

**PROTECTING THE RIGHTS OF VICTIMS OF CRIMINAL
PROCEEDINGS UNDER THE LEGISLATION OF GERMANY
AS EVIDENCE FOR UKRAINE IN THE PROCESS
OF REFORMING LEGISLATION IN THE POST-WAR HOUR**

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INTRODUCTION

The problem of protecting the rights and legitimate interests of a victim in a criminal case in Ukraine is still relevant, considering the legal procedural status of a victim of a criminal offense under our legislation, as well as the claims of today, as dictated by this conflict on the territory of Ukraine, and the need to deal with the post-war renewal and restoration of Ukraine, This includes the scientific and legislative area. At the same time, in the provisions of Ukrainian legislation there are a number of gaps that can often be covered, vitory and foreign intelligence. In this regard, it is important to follow the legislation and evidence of Germany.

Today, the legal regulation of the rights of a crime victim in Germany is carried out by the norms of the Criminal Procedure Code of the Federal Republic of Germany, the Criminal Code of the Federal Republic of Germany, the Law “On Compensation for Damage to Victims of Violent Crimes (Opferentsch digungsgesetz) of 05/11/1976, the Law “On Securing the Claims of a Victim of Violent Crimes” dated 05/08/1998, Law “On the reform of the rights of victims in criminal proceedings” from 06/25/2004, Law “On lawyer’s fees” from 05/05/2004, Law “On consolidating the agreement of the parties in criminal procedure law and amending Law on Telephone Communication Systems" of December 20, 1999, Law "On Juvenile Justice", Law “On support of the psychosocial process in criminal proceedings” of December 21, 2015 and other laws.

The victim is discussed in Book 5 of the Code of Criminal Procedure of Germany “Participation of the victim in proceedings”, which consists of 5 sections devoted separately to the concept of the victim (section 1, §§ 373b), private prosecution (section 2, §§ 374–394), support of public charges (Title 3, §§ 395–402), compensation to the victim (Title 4, §§ 403–406c), and other rights (Title 5, §§ 406d–406i).

1. Protecting the rights of victims of criminal proceedings FRN: outside of nutrition

It must be said that after the decision of the Council of Europe “On the position of the victim in criminal proceedings” of March 15, 2001, Germany adopted regulations and individual amendments to the law that significantly strengthened the position of the victim in criminal proceedings. For example, these are the following changes: video and sound recording of the interrogation of the victim and witness (§58-a of the German Code of Criminal Procedure); use of video recordings in court proceedings (§ 255-a of the German Code of Criminal Procedure); audiovisual interrogation of a witness or victim (§ 247-a Code of Criminal Procedure of Germany); restriction of the right to ask questions regarding personal life (§ 68-a of the Code of Criminal Procedure); private prosecutor (§ 397-a German Criminal Procedure Code) and victim (§ 406g German Criminal Procedure Code); restriction of the right of presence of the defendant during the interrogation of a witness or victim (§ 168-e, 241-a, 247 of the German Code of Criminal Procedure); expanding the rights of a private prosecutor and strengthening his legal status in the process (§ 395 of the German Code of Criminal Procedure); compensation for harm to the victim of a crime; provision, at the request of the victim, of compensation for harm by the state – when committing violent crimes (Law “On Ensuring the Claims of the Victim of Violent Crimes”); when compensating for damage through the reconciliation of the parties, fulfilling the obligations of the prosecutor's office and the court to verify the execution of the agreement (§ 155-a of the Code of Criminal Procedure); prevention of accusation or conviction (according to § 153-a of the Code of Criminal Procedure); mitigation of punishment (in accordance with § 46-a of the German Criminal Code); fulfillment of the duties assigned to a conditionally convicted person (according to § 5 56B, 57.57a, 59a of the Criminal Code, § 10, 15, 23, 29, 45 and 88 of the Law “On ensuring the claims of victims of violent crimes”); ensuring priority of compensation for damages over the collection of a fine and procedural costs (§ 459aa of the Code of Criminal Procedure); presentation of property claims in criminal proceedings (procedure for consideration of a civil claim in a criminal case – § 403 of the Code of Criminal Procedure).

Thus, according to § 374 of the Code of Criminal Procedure of the Federal Republic of Germany, by way of private prosecution, the victim can initiate criminal prosecution without a preliminary petition to the prosecutor's office in relation to:

- violation of the inviolability of the home (§ 123 UK);

- insults (§§ 185-189 UK), if it is not directed against the state bodies specified in § 194 (paragraph 4) of the Criminal Code;
- violation of confidentiality of correspondence (§ 202 UK);
- causing bodily harm (§§ 223 and 229 UK);
- coercion (parts 1-3 of Article 240 of the Criminal Code) or threats (§ 241 of the Criminal Code);
- receiving or giving a bribe in business (§ 299 UK);
- damage to things (§ 303 UK);
- a criminal offense according to § 323a UK, if the act committed while intoxicated constitutes a criminal offense referred to in No. 1–6;
- a criminal act in accordance with §§ 16-19 of the Law on Combating Unfair Competition and Article 23 of the Law on the Protection of Trade Secrets;
- a criminal act in accordance with § 142 (paragraph 1) of the Law on Patents, § 25 (paragraph 1) of the Law on Utility Models, § 10 (paragraph 1) of the Law on the Protection of the Topography of Microelectronic Semiconductor Products, § 39 (paragraph 1) of the Law “On the Protection of Plant Varieties”, § 143 (paragraph 1), § 143a (paragraph 1) and § 144 (paragraphs 1 and 2) of the Law “On Trademarks and Other Signs and Names”, § 51 (paragraph 1) and § 65 (paragraph 1) of the Law on Industrial Designs, §§ 106-108, as well as § 108b (paragraph 1 and 2) of the Law on Copyright Protection and § 33 of the Law “On copyright for works of fine art and photography”¹.

Moreover, we note that filing a private charge for violation of the inviolability of the home, insults, violation of the confidentiality of correspondence, causing bodily harm (§ 223 and § 229 of the Criminal Code), threats and damage to things, as well as in relation to a criminal act in accordance with § 323a of the Criminal Code, if the act committed in a state of absolute intoxication constitutes a criminal offense, is permissible only after an unsuccessful attempt at reconciliation of the parties by a settlement agency established by the State Office of Justice (§ 380 of the German Code of Criminal Procedure). In such cases, the private prosecutor is obliged to present a certificate of failed reconciliation at the same time as filing the claim.

In Germany, the prosecutor is not required to participate in private prosecution proceedings. The court sends the case materials to him

¹ Strafprozessordnung der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StPO/374.html>

if it considers it appropriate for the prosecutor's office to accept criminal proceedings. However, the prosecutor's office can also, at any stage of the proceedings before the verdict enters into legal force, initiate criminal proceedings on the basis of an official statement on its part. An appeal against a decision also implies the initiation of criminal proceedings (§ 377 of the German Criminal Procedure Code).

Regarding the status of a private prosecutor, it must be emphasized that according to the German Code of Criminal Procedure, in cases in which in proceedings based on a public accusation the prosecutor's office must be involved and heard, in proceedings based on a private prosecution a private prosecutor must be involved and heard, and all decisions about which the prosecutor's office must be notified, and the private prosecutor must also be informed (§ 385 of the German Criminal Procedure Code). A private prosecutor can appeal decisions in the same way as the public prosecutor's office (§ 390 of the German Criminal Procedure Code). A private prosecutor also has the right to refuse a private prosecution at any stage of the proceedings. However, after the start of the interrogation of the defendant on the merits at the court hearing in the first instance, the consent of the defendant is required to withdraw the charge (§ 391 of the Code of Criminal Procedure of the Federal Republic of Germany).

In the event of the death of a private prosecutor, criminal proceedings are terminated (§ 393 of the German Criminal Procedure Code). However, after the death of the private prosecutor, private prosecution proceedings may be continued by persons entitled to bring a private prosecution under § 374 (2).

According to § 77 of the German Criminal Code, in the event of the death of the victim, his right to appeal passes to his spouse, life partner and children in cases provided by law; If the victim has no spouse, no life partner, no children, or they died before the deadline for filing the application, the right to file the application passes to the parents, and if they also died before the deadline for filing the application, to the brothers, sisters and grandchildren. However, if a relative is involved in the crime or if his family ties have ceased, he is excluded when the right to file an application is transferred. The right to appeal also does not pass if the accusation contradicts the stated wishes of the injured party². In this

² Strafgesetzbuch der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StGB/77.html>

case, a request to continue the proceedings must be sent to the court by an authorized person within two months from the date of death of the private prosecutor (§ 393 of the German Code of Criminal Procedure).

Section 3 of Book 5 of the Code of Criminal Procedure of the Federal Republic of Germany “Support of public prosecution” regulates the right of the victim to enter into proceedings as a person supporting the prosecution. Thus, according to § 395 of the Code of Criminal Procedure of the Federal Republic of Germany, someone who is a victim as a result of an unlawful act in accordance with: § 174–182, 184i–184k of the Criminal Code can enter into proceedings as a person supporting a public accusation or petition in proceedings against insane and procedurally incompetent persons, §§ 211 and 212 of the Criminal Code for assassination, §§ 221, 223–226a and 340 of the Criminal Code, §§ 232–238, 239, (paragraph 3), §§ 239a, 239b and 240 (paragraph 4) of the Criminal Code, § 4 of the Law “On Civil Protection from Criminal Acts with the Use of Violence and Unlawful Prosecution”, § 142 of the Law “On Patents”, § 25 of the Law “On Utility Models”, § 10 of the Law “On the Protection of the Topography of Microelectronic Semiconductor Products”, § 39 of the Law “On the Protection of Plant Varieties”, §§ 143–144 of the Law “On Trademarks and Other Marks and Names”, §§ 51 and 65 of the Law “On Industrial Designs”, §§ 106–108b of the Law “On the Protection of Copyrights”, § 33 of the Law “On Copyrights in Works of Fine Art and Photography” and § 16 of the Law “On Combating Unfair Competition”, § 23 of the Law “On the Protection of Trade Secrets”³.

We emphasize that this right also applies to: persons whose children, parents, siblings, spouses or same-sex marriage partners were killed as a result of a wrongful act; faces. who initiated the filing of a public charge by filing a petition for a judicial decision (§ 172 of the German Criminal Procedure Code).

The German legislator also indicates that anyone who is a victim of another unlawful act, in particular according to §§ 185–189, 229, 244 (paragraph 1 no. 3), §§ 249–255 and 316a of the Criminal Code, can at any stage, and also, after a verdict has been passed, for the purpose of appeal, to enter into proceedings to support the public charge brought against him,

³ Strafprozessordnung der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StPO/395.html>

if this seems appropriate to protect his interests on special grounds, in particular in connection with the grave consequences of the act.

A person supporting the prosecution has the right to be present at a court hearing if he is to be questioned as a witness, and to receive a summons inviting him to the court hearing; petition for the dismissal of a judge (§§ 24, 31 of the German Criminal Procedure Code) or an expert (§ 74 of the German Criminal Procedure Code), ask questions (§ 240 paragraph 2 of the German Criminal Procedure Code), file objections to the orders of the presiding officer (§ 238 paragraph 2 of the German Criminal Procedure Code) and questions (§ 242 of the Code of Criminal Procedure of the Federal Republic of Germany), request evidence (§ 244 paragraphs 3-6 of the Code of Criminal Procedure of the Federal Republic of Germany), and also make statements (§§ 257, 258 of the Code of Criminal Procedure of the Federal Republic of Germany).

Decisions that are communicated to the prosecutor's office must also be communicated to the person supporting the public prosecution, who has the right to appeal the decisions independently of the prosecutor's office (§ 401 of the German Criminal Procedure Code).

Separately, it is necessary to say about ensuring the right of the victim to legal assistance in criminal proceedings in Germany. According to §397 of the Code of Criminal Procedure of the Federal Republic of Germany, “a person supporting the prosecution may use the services of a consulting lawyer or instruct a lawyer to represent his interests; the lawyer has the right to be present at the court hearing; he must be notified of the date of the hearing if the court is notified that he is the lawyer of choice or has been appointed”⁴.

According to § 406f of the German Code of Criminal Procedure, which is called “Consulting lawyer and victim representative”, victims can use the services of a lawyer or have a lawyer represent them in proceedings (1). In addition, at the request of the victim, the presence of his authorized representative is allowed during his interrogation, with the exception of cases in which this could pose a threat to achieving the goals of the investigation; the decision on permission is made by the person in charge of the interrogation (2).

It must be emphasized that according to the Code of Criminal Procedure of Germany, at the request of the victim in cases strictly

⁴ Strafprozessordnung der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StPO/406h.html>

provided for by the Code of Criminal Procedure, a lawyer may be assigned to him. In accordance with § 397a “Appointment of a lawyer; provision of state assistance to pay the costs of proceedings”, at the request of a person supporting the prosecution, a lawyer must be appointed if he:

- is the victim of a criminal offense in accordance with §§ 177, 232–232b and 233a of the Criminal Code or as a result of a particularly serious crime in accordance with Part 6 of § 177 of the Criminal Code;

- is the victim of a criminal offense in accordance with § 184j CC, and the commission of this crime is based on an offense in accordance with § 177 CC or a particularly serious crime in accordance with Article 177 paragraph 6 CC;

- is a victim as a result of an attempt to commit an unlawful act in accordance with §§ 211 and 212 of the Criminal Code or is a relative of a person killed as a result of an unlawful act in accordance with § 395 (paragraph 2 no. 1);

- is the victim of a criminal offense according to §§ 226, 226a, 234–235, 238–239b, 249, 250, 252, 255 and 316a CC, which has resulted or is expected to result in severe physical or mental harm;

- is a victim as a result of an unlawful act in accordance with §§ 174–182, 184i–184k, 225 of the Criminal Code and at the time of the commission of the act he had not yet reached the age of 18 or was not able to adequately protect his interests;

- is a victim as a result of an unlawful act according to §§ 221, 226, 226a, 232–235, 237, 238 (paragraphs 2 and 3), §§ 239a, 239b, 240 (paragraph 4), §§ 249, 250, 252, 255 and 316a of the Criminal Code and at the time of receipt of the application has not reached the age of eighteen or cannot independently protect his interests to a sufficient extent⁵.

It is also important that if the prerequisites for the appointment of a lawyer in accordance with paragraph 1 § 397a of the German Code of Criminal Procedure are not met, the person supporting the prosecution, upon request, must be exempted from paying the procedural costs associated with the involvement of a lawyer, on the basis of the provisions applicable to civil disputes, if it is objectively or subjectively unable to independently protect its interests to a sufficient extent.

In accordance with § 406 h (paragraph 4) of the German Code of Criminal Procedure, at the request of a person entitled to act as a joint

⁵ Strafprozessordnung der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StPO/397a.html>

plaintiff, a lawyer may be temporarily appointed in the cases referred to in paragraph 2 of § 397a if: 1) this is necessary for special reasons; 2) attracting help is extremely necessary; 3) approval of legal assistance seems possible, but a timely decision on this issue cannot be expected.

In addition, according to § 406g of the German Criminal Procedure Code, under the conditions specified in paragraphs 4 and 5 of paragraph 1 of § 397a, a psychosocial guardian must be appointed to the victim at his request. In accordance with the conditions laid down in § 397a paragraph 1 points 1 to 3, numbers 1 to 3, a psychosocial legal guardian may be appointed to the injured person upon request if the special need of the injured person for protection so requires. Assistance to the victim is provided free of charge⁶.

One of the most important and significant is the right of the victim to compensation for damage caused by the crime against him. According to § 403 of the Code of Criminal Procedure of the Federal Republic of Germany, the victim or his heir may present to the accused a property claim arising as a result of a criminal act, relating to the jurisdiction of the civil courts, for which a claim has not yet been filed, in criminal proceedings, in proceedings in a district court, regardless of the amount recovered. Also, in accordance with § 404 of the German Code of Criminal Procedure, the victim can file a petition, the application of which entails the same legal consequences as filing a claim in civil proceedings; they arise at the moment the petition is received by the court.

It significantly contributes to ensuring the right of the victim to compensation that, in addition to going to court, it is possible for the victim to receive urgent and confidential financial support for the damage caused by the crime from various private and public charitable foundations (for example, the Berlin Foundation against Extremism and Violence (Stiftung contra Rechtsextremismus und Gewalt); Compensation Fund for Victims of Motor Accidents (Verkehrsofferhilfe); Stuttgart Fund for Victims of Trafficking in Persons and Forced Prostitution; Hessian Fund for Compensation of Damage Caused by Crimes of Prisoners or Patients of Prison Hospitals or Correctional Hospitals, where security measures related to isolation from society are carried out on a massive scale; Baden O-Württemberg Foundation for the Protection of Victims of Crime).

⁶ Strafprozessordnung der Bundesrepublik Deutschland URI: <https://dejure.org/gesetze/StPO/406g.html>

It is important that the German legislator separately §§ 406i–406j of the Code of Criminal Procedure of the Federal Republic of Germany indicates that victims should be provided with information about their rights arising from §§ as early as possible, usually in writing and, if possible, in a language they understand. 406d-406h Code of Criminal Procedure of the Federal Republic of Germany, and, in particular, that they:

- can report a crime or file an application to initiate criminal proceedings in accordance with § 158 of the Criminal Procedure Code of the Federal Republic of Germany;

- may bring a property claim arising from a crime, unless it is asserted in criminal proceedings in accordance with § 81 and § 403–406c;

- can bring a property claim arising from a crime in criminal proceedings in accordance with § 403–406c of the Criminal Procedure Code of the Federal Republic of Germany and § 81 of the Juvenile Court Act;

- may, under the conditions of §§ 395 and 396 of the German Criminal Procedure Code or part 3 of § 80 of the Juvenile Court Act, join a public action with an additional complaint and thereby: 1) in accordance with § 397a of the German Criminal Procedure Code, apply for the appointment of a legal assistance or provision of legal assistance in connection with their participation; 2) defend the right to interpretation and translation in criminal proceedings in accordance with paragraph 3 of § 397 of the Criminal Procedure Code of the Federal Republic of Germany and §§ 185 and 187 of the Law “On the Constitution of the Court”;

- may apply for an order against the accused in accordance with the Protection from Violence Act;

- can apply for social compensation in accordance with the fourteenth book of the Social Code;

- file a claim for compensation in accordance with the Law “On Remuneration and Compensation of Judges”;

- may make claims for compensation in accordance with federal or state administrative rules;

- achieve compensation for damage by resolving a dispute between the offender and the victim in accordance with §155a of the German Criminal Procedure Code;

- can receive support and assistance from victim support organizations, for example in the form of advice, by providing or arranging placement in a protective institution, or by organizing therapeutic offers such as

medical or psychological assistance, or other available offers of support in the psychosocial field⁷.

2. Reform of criminal procedural legislation in Ukraine: problems and comments

The proliferation of the military in Ukraine has profoundly affected all areas of our life, including the criminal justice system. The organs of criminal justice and, ultimately, our entire legal system have come to grips with unprecedented outcry, suddenly, with the new realities of current criminal activity in the minds of active military operations on the territory of Ukraine. Therefore, first of all, one of the key directions of Ukraine's current policy in the sphere of criminal justice in the minds of military aggression is the creation of a reliable legal and organizational mechanism for ensuring the protection of victims of crime in the minds of new movements and threats, or in other words, the reform of criminal procedural legislation. In Ukraine, the post-war period may include problems of protecting the rights of the victim, which will no longer be relevant even in the last three hours until the war. As a result, a whole series of changes and additions to the text of the formal criminal procedural law were made, but the reform will require further regulation, harmonization of the Ukrainian law Pressure with European. In connection with Ukraine's application for accession to the EU on 02/28/2022, it is important and urgent that there is a need to conduct a comprehensive screening of national legislation in accordance with the *acquis* of the European Union, in accordance with the Directive 2012/29/EU⁸, what is the most important legal instrument of the EU and establishes minimum standards for the rights of victims of wrongdoing and organizational and legal mechanisms that can be ensured by member states. Analyzing the provisions of the CCP of Ukraine in terms of ensuring the rights of victims of criminal offenses in accordance with Directive 2012/29/EU, following the adherence to minimum standards by the Ukrainian legislator. In general. At the same time, there are a number of important points that

⁷ Strafprozessordnung der Bundesrepublik Deutschland URL: <https://dejure.org/gesetze/StPO/406i.html>

⁸ Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 25 October 2012. URL: <https://eur-lex.europa.eu/eli/dir/2012/29/oj>

must be actively highlighted in the remaining hours of the doctrine and will require strict legislative regulation.

Directive 2012/29/EU requires Member States to provide adequate information support to victims of crime. Zokrema, we are talking about the “right to reason and be reasonable” (Article 3), the right to information, starting from the first contact with the competent authorities (Article 4), the rights of the victim in the hour of filing a crime (Article 5), the right to reject information own certificates (Article 6), the right to oral and written translation (Article 7). Let's round up the block of rights behind Directive 2012/29/EU – rights in criminal proceedings, in short, the right to be felt (Article 10), rights when acknowledging a charge (Article 11), rights when receiving services from fundamental justice (Article 12), the right to legal assistance (Article 13), the right to compensation (Article 14), the right to power (Article 15), the right to compensation for harm caused by criminal offences, especially guilty of the crime committed (Article 16).

Directive 2012/29/EU specifically defines rights related to the need to ensure the right to protection unless the person has been subject to repeated victimization: the right to protection (Article 18); the right to have no contact between the victim and the suspected and accused (Article 19); the right to protection during criminal investigation (Article 20), as well as the right to protection of privacy (Article 21).

Without violating the right to protection, Member States will ensure the availability of access to protection of victims and members of their families from secondary and re-victimization, such as contamination and revenge, including emotional risk noih psychological harm, as well as for the protection of the viability of the victims, I will finish it in an hour Today's date. Where necessary, such approaches also include procedures established by national legislation for the physical protection of victims and members of their families (Article 18).

Thus, on May 1, 2022, the Law “On introducing changes to the criminal procedural code of Ukraine to improve the criminal procedure in the minds of the military”⁹ was adopted, which affected the rich institutions of the Crimea Finally, the name of section IX-1 of the CCP was changed to “ A special regime of pre-trial investigation, judicial investigation in the minds of the military camp,” and article 615 of this

⁹ About making changes to the criminal procedural code of Ukraine to improve the procedure for criminal proceedings in the minds of the military: Law of Ukraine dated April 14, 2022. URL: <https://zakon.rada.gov.ua/laws/show/2201-20#Text>

section “Special regime of criminal investigation in the minds of the military camp” has been published in a new edition, henceforth, from time to time, I will take away the testimony of the victim, and at the same time I will add two or more already added details to the criminal prowess that is going on in the minds of the military camp, can be used as evidence in court, inclusively at the end, The progress and results of such an investigation were recorded using additional available technical video recording techniques. At the same time, it is significant that we have already emphasized, through the transfer of the CCP of Ukraine, sufficient guarantees to ensure the protection of victims of crimes from secondary victimization, as implied by Art. 18 Directive 2012/29/EU, regulate the protection of the right of the victim, his offender to protection from secondary victimization on the level of the basic Galouze criminal offenses, as well as strengthen the establishment of necessary testimony of the victim for his initiative in episodes associated with a serious threat secondary victimization, the risk of causing psychological, emotional and physical harm to the victim and the offender¹⁰.

Member States are taking steps to protect the injured person from secondary and re-victimization, from slander and revenge, which will result in the imposition of any services of fundamental justice. Such approaches ensure that victims who have chosen to take part in the processes of basic justice have access to safe and competent services of basic justice (Article 12 of Directive 2012/29/EU). In connection with this, it is significant that in the CCP there are daily general norms that would completely ensure the possibility of effective mediation for criminal offenders. In the official CPC of Ukraine, the mediator is not recognized as a participant in criminal proceedings, but the legislator orders “another person” for the assistance of whom reconciliation can be carried out entirely at home. It is allowed to consolidate the judicial procedure of mediation in criminal proceedings as a type of fundamental justice and a type of legal communication of the victim. In our opinion, mediation for criminal justice is not only an alternative way of regulating the criminal-legal conflict, but also a type of legal communication of the victim, a way of compensating for the harm caused by crime Minal offenses. So, the preparatory steps that the mediator plays are based on this

¹⁰ Rakipova I. V. Theoretical, legal and praxeological ambushes of legal communication of victims in criminal cases : dis. ... doc. legal Sciences : 12.00.09. Odessa, 2023. 544 p. URL: <https://dspace.onua.edu.ua/items/309a09cf-7ab0-41e5-b6bd-d536dfb47098>

article. 16 of the Law of Ukraine “On Mediation”¹¹, simultaneously, in the meeting, the collection and exchange of information, documents necessary for the parties to the conflict to reach a decision. And the satisfaction of the results of mediation (Article 21 of the Law) can be the basis and basis for initiating and settling a settlement for reconciliation or a written settlement of the victim for the settlement of guilt (as the victim suffered a fate at the right) in criminal activities. It is important for those that the request for reconciliation in criminal offenses related to domestic violence can only be carried out at the initiative of the patient, his representative, the legal representative. A similar initiative for effective mediation at different times Criminal offenses related to domestic violence should also belong to the victim, his representative, the legal representative.

It is significant that mediation can be carried out not only during the pre-trial or on-court proceedings, but also before the final decision of the court (Article 3 of the Law of Ukraine “On Mediation”). According to Art. 539 of the CPC, the patient has the right to go to court with fuss about the law, which seriously interferes with their rights, obligations and legitimate interests. Therefore, it is necessary to make a note about those that are considered by the court in the hour of the conquest of the viroks (Article 537 of the CCP) that can be considered based on the results of mediation. It is obviously necessary to regulate the institution of mediation in criminal matters, especially in the face of the final decision of the court. It is important to understand the concept of mediation and the results of mediation for criminal investigators.

Member States are responsible for ensuring that injured persons have access to legal assistance, as they may be considered parties to criminal activities. The legal and procedural rules for which victims have access to legal assistance are established by national law (Article 13 of Directive 2012/29/EU). The CCP of Ukraine still does not transmit the symptoms of the obligatory part of the representative of the victim in criminal proceedings, although in the rich scientific works of Ukrainian procedural investigators this food was observed. It is proposed to regulate the types of obligatory participation of the representative of the victim, his offender (physical characteristics) in a criminal case and the type of his arrest

¹¹ About mediation: Law of Ukraine dated November 16, 2021 URL: <https://zakon.rada.gov.ua/laws/show/1875-20#Text>

by the investigator, the investigator, the prosecutor, the investigator, the judge, the court for Nya representation for recognition¹².

Member States will ensure that victims, depending on their needs, have free access to confidential victim support services that act in the interests of victims before, during and after the crime. Zhenya. Members of the guilty family have access to services with the support of victims according to their needs and the level of harm resulting from a criminal offense committed against the victim (Article 8 of Directive 2012/29/EU). Victim support services, as set out in Article 8(1), are required, at a minimum, to ensure availability of: (a) information, advice and support to promote the rights of victims, including access to national authorities compensation for injuries caused by criminal offenses, and their role in criminal investigation, including preparation before participation in a court hearing; (b) information about any other specialized support services or direct support to them; (c) (d) (e) emotional and, if possible, psychological support; for the sake of financial and practical nutrition related to evil; which is not otherwise transmitted by other state or private services, for the sake of risk and avoiding second and repeated victimization, contamination and retribution (Art. 9 Directive 2012/29/EU).

In connection with this, we understood that the non-verbal communicative manifestations of the patient (emotional-behavioral reactions) are directly related to his psychological, mental and physiological state, mental health for such criminal offenses, act as a non-verbal form of legal communication of the victim, which can be implemented by the establishment of special confidential services for supporting victims (VSP) in the structure of the Coordination Center for Legal Assistance, its territorial branches under the Ministry of Justice of Ukraine the method of giving them access, zocrema, to cost-free psychological assistance¹³ [10]. What is necessary is an effective mechanism for ensuring the rights and freedoms of victims of criminal offenses that are not threatening to their health, as well as effective approaches to improve the mental health of victims of crime nal crime; the creation of confidential services to

¹² Rakipova I. V. Theoretical, legal and praxeological ambushes of legal communication of victims in criminal cases: dis. ... doc. legal Sciences: 12.00.09. Odessa, 2023. 544 p. URL: <https://dspace.onua.edu.ua/items/309a09cf-7ab0-41e5-b6bd-d536dfb47098>

¹³ Rakipova I. V. Theoretical, legal and praxeological ambushes of legal communication of victims in criminal cases : dis. ... doc. legal Sciences : 12.00.09. Odessa, 2023. 544 p. URL: <https://dspace.onua.edu.ua/items/309a09cf-7ab0-41e5-b6bd-d536dfb47098>

support victims by providing access to patients, as well as members of their families, is tailored to their specific needs and the level of ill-health established as a result of criminal offenses, to the general psychological, medical, social-rehabilitation, consulting, legal and media assistance, for effective and comprehensive rehabilitation support for victims of criminal offenses immediately after the commission of the remaining ones.

Also, in the minds of a large-scale war, the need to protect the needs of the suffering individuals who are victims of international atrocities becomes especially urgent. In connection with this, the Strategy for a secure, victim-centered approach to dealing with conflict-related sexual violence was presented by the Office of the Prosecutor General of Ukraine on 10/14/2022¹⁴. Zokrem, this Strategy has transferred the creation of subsidiaries to support the victims within the framework of the prosecutor's office. In addition, the Concept of Implementation of the Mechanism for Supporting Victims and Testimonies of Military and Other International Evils has recently been presented. officials, confirmed by the Order of the Prosecutor General dated April 11, 2023¹⁵. How to tell us about the complications of a representative of a criminal victim, who also suffered from military and other international crimes, in our opinion, to ensure legal support Ogoyu have criminal provadzhenni.

After all, one of the most painful problems of modern criminal proceedings is, we believe, compensation for damage to the victim of a criminal offense. The need to adopt the Law of Ukraine "On compensation to the victim, legal successor of the victim (individuals) for damage caused by a criminal offense at the expense of the State budget" is justified and has remained relevant for several decades.

CONCLUSIONS

In this way, with the construction of certain criminal procedural norms and institutions and the evolution of Ukrainian criminal procedural legislation, especially during the post-war period of Ukraine, according to Germany, a thought, both valuable and beautiful, respecting those who have problems with ensuring rights and legal The interests of the victim

¹⁴ Strategy for a victim- and witness-centered approach to addressing conflict-related sexual violence URL: <https://gp.gov.ua/ua/posts/ofis-genprokurora-prodovzuje-robotu-nad-realizacijeyu-pidxodiv-do-vedennya-sprav-shhodo-seksualnogo-nasilstva-povyazanogo-z-konfliktom>

¹⁵ The concept of implementing the Mechanism for supporting victims and witnesses of military and other international crimes, approved by order of the Prosecutor General dated April 11, 2023. No. 103 URL: <https://zakon.rada.gov.ua/laws/show/v0103905-23#Text>

in the criminal process in Ukraine are connected, first of all, with the prevention of harm caused by criminal offenses, the implementation of the rights of the victim to free legal assistance, the prevention of new victimization, as well as further promotion in the form of private accusation. And on the basis of international standards of human rights, a thorough analysis of Ukrainian legislation and European legislation, the Federal Republic of Russia, the CCP of the Federal Republic of Russia, Ukrainian scientific research and research that may be generated in fundamentals and nutritional concepts related to practice as in theoretical, So, on a praxeological level, we propose a systematic and comprehensive solution to the problems of real security of the rights of victims in Ukraine during the post-war period, which is based on a victim-oriented approach (sacrifice-oriented approach), establishment of the Consultative Mission of the European Union in Ukraine.

SUMMARY

The work is dedicated to the investigation of the protection of rights and legitimate interests suffered in the criminal process under the legislation of the Federal Republic of Russia in the aspect of valuable information for Ukraine on the way to the harmonization of the Ukrainian language The European legal field and the reform of our Galuzian legislation at the final hour. The need to develop specific proposals for a systematic and comprehensive solution to the problems of ensuring the rights of victims in Ukraine is emphasized Opeisky Union in Ukraine.

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