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PROBLEMS OF PROTECTING RIGHTS OF VIOLENT CRIMES VICTIMS: ASPECTS OF THE HARMONIZATION PROCESS OF UKRAINIAN LAW WITH EU LAW

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Abstract
This study is dedicated to the research on harmonization problems of Ukrainian legislation with EU law in the field of ensuring victims of violent crimes rights. The historical prerequisites and the current state of development of European legislation in the field of ensuring organizational, legal and judicial mechanisms for the protection of the rights of victims of violent crimes are determined. These results are used to clarify and outline the problems in the same field in Ukraine through comparative legal methods and qualitative thematic analysis. Author concluded that the criminal procedural norms of Ukrainian law are not detailed enough in the sphere of protecting victims of violent crimes and are insufficient comparing to EU standards. Taking into consideration that Ukraine has enshrined on the constitutional level its strategic movement towards European Union and in 2022 got candidate to EU status and obligations to reform its legal system, the authors emphasize the necessity of implementing EU standards for rights of victims of violent crimes protection from revenge of perpetrators, secondary victimization and ensuring the right to compensation through supplementing Ukrainian legislation with norms and standards from the EU legal framework.
The authors also stress on negative consequences of Russian intervention, which strongly affected the victims of violent crimes rights field, not only by increasing amounts of violent crimes and victims but also indirectly forcing to change the focus of attention of Ukrainian legislators and scholars on developing and ensuring legal mechanisms for the protection and compensation of victims of war crimes, while paying less attention to the problems of harmonization of Ukrainian legislation with EU standards in the field of protection of the rights of victims of violent crimes.
Keywords: violent crimes, victim`s rights protection, secondary victimization, legislative compensation mechanism, Ukrainian legislation about victims, implementation of EU standards.

Introduction

The actuality of the research about protecting victims of violent crimes can be explained by the devastating consequences not only for the victim but also a serious threat to society as a whole. One of the leading areas of activity of the European Union, enshrined in the founding treaties, is respect and protection of human rights. Ukraine has enshrined on constitutional level the strategic movement towards European Union and since 2022 has a candidate to EU status. One of the components contributing to integration processes is ideological unity, compatibility with core values and principles of the EU, particularly in human

rights protection sphere. Therefore, Ukraine has an obligation to reform its legal system on the basis of the EU standards. Common values of European states include respect for fundamental human rights and this makes the problems protection of victims' rights relevant both for the EU and Ukraine.

Nowadays society is more and more aware of problems, faced by victims of violent crimes. The understanding of these problems has developed significantly and even became a part of political discourses (Holder, Kirchengast & Cassell, 2021). The attention to this topic was brought not only by researchers in law and criminology but also by psychologists and psychiatrists, who insisted on the vulnerabilities of victims and emphasized significant anxiety, depression and post-traumatic symptoms, which can be experienced victims (Lefebvre et al., 2021).

In the European Union, the attention to the victims of violent crimes leads to more involvement of legal bodies and the creation of more legal mechanisms for guaranteeing victims' rights (O'Driscoll, 2023). Scholars in the EU are analyzing the problems of maintaining the rights of victims of violent crimes and focusing on the protection of victims (Diaconu, 2022) secondary victimization (Pemberton & Mulder, 2023) and compensation for victims, which can allow to cover the victims' economic losses resulting from the crime (O'Driscoll, 2023).

For Ukraine, this topic is quite new and has not attracted so much attention as in the EU, although the victims of violent crimes are also recognized in Ukrainian legislation. More attention to this subject was brought by the movement towards harmonization of Ukrainian legislation with the EU (Klymkevych, 2022). Mechanisms of protection of the victims' rights during the pre-trial investigation are described among Ukrainian scholars, but in the view of current legislation, without involving problems such as secondary victimization (Soroka & Kryzhanovskyi, 2019a). The idea of creating a compensation fund for victims is also being developed.

However, now the most attention is attracted to the war in Ukraine. In the conditions of war, the number of violent crimes increases significantly, and new types of violent crimes are becoming present, what was even recorded by international organizations such as the UN: torture combined with interrogations, rape of civilians and prisoners – is gaining a mass character in the Russian armed forces (Independent International Commission of Inquiry on Ukraine, 2023). Thus, Ukrainian investigators had to work not only on crimes, done by citizens, but also a huge amount of war crimes, done by Russian military forces. This brings additional difficulty to fulfilling and maintaining the rights of victims, in addition, it increases the amount of gender-based violence (Anosova, 2023).

Therefore, the topic of victims of violent crimes protection in Ukraine and its connection to the harmonization process is relevant and needs further research.

The article aims to research problems of protecting the rights of violent crimes victims, taking into consideration aspects of harmonization of Ukrainian Law with EU Law in the field of protection of the rights of victims of violent crimes. To achieve the article`s aim, the next tasks should be fulfilled:

– Analysis of the historical and theoretical aspects of developing the rights of victims of violent crimes in the EU and finding out the prerequisites for their legislative consolidation. This task may be performed by implementation of the next methods and approaches: qualitative approach, analytical approach, historical-chronological method, etc.

– Analysis of the modern standards of maintaining the rights of victims of violent crimes in the EU, outlining the organizational and legal aspects of ensuring the rights of victims in the EU and studying the protection of victims` rights in the EU with the relevant judicial practice. For fulfilling this task, the qualitative thematic analysis is gaining special importance.

– Identifying the problems of harmonization of Ukrainian legislation with EU law in the field of protection of the rights of victims of violent crimes and outlining the prospects for solving these problems, using comparative legal method and qualitative thematic analysis.

Historical and theoretical aspects of the protection of violent crimes victims` rights in the EU

As noted by the European Parliamentary Research Service in 2017, the first steps in the field of victims' rights at the EU level were closely related to the Maastricht Treaty (Treaty on European Union, 1992). As a result, serious legal problems in this area were revealed, such as legal uncertainty, non-transparent decision-making procedure, as well as lack of judicial control (European Parliamentary Research Service, 2017).

However, the issue of the protection of victims in criminal proceedings was first raised at the EU level in the Tampere Program of 1999. This program opened the way for the further development of EU policy

regarding the rights of victims. So, for example, within this program, a special section "Better access to justice" was adopted, which justified the need to establish minimum standards for the protection of crime victims, in particular, regarding access to justice, as well as the right to compensation for damages, taking into account court costs (European Parliamentary Research Service, 2017).

Also, the strong impact on the prerequisites of the researched question had a Decision of the European Court on February 2, 1989, in case 186/87. This Decision influenced the development of the institute for the protection of the rights of victims (I. W. Cowan v. Trésor public, 1989). According to that case, the French Commission on Compensation for Victims of Crime appealed to the EU Court regarding compensation to a citizen of Great Britain. This citizen – I. Cowan – claimed compensation for his injuries, as he became a victim of a violent crime in Paris. The French Treasury refused to pay such compensation. The French criminal procedure law stated that the British citizen was ineligible subject of receive compensation according to the criterion of citizenship. However, Cowan emphasized the prohibition of discrimination by Article 7 of the EEC (currently Article 12 of the TFEU). Such a rejection concerned the discrimination of tourists during travel, as well as their rights to receive services in another country. Therefore, the rejection had nothing to do with the criminal procedural rights of individuals. However, the EU Court nevertheless noted that the national legislation of the states cannot establish discriminatory rules against persons who are guaranteed the right of equality within the Community and cannot limit the basic freedoms provided for by the Community legislation.

Thus, in this decision, the EU Court established a standard for the prohibition of discrimination against the rights of victims. So, the citizens of foreign countries could be also counted as victims. In addition, they were granted the same rights as citizens of the state on whose territory they were harmed.

Despite the existence of this judgement, for a long time, there was no normative legal act that would establish the minimum standards of the rights of victims of violent crimes. For example, until 2001 there were available only soft law instruments in this sphere, such as the resolution of the General Assembly of the United Nations and the Recommendation of the Council of Europe.

However, in 2001, the European Parliament adopted the Framework Decision "On the status of victims in criminal proceedings". This Framework Decision was intended to establish a comprehensive approach to solving the problem of victims' rights. Scholars characterized this Decision as the first imperative document of the international level, which was related to the protection of the rights of victims (Groenhuijsen & Pemberton, 2009). So, the aforementioned Framework Decision unified the standards of victim protection at the supranational level and became mandatory for internal implementation by Member States.

Moreover, it has introduced the concept of "victim" (Official Journal of the European Communities, 2001) at the EU level. In addition, the Framework Decision established several important rights and guarantees for victims, such as the right to receive information in a language they understand, the right to participate in the criminal process, and to submit evidence.

Despite the significant progressiveness of this Decision, the researchers note one significant drawback: it did not have a direct effect on the territory of the EU member states (Lutsyk & Klymkevych, 2018). Although, given the "case of M. Pupino", it can be concluded that the Framework Decision still had a certain indirect influence on the national legislation of the Member States. So, the courts were obliged to interpret the legislation by the norms of EU law, including framework decisions (The Court of Justice of the European Union, 2005).

In 2001, the European Commission developed another act – the Green Book "Compensation for Damage to Victims". The novelty of this book was the identification of types of victims and the differentiation of damage caused to them as a result of criminal encroachment (Commission of the European Communities, 2001).

The next important step was the adoption of Directive 2012/29/EU, which replaced the Framework Decision of 2001.

Both acts – the Directive and the Framework Decision – are based on Article 82 of TFEU. According to this provision concerning the "rights of victims of crime", the European Parliament and the Council can use minimum rules adopted by the Directives' ordinary legislative procedure. The term "minimum rules" means that Member States are free to grant victims more, but not less, broad rights (Official Journal of the European Communities, 2012b).

On 24 June 2020, the European Commission adopted its first EU Strategy on Victims' Rights. The purpose of the strategy is to guarantee and ensure the rights of victims of crimes, regardless of where in the EU and under what circumstances the crime occurred. To this end, this document outlines the actions

to be taken by the European Commission and the Member States. The strategy is based on an approach that involves empowering victims of crime and allows consolidating efforts in the victims' rights sphere.

In addition, the strategy contains five priorities: effective communication with victims and a safe environment to report crime; improving support and protection for the most vulnerable victims; facilitating access to compensation; strengthening cooperation and coordination between all relevant entities; strengthening the international dimension of victims' rights (European Commission, 2020).

Current standards for ensuring the rights of violent crime victims in the EU

Even though Articles 2 and 21 of the TEU emphasize the values of the European Union, which are related to human dignity, respect for human rights and non-discrimination (Treaty on European Union, 1992), the European Union has still not formed a comprehensive mechanism for the protection of human rights. Therefore, the national system of human rights protection, which functions in the Member States, is complemented by the system of protection at the level of the EU (Bandas, 2014).

The European Parliament also plays a significant role in ensuring the rights of victims. As for the Victims' Rights Directive, Parliament can exercise oversight and control and exercise its budgetary powers, for example by drafting parliamentary resolutions. As for the allocation of financial resources, activities supporting victims' rights at the EU level are currently financed from different budgets. For example, within the framework of the "Justice Program" in 2016, an amount of money was allocated for the victim's rights sphere, particularly for the effective application of EU criminal legislation (European Parliamentary Research Service, 2017).

Standards of EU law regarding the protection of victim`s rights cannot be ignored, and the main documents that enshrine the observance of fundamental human rights – are the Charter and the ECHR.

The application of the Charter depends on whether this case is regulated by EU legislation, or, in other words, whether the situation is subject to EU legislation. At the same time, the Charter applies to a wide range of procedural aspects of criminal justice. After all, even when the authorities of the Member States act within the framework of the Directive on the rights of victims of crime, they must comply with the provisions of the Charter.

The rights of victims are mentioned in Article 47 of the Charter and Article 13 of the ECHR. It is noteworthy that Article 47 of the Charter provides a more precise and broad formulation of the victim's right to participate in the trial than Article 13 of the ECHR, in particular, the European Union Agency for Fundamental Rights notes this in its report "Crime, Safety and Victims' Rights: Fundamental Rights Survey". Thus, Article 47 of the Charter gives the right to an effective remedy to anyone who can claim that their rights and freedoms guaranteed by EU law have been violated (Official Journal of the European Communities, 2012a). Article 52 of the Charter defines that, since the rights of the Charter correspond to the rights granted by the ECHR, the meaning and scope of the rights of the Charter are the same as in the ECHR, except for cases where the Charter provides broader protection. So, the ECHR only "establishes a minimum threshold of protection". Member States are therefore free to implement the Victims' Rights Directive in a manner consistent with their legislation, but they must ensure that in all cases they implement it in a manner consistent with the Charter.

Furthermore, one of the important aspects of a fair trial is the equality of the parties, according to the practice of the ECtHR. This means that participants should have equal opportunities to express and defend their views and interests (European Union Agency for Fundamental Rights, 2021).

The core legal acts in the sphere of rights of violent crime victims provide the next possibilities for victim`s protection:

1. The provisions of the Charter and the ECHR provide rights to be protected from violence and can be applied to situations in which there is a real risk of further victimization. In particular, these are Articles 1-7 (European Union Agency for Fundamental Rights, 2021).

2. Regarding the victim's right to protection against revenge, intimidation and re-victimization, the most important are Articles 18 and 22, declared by the Directive on Victims' Rights (Official Journal of the European Communities, 2012c).

3. Regarding the issue of compensation, a landmark decision is C-129/19, Presidenza del Consiglio dei Ministri v BV. This case concerned receiving compensation from the state. The victim – BV, a resident of Italy, was a victim of sexual violence committed by two Romanian citizens in Turin. Although the perpetrators were sentenced to imprisonment, as well as payment of 50,000 euros to the victim for the damage caused, BV was unable to collect this amount because the convicts escaped. In 2016, Italy

passed a law establishing a national compensation scheme for victims who cannot obtain compensation from the offender. The law applied retroactively from 30 June 2005 but operated with fixed rates of compensation depending on the type of crime committed. Therefore, for victims of sexual violence, the fixed amount was 4,800 euros. The EU Court concluded that Article 12 of Directive 2004/80 obliges each Member State to provide a compensation scheme that covers all victims of violent intentional crimes committed on their territory, not just victims in a cross-border situation. Thus, any victim – regardless of their place of residence – has the right to receive fair and adequate compensation when a crime is committed against them. The Court also emphasized that Member States will exceed their powers if they provide only symbolic or insufficient compensation. Although Article 12 of Directive 2004/80 does not prohibit the establishment of fixed rates for compensation, the compensation must be sufficient and justified. Moreover, although the Supreme Court of Cassation of Italy had to finally decide whether the established requirements had been met, the ECJ expressed doubts that the fixed rate of €4,800 "is sufficient" because "sexual violence ... causes the most serious consequences of a violent intentional crime" (The Court of Justice of the European Union, 2020).

3. Also significant is the case of Ian William Cowan v. Tresor Public, where was discussed that a victim of a crime can receive compensation even if the crime took place in a Member State other than the victim's country of residence. Thus, most Member States ensure cross-border aspects of victims' rights within their legal system through the principle of non-discrimination based on nationality (The Court of Justice of the European Union, 1989).

4. The mediation aspect within the framework of observing the victims` rights is quite interesting. It is noteworthy that unlike Article 10 of the 2001 Framework Decision on the Status of Victims in Criminal Proceedings, the Directive does not contain an obligation for Member States to "facilitate mediation in criminal cases for crimes which it considers appropriate for such measures", nor does it require Member States to introduce restorative justice services, if they do not already have such a mechanism. Therefore, the Court of Justice of the EU in its decisions in the cases of Eredics & Sápi and Gueye/Salmerón Sanchez confirmed that the choice of offences for which mediation should be applied belongs to the Member States, and they are not obliged to do so (The Court of Justice of the European Union, 2010; 2011).

Problems of harmonization of Ukrainian legislation with EU law in the field of protecting the rights of victims of violent crimes

The rights of victims of violent crimes in Ukraine remain largely ignored. As noted by Soroka and Kryzhanovskyi: "The victim is an important participant in criminal proceedings, but remains on the background of both legislative and law enforcement practice" (Soroka & Kryzhanovskyi, 2019b, p.115). Unfortunately, this approach is not surprising, because in Ukraine, as in most post-Soviet countries, still exists the so-called "retributive system". The main purpose of this system is to punish the perpetrator. Therefore, such a system leads to problems in protecting the rights of the victim. Even though the new Criminal Procedure Code of Ukraine contains a significant list of rights of the victim, in practice these rights do not have sufficient guarantees. It is also worth paying attention to the fact that the code does not reflect the new standards of victims' rights, which are widely used in EU legislation. Therefore, at the EU level, guarantees of victims' rights are specified in the EU Charter, which obliges states to protect these rights. The Directive on the Rights of Victims, which give crime victims the right to compensation and treatment without discrimination, cannot be ignored (European Union Agency for Fundamental Rights, 2021).

The Constitution of Ukraine declares that a person, their life, health and dignity, inviolability and security are recognized as the highest social value (Verkhovna Rada of Ukraine, 1996).

In addition, the signing of the Agreement on Partnership and Cooperation with the European Communities and their member states by Ukraine in 1994 contributed to the initiation of the harmonization process with the law of the EU.

The main problematic points regarding the rights of victims in Ukraine, as well as in the EU, are the presence of secondary victimization and difficulties in paying compensation. In addition, several other points are particularly relevant for Ukraine:

Firstly, support services should be implemented, because information and protection are important even before formal proceedings begin. After the case is heard, support and protection services against re-victimization and retaliation may remain necessary for some time. This is confirmed by Article 8 of the Directive 2012/29/EU, which provides for the creation of a confidential support service for victims, which functions on a free basis and acts in the interests of victims before, during and even

sometime after the end of criminal proceedings. Such services may be established as public authorities or operate on a non-governmental basis and provide: consultations preparing victims to participate in the court hearings, information about the progress of proceedings or referrals to necessary specialists, psychological support.

Secondly, the problem of secondary victimization is quite urgent. Although, it is not a direct consequence of a criminal act, but is caused by a reaction of institutions and other individuals to the victim (Council of Europe, 2006). In this case, the victim needs protection from the negative psychological, material and legal consequences of the crime. Victims of violent crimes, human trafficking, terrorism, hate crimes, and all crimes against minors are the most vulnerable to secondary victimization. According to Article 22 of the Directive 2012/29, individual clarification of the victim's protection needs is necessary to determine the special measures that must be effective during criminal proceedings. Such an individual assessment should, in particular, take into account: personal characteristics of the victim; type or nature of the crime; the circumstances of the crime (European Parliamentary Research Service, 2017).

When considering the problem of secondary victimization, attention should be paid to the psychologically difficult interrogation procedure. Unfortunately, there are still no norms in Ukraine that oblige police officers to take into account the emotional state of the victim and to show respect and delicacy during interrogation at the legislative level. Moreover, even from society's point of view, indifference or outright rudeness towards the victim of a crime is not something terrible and is perceived by people as something common. Victims may be questioned about a traumatic event many times, often for years, until final judgment is introduced.

In its turn, the European standards, enshrined in Article 18 of the Directive 2012/29, insist on ensuring that only questions directly relevant to the case are asked during cross-examination. Also, the number of interrogations to which the victim is subjected may sometimes be limited. In addition, the protection of the dignity of the victim involves the treatment of employees, who interact with victims empathically and professionally. There could be specified restrictive orders, procedures for protecting information about the victim, etc.

As studies in various European countries show, if a crime has been committed once, the probability that a similar crime will be committed against the same victim or the same family again increases (Orlean, Pavliukovets, Krapyvin et al., 2020a). Unfortunately, Ukraine is no exception, and victims of crimes here also need physical protection from intimidation and revenge. However, in practice, they very often remain helpless. According to clause 32 of the Preamble to Directive 2012/29, there is a need to notify the victim about the escape or release of an offender, in case there is a risk of causing harm to the victims. In addition, it is necessary to distinguish categories of victims who need special support and protection due to the high risk of re-victimization, intimidation and revenge. According to clauses 17, and 18 of the Directive`s 2012/29 Preamble, this category includes victims who are expected to testify, women who have become victims of gender-based violence, children, victims of human trafficking, persons who are economically or socially dependent on the offender, as well as victims of discriminatory crime on grounds related to their characteristics. Special attention is needed for victims of terrorism, organized crime, human trafficking, sexual violence, exploitation or hate crimes, as well as victims with disabilities (OSCE Office for Democratic Institutions and Human Rights, 2020).

It should also be taken into account that the victim may feel suffering from the meeting with their abuser. That is why it is worth trying to minimize the number of such meetings.

During the trial under the EU standards, the following can be applied: measures aimed at avoiding visual contact between victims and perpetrators through the use of communication technologies; measures that allow the victim to be heard in the courtroom without presence, measures that make it possible to avoid unnecessary questioning about the personal life of the victim, unrelated to the criminal offence; as well as measures that make it possible to hold hearings in the absence of outsiders.

Thirdly, the rule on the obligation of the victim to testify directly in court contributes to the risks of physical violence, revenge or threats against the victim by the suspect of the accused. Indeed, because of clause 28 of the Directive 2012/29 Preamble, there is no obligation to provide information if its disclosure could cause harm to the case or the victims or if they consider it to be against their security interests. Such a provision fully corresponds to the proclaimed Article 56 of the Criminal Procedure Code of Ukraine. However, the main problem regards the fact that according to the legislation of Ukraine, judges are prohibited from referring in the verdict to the testimony given to the prosecutor or the investigator during the pre-trial investigation. So, if the victim does not testify in court, the earlier

testimony will not have any legal significance. Therefore, under such conditions, if the victim refuses to testify in court, the accused can avoid responsibility.

Unfortunately, there are quite frequent cases when the victim is pressured and forced to give up their testimony in court. Therefore, a vivid example of such a situation is an excerpt from an interview given in the Research of the Expert Center for Human Rights for 2020: "Prosecutor: "Cases of threats and the use of violence in criminal proceedings for violent crimes are very common. Recently, we had such threats in human trafficking proceedings. The last case is about rape: the lawyer of the suspect came to the victim, who persuaded, encouraged and, in the end, threatened..." (Orlean, Pavliukovets, Krapyvin et al., 2020b, p.126).

At the same time, Recommendation Rec (2005) 9 mentions the establishment of criminal liability for acts of intimidation of victims and witnesses and their relatives; and unauthorized disclosure of confidential information about procedures for adopting, implementing, changing or canceling protection measures or programs (Recommendation Rec (2005)9).

Next, there is currently no state-prescribed mechanism for compensating the damage caused by crime in Ukraine. There are not rare cases when it becomes necessary to pay for the victim`s treatment because of crime, or in the case of murder, the victim's relatives have to find funds for their burial. Quite often, it seems impossible to get compensation from the convicted person. It should be noted that there have been proposals to create a special compensation fund for victims of violent crimes.

The Cabinet of Ministers of Ukraine had approved the draft law on the creation of a Fund to provide social assistance to victims of violent crimes. It was planned that the draft Law "On Compensation for Damage to Victims of Violent Criminal Offenses" №3149 was supposed to enter into force already in 2021. Therefore, victims who suffered damage to their health as a result of a violent crime would be able to count on compensation from the fund. Furthermore, damages in connection with the loss of earnings due to the violent crime or harm to health and incurring the costs of medical care were to be compensated (Verkhovna Rada of Ukraine, 2020).

In its turn, the EU provides a serious attitude to the rights of victims to compensation. Compensation is considered part of criminal justice. Research by the European Union Agency for Fundamental Rights emphasizes that compensation to the offender should be seen as a matter of criminal rather than civil justice. Therefore, it is up to the criminal courts to determine the compensation, and the state bodies - to implement the decisions of the courts. It is believed that instead of treating compensation as a private matter for the victim, taking the victim to civil court or requiring the victim to act as a civil party along with criminal proceedings, the criminal court should be able to award compensation. And the implementation of these parts of the court decision must be provided by state bodies.

In 2014, the Association Agreement between Ukraine and the EU was ratified and in 2017, the Association Agreement between Ukraine and the EU finally entered into force (Official Journal of the European Communities, 2014). Taking into account this fact, today the study of the processes of harmonization of EU law and Ukrainian law has become acutely relevant. Thus, the topic of the principle of respect for fundamental human rights, in the light of ensuring the rights of victims, is also important.

Therefore, the harmonization of the national law of the associated countries with the law of the European Union involves the adoption of national legal acts, which would take into account the provisions of EU law. In particular, harmonization processes provide for the incorporation into national legislation of legal acts of the EU, mutual recognition by the parties of current standards, as well as the parallel adoption by associated countries of normative acts that are identical or similar in content to acts of the European Union. So, because of harmonization, the national law of such countries should be supplemented by the norms of EU law (Bohachova, 2009).

At the same time, it should be taken into account that the candidate countries must meet the requirements of the Copenhagen criteria for joining the European Union. According to these criteria, membership in the EU requires from the candidate country the stability of institutions that guarantee democracy, supremacy rights, respect for human rights and protection of minorities. So, the countries wishing to become members of the EU should implement such norms in legal acts and help their fulfillment in everyday life. According to Articles 6 and 49 TFEU, any European country that adheres to the principles of freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law can apply to the EU for membership (Official Journal of the European Communities, 2012b).

Generally, it is quite obvious and natural that within the framework of the Association Agreement with the EU, most attention is paid to issues of economic cooperation. Both in practice and scientific discussions,

it is usually about it. Even one of the most famous cases, which refers to the principle of fundamental human rights and declares that human rights are part of the unwritten general principles of EU law, and to which most scholars usually pay attention – Erich Stauder v City of Ulm-Sozialamt – also has an economic implication. However, in addition to the implementation of competition norms, there are also EU acquis norms, which in particular provide for respect for fundamental human rights.

The principle of respect for fundamental human rights cannot be observed without guarantees of security and effective renewal mechanisms. One of these human rights is the right to life, health and respect for dignity. Thus, the legislation of the states must guarantee 'compliance with these rights. That is, even if the state could not protect the victim from the crime, which is not always possible in reality, it should at least protect him from the consequences of the crime.

Therefore, according to Article 2 of the Charter, the state has a positive obligation to protect life (Official Journal of the European Communities, 2012a).

In the case Gongadze v. Ukraine, the European Court of Human Rights emphasized that the first sentence of paragraph 1 of Article 2 of the Convention obliges the state not only to refrain from intentional or illegal deprivation of life but also to use appropriate measures to protect the lives of those who are under its jurisdiction. This, in turn, implies:

Firstly, the task of the state is to ensure the right to life by adopting effective norms of criminal laws to prevent the commission of crimes against a person, provided by a law enforcement mechanism to prevent, eliminate and punish violations of such norms.

Secondly, the positive duty of state authorities to take preventive measures to protect a person or persons whose life is threatened by the criminal actions of other persons (European Court of Human Rights, 2005).

Therefore, because of the harmonization processes currently taking place in Ukraine concerning EU law, there is a possibility of positive changes in the future regarding the observance of the principle of respect for fundamental human rights, in the light of ensuring the rights of the victim.

Conclusions

So, solving the problems of protecting the rights of victims of violent crimes is inextricably linked to the observance of the principle of respect for fundamental human rights, which belongs to the EU acquis.

The European Union has made a long way in developing a system for protecting the rights of victims of violent crimes.

Because of the harmonization with EU law, Ukraine faces the question of the need to improve its system of protection of the victim's rights. According to the criteria for joining the EU, only a state with an appropriate level of observance of human rights and fundamental freedoms can become a full member of the European Union.

Thus, today the topic of protecting the rights of victims in Ukraine is gaining special relevance. However, so far it can be stated that it is not sufficiently developed, both at the legislative level and in the national scientific discourse. Having analyzed the criminal procedural norms of Ukrainian law, we can conclude that currently in Ukraine there are more detailed norms about protecting the rights of suspects in violent crimes than victims of these crimes.

Observing the basic guarantees of the rights of victims in the EU, it can be stated that there is a need to introduce similar progressive instruments into Ukrainian legislation.

There were already attempts to make some positive changes to the legislation of Ukraine, but it may take a long time to achieve the goal of harmonizing legislation in this direction, because it requires quite serious efforts, adequate funding (such as the creation of services to help victims and the use of technologies to avoid contact between the victim and his offender).

In addition, the war has negatively impacted the process of harmonization victims` rights sphere with EU standards. The amount of violent crimes has increased drastically – and naturally has led to postponing the initiatives about bringing Ukrainian legislation in line with EU principles in protection, elimination of secondary victimization and creation of guarantees of compensation. However, the discussions among scholars about the development of victims of violent crime protection are going now into the international criminal law dimension.

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