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Concepts and Good Practices In Witness Protection

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UN Convention against Transnational Organized Crime

Article 24

Each State Party shall take appropriate measures within its means to ***provide effective protection*** *from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them*

Article 25

Each State Party shall take appropriate measures within its means to ***provide assistance and protection*** *to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidations*

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Understanding the concepts

- Victim Assistance
- Witness Management
- Witness Protection

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Meeting the Threat

- Assistance before and during the trial to cope with the psychological and practical obstacles of testifying
- Police measures to enhance physical security
- Court procedures to ensure the witness' safety while testifying
- Witness protection programme as a last resort

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Victim Assistance and Witness Management

Examples of measures used by countries

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Witness Management

In court / out of court

In court = Procedural Protections

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General Categories:

1. Identity Known

- Measures to reduce fear through avoidance of face-to-face confrontation
  - Use of a witness pre-trial statement instead of in-court testimony
  - Testimony via closed-circuit TV or video conferencing

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2. Identity Unknown

- Measures to make it difficult or impossible for the defendant or organized criminal group to trace the identity of the witness
  - Shielded testimony through the use of a screen, curtain or two-way mirror
  - Anonymous testimony

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3. Famous witness or case of public /media interest

Measures to limit the witness' exposure to the public and psychological stress:

- Change of the trial venue or hearing date
- Removal of the public from the courtroom (in-cameral session)

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Summary of Procedural Protections

- Use of a witness pre-trial statement instead of in-court testimony
- Testimony via closed-circuit TV or video conferencing
- Voice and Face Distortion
- Removal of the Accused or the public from the courtroom
- With-holding identity or anonymous testimony

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Alternative measures

- Relocation Assistance
- Electronic surveillance
- Counselling on Safety Measures
- Target Hardening

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Target Hardening

- Temporary change of residence (family or new village)
- Close protection, regular patrolling around the witness's house, escort to and from the court
- Change of phone number or unlisted number
- Provision of a mobile phone and emergency contact #s
- Installation of security devices- doors, locks, alarms & video cameras
- Minimizing contacts with prosecutors and uniform police

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Tools of Last Resort

Relocation

New identity

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Why Witness Protection Programmes?

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How do you define who a witness is for the purpose of witness protection ? Why can't you include all witnesses?

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The Witness



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The Crime







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Criminal Conspirators and justice collaborators



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Hand in Hand

- Ability to compel witnesses to testify
- Ability to give collaborators of justice some benefit for their testimony

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Principles of WP Programmes

- Voluntary
- For life
- $$$ support is not for life
- Not be seen as a reward for testimony
- Not make the witness better off
- Keep all legal obligations
- Emotional hardship for witness and family – tool of last resort

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National or International Relocation



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Prerequisites for an international relocation

- Geographic and population size of requesting country
- Socio-cultural context
- Linguistic barrier, identity
- Famous witness



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UNODC Tools

- Good Practice Guidelines
- Model Witness Protection Law
- Model Witness Protection Relocation Agreement
- Basic training modules
- Provision of mentors and study visits

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THANK YOU FOR YOUR ATTENTION