(2) Article 113-1 “Toute personne nommée et désignée par un réquisitoire introductif ou par un réquisitoire supplétif et qui n'est pas mise en examen ne peut être entendue que comme témoin assisté” Modifié par Loi n°2004-204 du 9 mars 2004 - art. 95 JORF 10 mars 2004 en vigueur le 1er octobre 2004.

(3) Dr. Tariq Ahmed Maher Zaghoul - Procedural protection for victims, witnesses and informants - op.sit.p.82.

(4) Dr. Amin Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure - op.sit.p.46.

Therefore, this consent requires that the witness submit a request to the competent authority according to the law, whether the Attorney General or the investigating judge, as the case may be, not to reveal his place of residence, the address of which is the police department or the security directorate.

This request expresses what is going on inside the witness for fear of any pressure or harm from the offenders if they submit to testify. Therefore, this request is to agree not to disclose his place of residence to protect him and to be declared by the police department or the security directorate which he considers his address.

On the other hand, the jurisprudence agreed that there is nothing to prevent the law from taking the investigation authorities mentioned in the aforementioned article a decision of its own not to disclose the place of residence of the witness.

Conditions Relating to Non-Disclosure of The Witness's Personality:

Article 705-58 of the French Code of Criminal Procedure⁽¹⁾ deals with the conditions that must be met by the witness in order to enjoy protection, where he is required to conceal his identity from the file of the case in such a way to provide him and his relatives with the necessary protection to enable him to testify or provide documents and documents without investigation and his relatives for any fear or harm. These conditions are as follows:

Condition 1: The Proceedings shall be Related to a Felony or Misdemeanor Punishable by imprisonment for a Period Not Less than Three Years:

The previous article stipulates that the criminal proceedings relating to the facts under investigation, in which the witness requires testimony, must be a felony or a misdemeanor punishable by imprisonment for a period of not less than three years. The legislator has limited concealment of the witness's personality to grave facts such as all crimes and misdemeanors not less than three years; without regard to the verification of the type of crime, regardless of the form of the offense and the consequent harm.

This means if the requirement that the crime is a crime or a misdemeanor punishable by imprisonment for a period of not less than three years is not met, the witness's identity must be disclosed, since fails to meet the legal requirements leads to a lack of protection.

Condition 2: Availability of the Necessary Conditions in the Witness for Non-Disclosure of his place of Residence:

There is no doubt that, prior to grant the witness protection by not revealing his identity, the conditions relating to non-disclosure of his residence, provided for in article 706-58 of the French Code of Criminal Procedure, to exclude the suspicion of the commission or attempted commission of a crime. The need to prove the availability of their ability to

(1) Article 706-58 “Encas de procédure portant sur un crime ou sur un délit puni d'au moins trois ans d'emprisonnement, lorsque l'audition d'une personne visée à l'article 706-57 est susceptible de mettre gravement en danger la vie ou l'intégrité physique de cette personne, des membres de sa famille ou de ses proches, le juge des libertés et de la détention, saisi par requête motivée du procureur de la République ou du juge d'instruction, peut, par décision motivée, autoriser que les déclarations de cette personne soient recueillies sans que son identité apparaisse dans le dossier de la procédure. Cette décision n'est pas susceptible de recours, sous réserve des dispositions du deuxième alinéa de l'article 706-60. Le juge des libertés et de la détention peut décider de procéder lui-même à l'audition du témoin.

La décision du juge des libertés et de la détention, qui ne fait pas apparaître l'identité de la personne, est jointe au procès-verbal d'audition du témoin, sur lequel ne figure pas la signature de l'intéressé. L'identité et l'adresse de la personne sont inscrites dans un autre procès-verbal signé par l'intéressé, qui est versé dans un dossier distinct du dossier de la procédure, dans lequel figure également la requête prévue à l'alinéa précédent. L'identité et l'adresse de la personne sont inscrites sur un registre coté et paraphé, qui est ouvert à cet effet au tribunal de grande instance. Modifié par Loi n°2002-1138 du 9 septembre 2002 - art. 39 JORF 10 septembre 2002

provide evidence to prove the actions; it is inconceivable not to disclose the personality of the witness without hiding his place of residence.

Condition 3: The Witness or Any of his Family Members or Close Relatives may be at Risk of Assault on Life or Bodily Integrity:

The fact that a witness or any of his family members or close relatives are at risk of assaulting the life or safety of the body gives the witness the right to grant protection and that this condition is subject to the discretion of the judge of freedoms and imprisonment. A threat constitutes a threat to the life or physical integrity of the witness, family members or close relatives, for the non-disclosure of the witness's personality⁽¹⁾.

The French legislator has brought the witness, his family and his confidants together under a single protection. A witness may refrain from giving testimony if he or she fears that they may be at risk of assault or bodily integrity if they are not covered by the protection decision. The potential danger may be from the accused or from any other person incited by the accused or other person to threaten the witness to refrain from giving testimony.

Condition 4: Application from the Public Prosecutor or the Investigating Judge to the Judge of Freedoms and Imprisonment Not to Reveal the Identity of the Witness:

Article 706-58 above requires that the Public Prosecutor or the examining magistrate, as the case may be, submit to the Freedom and Imprisonment Judge a motion that does not reveal the identity of the witness. This request must be supported by the reasons that justify the non-disclosure of the witness's personality. It does not exclude the possibility that the witness or any of his family members or close relatives will be at risk of assaulting the life or bodily integrity as a result of his testimony. Disclosure of his personality⁽²⁾.

The application of this request shall not be made by the Public Prosecutor or the Investigating Judge to the Freedom and Imprisonment Judge by not disclosing the identity of the witness, issuing either of them the permission not to disclose the place of residence of the witness; either of them may request that the witness's identity not be disclosed without requiring that he has obtained. The witness must agree not to disclose his place of residence.

Condition 5: Issuing a Reasoned Decision by the Judge of Freedoms and Imprisonment not to Disclose the Personality of the Witness:

In the event that the Attorney General or the examining magistrate submits a reasoned request for the non-disclosure of the witness's personality to the Liberties and Imprisonment Judge, where the French legislator stipulated in article 706-58 of the French Code of Criminal Procedure. The judge of freedoms and imprisonment responded to this request, to issue a reasoned decision to approve the protection of the witness to be protected.

In our opinion, in support of some jurisprudence⁽³⁾, reason is also applied to the cases in which the judge of freedoms and imprisonment rejects the request to protect the witness who has submitted the public prosecutor or the

(1)Article 706-58 Paragraphe 2 “La décision du juge des libertés et de la détention, qui ne fait pas apparaître l'identité de la personne, est jointe au procès-verbal d'audition du témoin, sur lequel ne figure pas la signature de l'intéressé. L'identité et l'adresse de la personne sont inscrites dans un autre procès-verbal signé par l'intéressé, qui est versé dans un dossier distinct du dossier de la procédure, dans lequel figure également la requête prévue à l'alinéa précédent. L'identité et l'adresse de la personne sont inscrites sur un registre coté et paraphé, qui est ouvert à cet effet au tribunal de grande instance.”

(2)Dr. Amin Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure - op.sit.p.60.

(3) Dr. Tariq Ahmed Maher Zaghoul - Procedural protection for victims, witnesses and informants - op.sit.p105.

investigating judge not to reveal the personality of the witness. The reason given by the judge of freedoms and imprisonment, General or the examining magistrate from meeting the conditions of protection mentioned in the law.

Conditions for the Protection of Witnesses in the Egyptian Draft Law⁽¹⁾:

The explanatory note to the draft law on the protection of victims, witnesses and informants, prepared by the Ministry of Justice in Egypt and approved by the State Council's Legislation Department, explained that the protection of witnesses and informants is the basis for reaching the truth in many different disputes, especially in the fight against crimes and the achievement of justice.

This project included three conditions that must be met to provide the necessary protection for the victims, witnesses and informants, the first is that the owner of the right who wishes to protect must submit a request to the competent authority. The second condition relates to a specific criminal scope. The third condition is that the competent authority must agree to the request for protection.

Condition 1: Application for Protection:

Article 3 of the bill stipulated that every victim or witness must be required to be protected by the police, investigative authorities or the competent court. This means that the request for protection is of a personal nature, where the request includes the protection of the witness himself or his property only, and if necessary, the protection extends to the members of his or her family, each applying separately for protection. The bill did not address the identification of basic data for the applicant,

However, in our view, mentioning the applicant's data is one of the essentials of the request. Therefore, the lack of mention of the data in the application is a deficiency. The bill must be included in the text, as did the American and French legislators.

While we find the bill in its fourth article, the victim, the witness or the sum shall be entitled to the legal protection without submitting an application for this when the competent investigative authorities or the competent court decide when it is deemed necessary.

Condition 2: Protection Relates to a Specific Criminal Scope:

Article 1 of the bill stipulates that the victims, witnesses or whistleblowers must be protected in any of the offenses punishable by the crime, and the offenses punishable by a penalty of misdemeanor not less than three years' imprisonment, financial and administrative irregularities and resulting disciplinary or criminal proceedings, according to the competent authorities of the investigation or the competent court.

The purpose of this requirement is to assess the seriousness with which the victims, witnesses or whistleblowers can be exposed to the gravity of the crime, which can lead the perpetrators to retaliate.

Condition 3: Issuance of Protection Decision from the Competent Authority:

Article 8 of the bill specifies that the protection decision shall be issued by the competent investigative authority of at least

(1)The Ministry of Justice prepared the draft and sent its explanatory memorandum to the Council of State on 24/12/2014, which was approved by the Legislative Council of the State Council on 19/1/2015.

the rank of general attorney or the equivalent thereof to the other investigative authorities, as issued by the examining magistrate or the competent court as the case may be. To take the protected person and his duration, with the possible modification and duration of the measures as may be necessary or urgent.

This article also determines that the decision to include protection shall be justified by explaining the necessary and positive reasons for such protection; the protected person shall be notified of this decision in a formal manner.

The Second Topic: Protection of Witnesses in International and Arab Conventions

The criminal protection of witnesses has received the attention of the international community because of its great importance in the face of crime, particularly organized crime. Many international conventions have addressed such protection, including the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

First: Witness Protection in the United Nations Convention against Transnational Organized Crime⁽¹⁾.

Article 24-1 of the United Nations Convention against Transnational Organized Crime emphasized that States parties should take appropriate measures to provide effective protection to witnesses who testify in crimes involving any transnational organized crime. Protection also extends to their relatives and other relevant persons, as appropriate, against any possible retaliation or intimidation.

In the same article -2, it authorized that the measures envisaged in the preceding paragraph, without prejudice to the rights of the plaintiff, including the right to procedural guarantees, include:

- To establish the rules of procedure for the physical protection of such persons, such as, for example, to the extent necessary and practicable, to change their places of residence and, where appropriate, to permit disclosure or restrictions on disclosure of information concerning their identity and whereabouts;
- Provide evidence-based rules that allow testimony to be given in such a way to ensure the safety of the witness, such as allowing, for example, testimony through the use of communications technology, such as video or other appropriate means.

It also decided in paragraph (3) that, among procedural guarantees, States parties would consider entering into agreements or arrangements with other States concerning the relocation of persons mentioned in item (1) of this article.

The Conference of the Parties to this Convention also identified the witness protection as an area in which the assistance could be provided to support the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons and also the Protocol against the Smuggling of Migrants.

Second: Witness Protection in the United Nations Convention against Corruption⁽²⁾

The United Nations Convention against Corruption (UNCAC), in article 32.1, provides for the provisions of article 24.1 of the United Nations Convention against Transnational Organized Crime. That appropriate measures to be taken to provide effective protection to witnesses who testify in crimes involving any crime of corruption. Protection also extends to their

(1)This Convention was adopted and opened for signature, ratification and accession by the United Nations General Assembly Resolution 25 at the fifty-fifth session of 15 November 2000.

(2)This Convention was adopted and submitted for signature, ratification and accession by the United Nations General Assembly Resolution No. 4 of the 58th Session of 31 October 2003.

relatives and other relevant persons, as appropriate, against any possible retaliation or intimidation.

Article 18-18 of the United Nations Convention against Transnational Organized Crime and article 46.18 of the United Nations Convention against Corruption states that "when a person is present in the territory of a State Party as a witness or expert, The State party may permit, at the request of the other State, a videoconference if it is not possible or desirable for the person concerned to appear personally in the territory of the requesting State Party.

States Parties may agree that the hearing shall be administered by a judicial authority of the requesting State Party and brought to the attention of a judicial authority of the requested State Party. "

The two conventions called on Member States to introduce domestic legislation that would permit videoconferences. Thus, modern technology can be used in the event that any witness or expert is heard, so as to protect it to prevent the identification of the perpetrators. Closed-circuit television can also be used to allow a witness to testify from a nearby location that repents the perpetrators and those who are feared to be harmed by the witness. Witnesses in human trafficking or trafficking offenses in human organs may be harmed if they and their families and their identity⁽¹⁾.

Technological developments have also brought about the changes in the criminal justice system. Closed circuit television, remote communication and audiovisual communication have been used.⁽²⁾ Use video and also use barriers to

(1)For more information see: <http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003>.

⁽²⁾FROM SECOND ADDITIONAL PROTOCOL (Article 9): Hearing by video conference (1) If a person is in one Party's territory and has to be heard as a witness or expert by the judicial authorities of another Party, the latter may, where it is not desirable or possible for the person to be heard to appear in its territory in person, request that the hearing take place by video conference, as provided for in paragraphs 2 to 7. (2) The requested Party shall agree to the hearing by video conference provided that the use of the video conference is not contrary to fundamental principles of its law and on condition that it has the technical means to carry out the hearing. If the requested Party has no access to the technical means for video conferencing, such means may be made available to it by the requesting Party by mutual agreement. (3) Requests for a hearing by a video conference shall contain, in addition to the information referred to in Article 14 of the Convention, the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing. (4) The judicial authority of the requested Party shall summon the person concerned to appear in accordance with the forms laid down by its law. (5) With reference to hearing by video conference, the following rules shall apply: (a) a judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles; (b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the requesting and the requested Parties; (c) the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting Party in accordance with its own laws; (d) at the request of the requesting Party or the person to be heard, the requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary; (e) the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the requested or the requesting Party. (6) Without prejudice to any measures agreed for the protection of persons, the judicial authority of the requested Party shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the requested Party participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the competent authority of the requested Party to the competent authority of the requesting Party. (7) Each Party shall take the necessary measures to ensure that, where witnesses or experts are being heard within its territory, in accordance with this article, and refuse to testify when under an obligation to testify or do not testify according to the truth, its national law applies in the same way as if the hearing took place in a national procedure. (8) Parties may at their discretion also apply the provisions of this article, where appropriate

hide the witness from the eyes of the perpetrators ⁽¹⁾. The use of these modern technologies is intended to provide the necessary psychological and physical protection for witnesses, those who may be harmed by those who cooperate with justice, as well as to reduce the risk to witnesses and to reduce the costs of transporting criminal suspects.

In fact, the narrow interpretation of this provision in witness coverage of protection applies only to witness testimony, whether present or future, but the provisions of the Convention "of any possible retaliation or intimidation" require that the interpretation be broader, including relatives of witnesses, And persons who cooperate with justice from investigations and gathering of information during investigations and trials; protection by changing their residence and, where necessary, permitting disclosure of any information concerning their identity and whereabouts, restrictions on non-disclosure and providing all protection to witnesses such as the use of modern technology to testify Remote⁽²⁾

Third: Protection of Witnesses in Arab Conventions

There are several Arab conventions and Arab model laws dealing with the protection of witnesses in criminal cases, the most important of which are related to combating terrorism and combating corruption, combating transnational organized crime, as well as the Arab guiding law on judicial cooperation in criminal matters, as follows:

The Arab Convention against Terrorism⁽³⁾

The Convention deals with witness protection procedures in chapter III, Article 35 of paragraph (1) states that no penalty or coercive measure may be imposed against a witness or expert who has not complied with the summons, even if the assignment sheet contains the penalty of default.

Paragraph (2) provides that if the witness or expert voluntarily attends the territory of the requesting State, he shall be assigned to attend in accordance with the provisions of the domestic legislation of that State.

Article 36 also provides for the protection of witnesses and experts:

- A witness or expert may not be subjected to trial, imprisonment or restriction of his liberty in the territory of the requesting State for acts or provisions prior to his or her departure to the territory of the requested State, whatever his nationality, as long as his appearance before the judicial authorities of that State.

and with the agreement of their competent judicial authorities, to hearings by video conference involving the accused person or the suspect. In this case, the decision to hold the video conference, and the manner in which the video conference shall be carried out, shall be subject to agreement between the Parties concerned, in accordance with their national law and relevant international instruments. Hearings involving the accused person or the suspect shall only be carried out with his or her consent. (9) Any Contracting State may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it will not avail itself of the possibility provided in paragraph 8 above of also applying the provisions of this article to hearings by video conference involving the accused person or the suspect.

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON CO-OPERATION IN CRIMINAL MATTERS PC-OC Proposals by Mr Miroslav Kubíček (Czech Republic) Strasbourg, 31 August 2011.

(1)For example, in 1990, in the English courts where the judge received statements about witnesses in a sexual assault case who could not testify if they were in the face of the perpetrators, the judge agreed to use the berms after jury approval despite defense counsel's objection. See: Barry Hill & Karen Fletcher, *Sexually Related of feces*, London Sweet & Maxwell. 1997,p40

(2) D. Rami Metwally Abdel Wahab - *Witness Protection in Criminal Law* –op.sit.p.115.

(3)The Arab Convention for the Suppression of Terrorism was issued in Cairo on 22/4/1998 and entered into force on 7/5/1999 in application of article 40 thereof. The Convention was deposited with the United Nations Secretariat and included in the documents of the United Nations General Assembly International terrorism.

- No witness or expert, whatever his nationality, shall be tried, detained or subject to any restriction on his liberty in the territory of the requesting State. He shall be brought before the judicial authorities of that State on the basis of an order to appear for the acts or other provisions not referred to in the summons and prior to his departure from the territory of the requested state.
- The immunity provided for in this article shall expire if the requested witness or expert remains in the territory of the requesting State for thirty consecutive days, despite his ability to leave him after his presence is not required by the judicial authorities or if he returns to the territory of the requesting State after his departure.

Article (37) requires States to take all necessary measures to protect the witness security. In accordance with paragraph (1), the requesting State undertakes all the necessary measures to ensure the protection of any witness or expert of any public nature that would endanger his or her family or property, as a result of his testimony or experience. In particular

- To ensure the confidentiality of the date and place of his arrival in the requesting State and the means thereof.
- To ensure the confidentiality of his place of residence, his movements and his place of residence.
- To ensure the confidentiality of his or her statements and information before the competent judicial authorities.
- The requesting State undertakes to provide the necessary security protection as required by the case of the witness or expert and his or her family, the circumstances of the case in question and the types of risks anticipated.

Arab Convention against Corruption⁽¹⁾

Article 14, entitled "Protection of whistleblowers, witnesses, experts and victims" of the Convention, provides that the State party shall provide the necessary legal protection to whistle-blowers, witnesses, experts and victims who testify in respect of acts criminalized by this Convention, including protection of their relatives and persons and persons related to them against retaliation or intimidation Possible, and the means of such protection:

- To protect them in their places of residence.
- Non-disclosure of information regarding their identity and whereabouts.
- Statements, witnesses, experts and victims shall make their statements in such a way as to ensure their safety, such as testimony through the use of communications technology.
- Taking punitive measures against anyone who discloses information related to the identity or whereabouts of the informants, witnesses, experts or victims.

The Arab Convention against Transnational Organized Crime⁽¹⁾

(1)The agreement was approved by the Council of Arab Ministers of Interior and Justice at their joint meeting held at the headquarters of the General Secretariat of the League of Arab States in Cairo on 21/12/2010. This agreement entered into force on 29/6/2013 thirty days after the date of deposit of the instruments of ratification by seven countries Pursuant to paragraph (3) of Article (35) thereof.

Article 33 under the title "Immunity of witnesses and experts" ruled that every witness or expert required to be present at a State Party and who, by his own free choice, is brought before the judicial organs of the requesting State shall enjoy immunity that prevents him from taking any criminal action against him for the acts or implementation of prior provisions for entry into the territory of the requesting State Party. The competent authority that requested the witness or expert to expel 30 days from the date of his request is competent to dispense with the competent authorities of the requesting State Party without leaving the State, beyond his or her will D to her of his own choice after he left.

Article 36, entitled "Protection of witnesses, experts and victims"

In paragraph 1. Each State Party shall undertake such measures as may be necessary to provide protection against potential retaliation or intimidation of witnesses and experts who agree to make statements regarding an offense covered by this Convention, as well as to their relatives and other relevant persons as appropriate.

States Parties shall consider that the measures referred to in the preceding two paragraphs include:

- Protection of these persons by changing their place of residence and not disclosing any information related to their identity and whereabouts.
- The possibility of giving testimony in such a way as to ensure the safety of witnesses, experts and victims, and modern techniques may be used in this field.

States Parties may consider concluding agreements or arrangements between themselves or with another State for the protection of witnesses, experts and victims.

Arab Guiding Law for International Judicial Cooperation in Criminal Matters⁽²⁾

This law has been devoted to the fourth section of it to attend witnesses and experts in criminal cases, Article 32 of the Constitution, entitled "Protection of witnesses and experts", provides every witness or expert, whatever his nationality, to be present in the presence of the competent judicial authority of the requested State, and shall, by his own choice, attend the judicial bodies of the requesting party. To take punitive measures against him, arrest him or detain him for acts or implement previous provisions for his entry into the territory of the requesting party. The applicant must declare the protection in writing before the first appearance. This protection shall cease from the witness or expert after thirty days from the date on which he is notified of the absence of his presence in its territory without leaving it, with no reason to prevent it for reasons beyond his control or if he returns voluntarily after leaving.

Article (34) related to the expenses of travel and the establishment of the witness and the expert that the witness or expert the right to the expenses of travel and residence and lost wages or gain from the requesting party, and the expert has the right to claim his peers to give his opinion and all this based on the definitions and regulations in force The requesting state.

The amounts of money due to the witness or expert shall be indicated in the declaration papers and the

(1)The agreement was approved by the Council of Arab Ministers of Interior and Justice at their joint meeting held at the headquarters of the General Secretariat of the League of Arab States in Cairo on 21/12/2010. This agreement entered into force on 5/10/2013 thirty days after the date of deposit of the instruments of ratification by seven countries Pursuant to paragraph (2) of the final provisions of the Convention.

(²)The Council of Ministers of Justice adopted this law at its twenty-second session by resolution No. 653- session 22 on 29/11/2006.

Contracting Party shall pay the applicant in advance, if the witness or expert so requests.

The Third Topic: Protection Measures for Witnesses:

The legal protection measures for witnesses are the actual actions taken by the police officers to provide security protection to the witnesses outside judicial proceedings in accordance with procedural law. So, security measures should be considered in all cases where witnesses truly believe that there is imminent threat or danger to their lives as a result of their involvement in assisting the police investigated the criminal case.

In most cases, witnesses do not face a life-threatening situation. Instead, they suffer verbal threats, intimidation, harassment, assault, property damage or simply fear of reprisal as a result of their cooperation with the police. To provide support and security to these witnesses, security, and depending on the legal system of the State in question, the program could be established either by law or by policy ⁽¹⁾

In a number of States, the court may decide to apply specific measures during the hearing of the testimony to ensure that witnesses testify without intimidation or fear of their lives. Such measures may also be applied in sensitive cases (crimes of trafficking in persons, sexual offenses, child witnesses, etc.) to prevent the re-examination of victims' witnesses by limiting their exposure to the public and the media during the trial. Include:

- The use of witness statements before trial rather than testimony within the court;
- Attendance of a psychosocial support person;
- Certificate by videoconference or videoconference;
- Distortion of voice and face;
- (E) Removal of the accused or the public from the courtroom;
- An anonymous certificate.

The main objective of the witness protection measures is to achieve the personal security for them, the most important of which is to hide the identity of the witness, whether in whole or in part, and to change their place of residence to ensure that they are not identified during criminal proceedings.

First: Criminal Proceedings in the American Law for the Protection of Witnesses:

Section 224 of the US Federal Code of Criminal Procedure states that a public prosecutor must take all necessary measures to protect a witness from bodily injury or to ensure the health, safety, and well-being of the witness, including the psychological state and social development.

The Prosecutor may decide to transfer the witness or any other potential protection to a potential witness or witness of the federal or state government in a formal proceeding relating to an organized criminal or other serious offense. If the Prosecutor determines that the offense Involving a crime of violence directed against the witness in respect of this procedure, an offense set forth in chapter 73 of this title addressed to the witness or the crime of a State of a similar nature in any of these offenses. The Prosecutor may also decide on resettlement and other protection of the immediate family, or any person closely associated with such witness or witness Bearing, if it is possible also the family or the person threatened because of the participation of the witness in judicial proceedings.

⁽¹⁾Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime- op.cit. p.29.

Second: Criminal Proceedings in the French Law for the Protection of Witnesses:

The French legislator distinguished between two types of measures for the protection of witnesses. The first was to hide the address of the witness in accordance with article 706-57 of the Code of Criminal Procedure, whereby a decision of the prosecutor or magistrate was issued in accordance with the request of the witness, or the Security Directorate as the address of the witness.

The second measure is to conceal the witness by reasoned decision of the Freedom and Imprisonment Judge at the request of the Attorney-General or the examining magistrate, as stated in article 706-58 of the Code of Criminal Procedure.

The Use of Modern Technology to Testify Remotely ⁽¹⁾

Article 706-61 of the Code of Criminal Procedure provides that the accused may request that the witness be confronted by remote hearing or that his counsel be heard by the same means, that the witness's voice be heard without being identified⁽²⁾, and that the examining magistrate can hear the witness by the same means Status of the Court's request for additional information.

The European Union, through the European Convention on Judicial Assistance in Criminal Matters, adopted by the European Council on 30 November 2000, has authorized in Article 10, the use of video conference as a means of remote criminal investigation in hearing witnesses and experts among Member States when necessary requires the protection of witnesses and experts⁽³⁾, where the use of this technique is limited⁽³⁾ to the hearing of witnesses and experts in cases where the witness or expert has been found to be ineligible to appear before the authorities of the requesting State, provided that this does not conflict with legal principles. It has the technical capabilities that will allow the implementation of the use of audio-visual communication technology, and in the absence of that the requesting State may provide the necessary requirements for the implementation of the technical condition of its approval.

In accordance with article 706-71 of the Code of Criminal Procedure, which decided in case of necessity in the investigation, the hearing of the witness or the questioning of a person, as well as the confrontation between many persons which could take place in parts of the territory of the Republic and between the territory of the Republic and a Member State of the European Union, So that the request for the extension of pre-trial detention or judicial detention can be submitted through the use of audiovisual aids⁽⁴⁾.

(1)Olivier Leclerc; La protection des témoinsvulnérables et susceptibles d'être intimidésdans le procès pénal : perspective comparée France / Angleterre – Astrid SEGARRA.Soumis le 24/06/2009,Les blogs pédagogiques de l'Université Paris Nanterre.

<https://blogs.parisnanterre.fr/search?keyword=olivier%20Leclerc&page=2>

(2)Article 706-61" La personnemiseenexamenourenvoyéedevant la juridiction de jugementpeut demander à êtreconfrontée avec un témoinentendu en application des dispositions de l'article 706-58 par l'intermédiaire d'un dispositif technique permettantl'audition du témoin à distance ou à faire interrogercetémoin par son avocat par cemêmemojen. La voix du témoinestalorsrendue non identifiable par des procédés techniques appropriés."Modifié par Loi n°2004-204 du 9 mars 2004 - art. 141 JORF 10 mars 2004.

(3)Dr. AdilYahya - Remote Criminal Investigation and Trial - Analytical and Analytical Study of the VideoConference Technology in the Criminal Field - Dar Al-Nahda Al-Arabiya, 1 st, 2006, p. 87.

(4)Article 706-71 "Lorsque les nécessités de l'enquête de l'instruction le justifient, l'auditionou l'interrogatoired'unepersonneainsi que la confrontation entre plusieurspersonnespeuventêtrereffectuéesenplusieurs points du territoire de la Républiqueou entre le territoire de la République et celui d'un Etatmembre de l'Unioneuropéennedans le cadre de l'exécutiond'unedécisiond'enquêteeuropéenne et se trouvantreliés par des moyens de télécommunicationsgarantissant la confidentialité de la transmission. Dans les mêmes conditions, la présentation aux fins de prolongation de la garde à vueou de la retenuejudiciairepeutêtreréalisée par

Third: Criminal Proceedings in Belgian Witness Protection Law:

Belgian law is one of the most prominent legislation that dealt with an integrated law for the protection of witnesses. The legislator introduced an amendment to the Criminal Investigation Law under the Law of 7/7/2002 on the Rules for the Protection of Threatened Witnesses, article 5 of which provides for the inclusion of a seventh chapter in the law (102-111) to regulate the protection of threatened witnesses⁽¹⁾.

Article (103) of the Belgian Criminal Investigation Act defines the terms of reference of the Committee for the Protection of Threatened Witnesses in Formal Formation⁽²⁾, which is committed to two types of procedures for the protection of these witnesses, both in ordinary cases and in special cases.

Standard Procedures for the Protection of Threatened Witnesses:

Article 104 of the Criminal Investigation Act provides that the Committee for the Protection of Witnesses may, subject to the principles of subsidiarity and proportionality, grant ordinary preventive measures to the threatened witness and not endanger him or her members of the family and other relatives because of the information he or she has made.

The normal protection measures may include the protection of all information and data relating to the witness in the population censuses and in the civil situation.

- All necessary measures must be taken to protect the threatened witness and not to reveal his or her identity or place of residence.
- Provide advice on prevention and the allocation of a security team to protect it and intervene to defend it at the risk of it or a member of the family or relatives.
- Preventive technical equipment is required.
- The appointment of the liaison officer between the threatened witness and the Protection Committee for easy communication and rapid intervention at critical times to modify protection measures if necessary.
- An action must be taken to alert the witness;
- Providing moral support to the witness;
- The organization of patrols by the police as a preventive measure;
- Recording incoming and outgoing calls;
- Regular monitoring of the national registry and protection of data on a threatened witness;
- Providing a confidential telephone number;
- Assist in the extraction of licenses and the provision of a protected vehicle license plate;

l'utilisation de moyens de télécommunication audiovisuelle. Il est alors dressé, dans chacun des lieux, un procès-verbal des opérations qui y ont été effectuées. Ces opérations peuvent faire l'objet d'un enregistrement audiovisuel ou sonore, les dispositions des troisième à huitième alinéas de l'article 706-52 sont alors applicables." Modifié par Ordonnance n°2016-1636 du 1er décembre 2016 - art. 4

(1) Dr. Ameen Mustafa Mohamed - Witness Protection in the Code of Criminal Procedure – op.cit.p. 75.

(2) 1. La Commission de protection des témoins est composée du procureur fédéral, qui en assure la présidence, d'un procureur du Roi désigné par le Conseil des procureurs du Roi, du procureur général à qui est confiée la tâche spécifique des relations internationales, du directeur général de la Police judiciaire de la police fédérale, du [directeur de la direction centrale des opérations de la police judiciaire] de la police fédérale, d'un représentant du Ministère de la Justice et d'un représentant du Ministère de l'Intérieur. Ces derniers n'ont qu'une compétence consultative et n'ont pas voix délibérative. CODE D'INSTRUCTION CRIMINELLE 2016-02-05/11, art. 69, 079; Envigueur : 29-02-2016

- Provision of emergency callback system;
- Provide close and immediate physical protection for the threatened witness;
- Providing electronic protection to the threatened witness so that the electronic devices used by the threatened witness are not compromised;
- Transfer of the threatened witness to another residence for a maximum of 45 days;
- If the threatened witness is incarcerated, he or she is placed in a special protected section of the prison⁽¹⁾

Special Procedures for the Protection of Threatened Witnesses:

Paragraphs 2, 3 and 4 of article 104 of the Criminal Investigation Act authorize special measures to protect a threatened witness in case of inadequate ordinary procedures for his protection, based on the principle of proportionality and precaution. The Committee may also take stricter protection measures in organized crimes or Crimes against protected interests by international humanitarian law⁽²⁾.

These special procedures were designed to protect the threatened witness include securing the residence of the threatened witness for more than 45 days; changing the identity of the threatened witness in cases involving serious organized crime or human rights violations at the international level;

(1)1er. La Commission de protection des témoinspeut, comptetenu des principes de subsidiarité et de proportionnalité, octroyer des mesures de protections ordinaires à un témoinmenacéainsi que, le cas échéant et dans la mesureoùilscourent un danger à la suite de sesdéclarationsfaitesou à faire, aux membres de safamille et autres parents. Les mesures de protection ordinairespeuventnotammentcomprendre : 1° la protection des données relatives à la personneconcernéeauprès du service de la population et auprès de l'état civil; 2° la formulation de conseilsdans le domaine de la prévention; 3° l'installation d'un équipement technique préventif; 4° la désignation d'un fonctionnaire de contact; 5° l'élaborationd'uneprocédured'alarme; 6° l'octroid'une assistance psychologique; 7° l'organisation, à titrepréventif, de patrouilles par les services de police; 8° l'enregistrement des appels entrants et sortants; 9° le contrôlerégulier des consultations du registre national et/ou la protection des données relatives à la personneconcernée; 10° la mise à disposition d'un numéro de téléphone secret; 11° la mise à disposition d'une plaque d'immatriculation protégée; 12° la mise à disposition d'un GSM pour les appelsurgents; 13° la protection physique rapprochée et immédiate de la personneconcernée; 14° la protection électronique de la personneconcernée; 15° la relocalisation de la personneconcernée pendant maximum 45 jours; 16° le placement dansune section spécialement protégée de la prison de la personneconcernéedétenue;

(2)2. En outre, la Commission de protection des témoinspeut, comptetenu des principes de subsidiarité et de proportionnalité, octroyerexclusivement des mesures de protection spéciales à un témoinmenacédont la protection spéciale à un témoinmenacédont la protection ne peutêtreassurée par des mesures de protection ordinaires et dont les déclarationsconcernent [une infraction telle que visée à l'article 90ter, §§ 2, 3 ou 4, ouune infraction commisedans le cadre d'uneorganisationcriminellevisée à l'article 324bis du Code pénal] et, le cas échéant, aux membres de safamilleainsi que, dans la mesureoùilscourent un danger à la suite des sesdéclarationsfaitesou à faire, à sesautres parents.

Les mesures de protection spécialespeuventcomprendre : 1° la relocalisation de la personneconcernée pour unepériode de plus de 45 jours; 2° le changementd'identité de la personneconcernée; [3° l'octroi à la personneconcernéed'uneidentité de protection temporaire et des documents strictementnécessaires à l'appui de cetteidentité. L'identité de protection temporaireporte sur les nom, prénoms, date et lieu de naissance de la personneconcernée. Son octroiestrévocable et ne peutentraîneraucuneffetjuridique. Il ne peut y avoird'infractionquand des faitsabsolumentnécessairesontcommisdansce cadre envue de garantir la protection du témoin.]

3. La Commission de protection des témoinspeut, en tenant compte de la situation spécifique de la personneconcernée, octroyer des mesuresd'aidefinancière au témoinmenacé qui bénéficie de mesures de protection spéciales. Les mesuresd'aidefinancièrepeuventcomprendre : 1° un versementmensueldestiné à assurer la subsistance du témoinmenacéainsi que des membres de safamille et autres parents qui sont protégés avec lui, et dontcertaines parties peuventêtredestinées à des fins spécifiques; 2° le versementenuneseulefois d'un montant pour démarreruneactivitéindépendante; 3° une contribution financièrespéciale réservée à des fins spécifiques.

4. La personnebénéficiant de mesures de protection spéciales a automatiquement droit à une assistance psychologique, à de l'aidedans la recherche d'un emploi et à une intervention lors de l'exercice des droits pécuniaires acquis, conformément aux modalitésvisées à l'article 107, alinéa 3. L2011-07-14/07 art. 3, 060; Envigreur : 01-08-2011. L2018-07-22/05 art. 19, 100; Envigreur : 17-08-2018.

Therefore, financial assistance measures must be provided in monthly remittances to secure the needs of the threatened witness and his family, or to transfer a one-time payment so that the witness is able to engage in any independent activity that generates income to help meet his needs, and to provide moral support, which is to obtain a suitable job.

Fourth: Criminal Proceedings in the Egyptian Law for the Protection of Witnesses

The draft law on the protection of Egyptian victims, witnesses and informants is issued on 30/6/2015, reporting crimes and giving testimony before the investigative bodies within the basic human rights guaranteed by international conventions and national legislation to combat corruption and crime in general. Especially the most dangerous ones such as terrorism and witnesses to testify without fear or intimidation, and to ensure them from any threats and risks to them and their families, and this is decided by the first article of the draft law, and the law in its second article the state to compensate witnesses and their families in the case of Disease, and even extends to heirs in case of death.

Article 3 of the draft law on the protection of victims, witnesses and informants provides for the establishment of a specialized witness protection police of the Ministry of the Interior called "Protection Department", which is responsible for the protection of victims, witnesses, informants and experts, including relatives.

One of the proposed terms of reference for the Department of Protection is to receive judicial decisions issued by providing security protection to the witnesses and determining the witness's eligibility for protection, determine its type and estimate the cessation or withdrawal of protection in case of violation of the obligations and obligations borne by the witness.

CONCLUSIONS

The establishment of security services and the necessary secret guardians to provide security protection to witnesses in their places of residence and movement.

Article 4, in which the statements of victims, witnesses and informants are classified, shall not be disclosed except in the cases prescribed by law, and shall determine a specific criminal penalty for those who disclose such data.

Article 6, of the draft law sets out a series of measures for the protection of witnesses:

- The concealment of real personal data in whole or in part and keeping it in the register referred to in Article 3 of the Public Prosecution.
- Identification of a telephone number for communication between the protected person and the Department of Protection and the Public Prosecution.
- Presentation of the certificate or statements in electronic or other media with the possibility to change the sound or hide facial features.
- Place the guard on the person and the dwelling.
- (E) Recommend to the employer the transfer or assignment of protected persons.

According to the researcher, the Egyptian legislator takes the example of the Belgian and French legislators in issuing the law for the protection of whistleblowers, witnesses and experts, and the use of modern techniques to protect witnesses during judicial proceedings, especially criminal proceedings that are feared against witnesses, such as the use of television circuits and the feature of telecommunications, and must be activated a protection program to not to disclose the

residence of witnesses and their identity, especially in felonies and serious misdemeanors.

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Research Interests

First: Research and published books

- Traffic Crimes (Ph.D.) - New University Publishing House – 2010.
- Explanation of Oman Traffic Law - 2010.
- Explanation of the Law of Human Trafficking in Oman - 2011.
- Criminal Protections of Victims of Human Trafficking in Egyptian Law No. 64 of 2010. 2013.
- Philosophy of Criminalization and Punishment in the UAE Traffic Law No. 21 of 1995. 2013.
- The professional secret in Egyptian and comparative legislation. 2013.
- Explanation of the UAE Traffic Law No. 21 of 1995 and its Executive Regulations for Abu Dhabi Police College students. 2013.
- Special Criminal Laws Part II Book for Abu Dhabi Police College students. 2013.
- Conviction of the criminal judge electronic evidence, comparative study, 2014.

- The Role of the Prosecutor of the International Criminal Court - in relation to the preliminary investigations of the Rome Statute. 2015.
- Criminal confrontations of the crime of money laundering and the financing of terrorism - 2015.
- Substantive criminal protection of the crime of smuggling of migrants, 2016.
- The role of criminal justice agencies in protecting the rights of victims of crime, 2017.
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- Criminal Liability for Physician Error, International Journal of Humanities, and Social Sciences (IJHSS). ISSN(P): 2319-393X; ISSN(E): 231

Second: Collective Participation

- The first conference of international humanitarian law in today's world.
- The International Conference on Road Safety entitled "Road Safety Management and Intelligent Transportation Systems"
- International Symposium on "The Impact of Law Enforcement and Oversight on Traffic Safety"
- The International Conference on Traffic Safety entitled "The impact of education and training on traffic behavior"
- 7 - Supervision of Master's research - Department of Graduate Studies - Abu Dhabi Police College.
- 8. Participate in the curricula development committees in the faculty
- 9- Preparation and design of training bags in the training department at the General Command of Abu Dhabi Police.

