

Procedural opportunities of the victim in criminal court proceedings

Possibilidades processuais da vítima no processo penal judicial

Posibilidades procesales de la víctima en el proceso penal judicial

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Abstract

The article examines the procedural opportunities available to victims in criminal trial proceedings as an essential component of their procedural status and an important mechanism for ensuring access

to justice and the protection of legitimate interests. The study analyzes the provisions of the Criminal Procedure Code of Ukraine governing the exercise of victims' rights during trial proceedings and evaluates their role in the implementation of the objectives of criminal justice. Particular attention is devoted to the victim's participation in evidentiary proceedings, examination before the court, the exercise of procedural rights within the adversarial framework of criminal proceedings, and participation in procedural decision-making. The research is based on doctrinal, comparative legal, formal legal, and system-structural methods. A comparative analysis of victim participation models in selected continental European and common law jurisdictions, including France, Germany, the United Kingdom, and the United States, is conducted. The findings demonstrate a general international tendency toward strengthening the procedural role of victims and expanding opportunities for meaningful participation in criminal proceedings. It is established that the decisive criterion distinguishing contemporary models of victim participation is the extent to which victims are capable of influencing evidentiary proceedings and procedural decision-making during trial. The study identifies a number of shortcomings in the current regulation of victims' participation in Ukrainian criminal proceedings. In particular, the existing legal framework does not sufficiently regulate the procedure for examining victims during trial and provides only limited opportunities for victims to participate in proceedings concerning the imposition, modification, or revocation of preventive measures. It is argued that effective protection of victims' rights requires not only formal recognition of procedural guarantees but also the creation of practical mechanisms ensuring their implementation. The article substantiates the necessity of improving the Criminal Procedure Code of Ukraine by establishing a clearer procedure for victim examination, introducing elements of direct and cross-examination, expanding the procedural opportunities of victims' representatives, and strengthening guarantees for victim participation in decisions concerning preventive measures. It is concluded that the implementation of these proposals would contribute to enhancing the protection of victims' rights, strengthening the principles of adversarial proceedings and procedural fairness, ensuring compliance with European standards of victim protection, and improving the overall effectiveness of criminal justice.

Keywords

Victim, Criminal Proceedings, Criminal Trial, Procedural Status, Procedural Rights, Examination of Evidence, Victim Examination, Preventive Measures, Adversarial Proceedings, Access to Justice.

Resumo

O artigo examina as possibilidades processuais do ofendido no processo penal judicial como um elemento essencial do seu estatuto processual e um importante mecanismo para garantir o acesso à justiça e a proteção dos interesses legítimos. O estudo analisa as disposições do Código de Processo Penal da Ucrânia que regulam o exercício dos direitos da vítima durante o julgamento e avalia o seu papel na concretização dos objetivos da justiça penal. É dada especial atenção à participação da vítima na produção e apreciação da prova, ao seu depoimento em juízo, ao exercício dos direitos processuais no âmbito do modelo contraditório do processo penal e à participação na tomada de decisões processuais. A investigação baseia-se em métodos doutrinários, comparativos, jurídico-formais e sistêmico-estruturais. Realiza-se uma análise comparativa dos modelos de participação da vítima em determinados sistemas jurídicos da Europa continental e da tradição da common law, incluindo França, Alemanha, Reino Unido e Estados Unidos. Os resultados demonstram uma tendência internacional geral de fortalecimento do papel processual das vítimas e de ampliação das oportunidades para uma participação efetiva no processo penal. Constatou-se que o critério decisivo que distingue os modelos contemporâneos de participação da vítima consiste na medida em que esta é capaz de influenciar a atividade probatória e a tomada de decisões processuais durante o julgamento. O estudo identifica diversas deficiências na regulamentação atual da participação das vítimas no processo penal ucraniano. Em particular, o quadro normativo vigente não regula de forma

suficientemente detalhada o procedimento de inquirição da vítima em audiência e oferece apenas oportunidades limitadas para a sua participação em procedimentos relacionados com a aplicação, modificação ou revogação de medidas cautelares. Sustenta-se que a proteção efetiva dos direitos das vítimas exige não apenas o reconhecimento formal das garantias processuais, mas também a criação de mecanismos práticos que assegurem a sua efetiva implementação. O artigo fundamenta a necessidade de aperfeiçoar o Código de Processo Penal da Ucrânia mediante o estabelecimento de um procedimento mais claro para a inquirição da vítima, a introdução de elementos de interrogatório direto e contraditório, a ampliação das possibilidades processuais dos representantes da vítima e o reforço das garantias de participação da vítima nas decisões relativas às medidas cautelares. Conclui-se que a implementação dessas propostas contribuirá para o fortalecimento da proteção dos direitos das vítimas, para a consolidação dos princípios do contraditório e da justiça processual, para a conformidade com os padrões europeus de proteção das vítimas e para o aumento da eficácia global da justiça penal.

Palavras-chave

Vítima, Processo Penal, Julgamento Penal, Estatuto Processual, Direitos Processuais, Produção de Prova, Inquirição Da Vítima, Medidas Cautelares, Processo Contraditório, Acesso à Justiça.

Resumen

El artículo examina las posibilidades procesales de la víctima en el proceso penal judicial como un elemento esencial de su estatus procesal y un importante mecanismo para garantizar el acceso a la justicia y la protección de los intereses legítimos. El estudio analiza las disposiciones del Código de Procedimiento Penal de Ucrania que regulan el ejercicio de los derechos de la víctima durante el juicio y evalúa su papel en la realización de los objetivos de la justicia penal. Se presta especial atención a la participación de la víctima en la actividad probatoria, a su declaración ante el tribunal, al ejercicio de los derechos procesales dentro del marco contradictorio del proceso penal y a su participación en la adopción de decisiones procesales. La investigación se basa en métodos doctrinales, comparativos, jurídico-formales y sistémico-estructurales. Se realiza un análisis comparado de los modelos de participación de las víctimas en determinados sistemas jurídicos de Europa continental y de tradición anglosajona, incluidos Francia, Alemania, el Reino Unido y los Estados Unidos. Los resultados demuestran una tendencia internacional general hacia el fortalecimiento del papel procesal de las víctimas y la ampliación de las oportunidades para una participación efectiva en el proceso penal. Se establece que el criterio decisivo que distingue los modelos contemporáneos de participación de la víctima es el grado en que esta puede influir en la actividad probatoria y en la adopción de decisiones procesales durante el juicio. El estudio identifica una serie de deficiencias en la regulación actual de la participación de las víctimas en el proceso penal ucraniano. En particular, el marco jurídico vigente no regula de manera suficientemente detallada el procedimiento de interrogatorio de la víctima durante el juicio y ofrece oportunidades limitadas para su participación en procedimientos relacionados con la imposición, modificación o revocación de medidas cautelares. Se sostiene que la protección efectiva de los derechos de las víctimas requiere no solo el reconocimiento formal de las garantías procesales, sino también la creación de mecanismos prácticos que aseguren su implementación efectiva. El artículo fundamenta la necesidad de perfeccionar el Código de Procedimiento Penal de Ucrania mediante el establecimiento de un procedimiento más claro para el interrogatorio de la víctima, la introducción de elementos de examen directo y contrainterrogatorio, la ampliación de las posibilidades procesales de los representantes de la víctima y el fortalecimiento de las garantías de participación de la víctima en las decisiones relativas a las medidas cautelares. Se concluye que la implementación de estas propuestas contribuirá al fortalecimiento de la protección de los derechos de las víctimas, a la consolidación de los principios de contradicción y justicia procesal, al cumplimiento de los estándares europeos de protección de las víctimas y al aumento de la eficacia general de la justicia

penal.

Palabras clave

Víctima, Proceso Penal, Juicio Penal, Estatus Procesal, Derechos Procesales, Actividad Probatoria, Interrogatorio de la Víctima, Medidas Cautelares, Proceso Contradictorio, Acceso a la Justicia.

1. Introduction

One of the defining directions of the development of a democratic, social and legal state is ensuring an adequate level of protection and defense of human rights, freedoms and legitimate interests, which is traditionally considered as the main criterion for the effectiveness of the functioning of the legal system and the activities of state institutions (Rabinovych, 2006). Article 2 of the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC of Ukraine) declares the task of criminal proceedings, which consists in protecting the individual, society and the state from criminal offenses, protecting the rights, freedoms and legitimate interests of participants in criminal proceedings (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012), which corresponds to the provisions of Article 3 of the Constitution of Ukraine (Constitution of Ukraine: Law of Ukraine, 1996). The implementation of this task is directly related to the creation of an effective criminal procedural mechanism for ensuring the rights of the victim as one of the key participants in criminal proceedings.

In the context of ongoing armed aggression against Ukraine, the improvement of procedural mechanisms for the realization of victims' rights and legitimate interests is of particular importance. The increase in the number of persons who have suffered physical, property or moral damage as a result of criminal offenses highlights the need to form effective procedural guarantees for their participation in criminal proceedings, ensure access to justice and effective compensation for the damage caused.

A special place in the structure of the procedural status of the victim is occupied by his rights and opportunities during the trial, since it is at this stage that the direct examination of evidence, the establishment of the circumstances of the criminal offense and the adoption of the final court decision are carried out. The effectiveness of the realization of victims' procedural rights largely depends on the availability of appropriate legislative guarantees, as well as on the possibility of their practical use in the course of judicial proceedings.

The procedural activity of the victim during the trial is determined not only by the scope of the rights granted to him, but also by the real mechanisms for their implementation. The victim may exercise his procedural rights either personally or through a representative or legal representative,

which is an important guarantee of protecting his legitimate interests. In this regard, the study of the procedural possibilities of the victim in criminal proceedings, the identification of problems in their implementation, and the determination of directions for improving criminal procedural legislation remain relevant both for the science of criminal procedure and for law enforcement practice.

2. Theoretical Framework

The procedural status of victims and the guarantees for the exercise of their rights and legitimate interests have long occupied an important place within criminal procedural scholarship. In Ukrainian legal doctrine, significant contributions to this field have been made by Yu. Alenin, V. Honcharenko, Yu. Hroshevyi, O. Kaplina, O. Kuchynska, A. Lapkin, V. Nor, P. Tsymbal, and other scholars, whose works have examined the legal nature of victim status, procedural guarantees, access to justice, and mechanisms for protecting victims' rights at various stages of criminal proceedings. Their studies have contributed substantially to the development of national approaches to victim participation in criminal justice while also identifying a number of unresolved theoretical and practical issues.

At the international level, the role of victims in criminal proceedings has been extensively explored within the fields of victimology, criminal procedure, and human rights law. Scholars such as J.-A. Wemmers, J. Doak, M. Groenhuijsen, A. Pemberton, J. van Dijk, M. Hall have emphasized the transformation of victims from passive recipients of state protection into active participants in criminal proceedings. Contemporary scholarship increasingly recognizes victim participation as an essential component of procedural legitimacy, access to justice, and public confidence in the criminal justice system rather than merely an auxiliary element of prosecution.

The theoretical foundation of this study is based on the concepts of participatory justice, victim-oriented criminal justice, and procedural fairness. These approaches suggest that victims should be afforded meaningful opportunities to express their views, protect their legitimate interests, and participate effectively in criminal proceedings. The growing influence of these theories is reflected in international legal instruments, particularly the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) and Directive 2012/29/EU, which establish standards concerning victim participation, access to information, protection, and support.

Despite the considerable body of scholarship devoted to victims' rights, there remains no consensus regarding the content and scope of victims' procedural opportunities during criminal trial proceedings. Existing studies reveal divergent approaches to the victim's role within adversarial

proceedings, the limits of procedural participation, and the mechanisms for ensuring effective protection of victims' rights and legitimate interests. Moreover, recent reforms of Ukrainian criminal procedural legislation and evolving judicial practice have generated new challenges that require further theoretical analysis. These circumstances determine the relevance of examining victims' procedural opportunities at the trial stage and identifying ways to improve the legal mechanisms governing their participation in criminal proceedings.

3. Methodology

This study employs a combination of general scientific and special legal research methods aimed at ensuring a comprehensive analysis of the victim's procedural opportunities in criminal trial proceedings. The methodological framework is based on a doctrinal approach to the interpretation of criminal procedural law, supplemented by comparative legal and systemic analyses. The doctrinal method was used to examine the provisions of the CPC of Ukraine regulating the procedural status of victims and the exercise of their rights during trial proceedings. Particular attention was paid to the legal nature of victims' procedural opportunities, their relationship to the principles of adversarial proceedings and procedural fairness, and their role in achieving the objectives of criminal justice.

The comparative legal method was employed to analyze approaches to victim participation in criminal proceedings within selected continental European and common law jurisdictions, including France, Germany, the United Kingdom, and the United States. This method made it possible to identify common trends and significant differences in the regulation of victims' procedural rights, as well as to assess the extent to which international and European standards have influenced national legal systems. In addition, the study relied on the analysis of international legal instruments, particularly Directive 2012/29/EU and other documents concerning victims' rights, in order to evaluate the conformity of Ukrainian criminal procedural legislation with contemporary international standards.

The system-structural method was applied to examine the interrelationship between individual procedural rights of victims and the overall mechanism of criminal trial proceedings. The formal legal method facilitated the interpretation of statutory provisions and the identification of legislative gaps affecting the practical realization of victims' rights. Furthermore, elements of critical legal analysis were used to assess the effectiveness of existing legal mechanisms and to formulate proposals aimed at improving the procedural guarantees available to victims during trial proceedings. The combination of these methodological approaches ensured a comprehensive examination of the research problem and contributed to the development of scientifically grounded conclusions and recommendations.

4. Results and Discussion

4.1. Victim as a Participant in Criminal Trial Proceedings

Pursuant to Article 55 of the CPC of Ukraine, a victim in criminal proceedings may be an individual who has suffered moral, physical, or property damage as a result of a criminal offense, as well as a legal entity that has suffered property damage as a result of such offense (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012). The normative construction of victim status in Ukrainian criminal procedure reflects a mixed model combining elements of continental participatory justice with traditionally state-centered adversarial criminal proceedings. In doctrinal terms, this approach corresponds to what scholars describe as a “procedural hybridization” of victim status, where the victim is neither a full party to the proceedings nor a purely passive source of evidentiary information (Doak, 2008; Wemmers, 2017).

An analysis of the provisions of criminal procedural legislation demonstrates that the victim’s rights are structurally differentiated according to procedural stages, with the most intensive legal framework operating at the trial stage (Part 3 of Article 56 CPC of Ukraine). This structural design reflects the classical assumption that judicial proceedings constitute the primary arena for the realization of procedural guarantees and adversarial balance. However, modern victimology literature convincingly argues that limiting meaningful victim participation predominantly to the trial stage risks transforming such participation into a formal rather than substantive procedural guarantee (Groenhuijsen, 2014).

From a functional and doctrinal perspective, the victim’s role in criminal trial proceedings is increasingly interpreted through the lens of participatory justice theory, which emphasizes the importance of recognizing the victim as a rights-bearing subject within criminal adjudication. As J.-A. Wemmers (2017) notes, the evolution of victims’ rights in criminal justice systems reflects a broader paradigm shift from state-centric prosecution models toward more inclusive procedural frameworks that acknowledge the victim’s psychological, social, and legal interest in the outcome of proceedings. Nevertheless, this transformation remains incomplete and uneven across jurisdictions, including Ukraine, where the scope of victim participation is still largely dependent on prosecutorial discretion and judicial interpretation.

The trial is the central stage of criminal proceedings, during which the court directly examines evidence and its procedural sources, establishes the circumstances of the criminal offense, and adopts a final decision on the merits of the criminal-law conflict (Korol, 2007). In this context, the European Court of Human Rights has consistently emphasized that fairness of criminal proceedings under Article 6 of the European Convention on Human Rights must be assessed in light of the proceedings

“as a whole,” including the extent to which all relevant participants, including victims where applicable, are afforded a reasonable opportunity to participate in the process (ECtHR, *Gäfgen v. Germany*, 2010; *Taxquet v. Belgium*, 2010). Although the Convention does not explicitly guarantee a comprehensive set of participatory rights for victims, the Court’s jurisprudence indirectly reinforces the obligation of States to ensure procedural arrangements that prevent marginalization of victims in criminal adjudication.

Contemporary doctrinal approaches further suggest that the victim in criminal trial proceedings should be conceptualized as a “procedurally embedded participant,” whose rights derive not from party status in the strict adversarial sense but from the state’s positive obligations to ensure effective access to justice and respect for human dignity (Groenhuijsen & Pemberton, 2009). This conceptualization is particularly relevant in light of Directive 2012/29/EU, which establishes minimum standards for victims’ rights, support, and protection, thereby reinforcing the normative expectation that victims must be treated as active participants rather than secondary observers of criminal justice processes.

At the same time, the Ukrainian regulatory model continues to reveal certain structural limitations. First, the victim’s procedural influence remains largely reactive rather than proactive, as most procedural rights are exercised within boundaries defined by prosecutorial and judicial discretion. Second, the absence of a unified doctrinal approach to the victim’s role in adversarial proceedings leads to inconsistent judicial practice, particularly regarding the extent of victim participation in courtroom interaction. Third, despite formal recognition of victim rights, the procedural mechanisms ensuring their effective realization remain underdeveloped, which may result in what Doak (2008) describes as “symbolic victim participation,” where rights exist in law but are weakly enforced in practice.

Therefore, while Ukrainian criminal procedural law formally recognizes the victim as a participant in criminal trial proceedings, the effectiveness of such participation depends on the degree to which procedural guarantees are transformed from declarative provisions into enforceable procedural mechanisms. In this regard, both comparative legal analysis and ECtHR jurisprudence indicate a clear normative trajectory toward strengthening victim participation as an essential component of fair trial standards and procedural legitimacy in contemporary criminal justice systems.

4.2 Comparative Legal Analysis of Victims' Procedural Opportunities

By administering justice through the examination and resolution of these issues, the court thereby fulfills the objectives of criminal proceedings in terms of protecting the rights and legitimate interests of persons participating therein and ensuring the proper application of the law so that every person who has committed a criminal offense is held accountable while no innocent person is punished (Popeliushko, 2006). In this context, particular attention should be paid to the position of L. Loboiko, who substantiates the dual significance of the trial stage-both substantive criminal-law and criminal-procedural. The substantive criminal-law significance of this stage lies in the final determination of issues concerning the existence of a criminal offense, its legal classification, the guilt of the accused, and the possibility of applying criminal-law measures. Simultaneously, the criminal-procedural significance of the trial manifests itself in the fact that it is precisely at this stage that the criminal-law dispute is finally resolved, the objectives of criminal proceedings are achieved, and the entire preceding procedural activity of investigative bodies, prosecutors, and other participants in criminal proceedings is ultimately evaluated and summarized (Loboiko, 2005).

According to Yu. Myroshnychenko, a trial may be effective only if it is properly prepared through the adoption of organizational and tactical decisions and through planning based on the materials of the pre-trial investigation, which serve as its informational foundation (Myroshnychenko, 2013). Having established the grounds for scheduling a trial, the court must resolve a set of procedural issues aimed at creating appropriate conditions for a full, comprehensive, and impartial examination of criminal proceedings during the court hearing, while also ensuring the effective exercise of the procedural rights of all participants.

We share the position of certain scholars regarding the expediency of submitting evidence to the court during the preparatory court hearing, since at this stage the court does not examine or assess evidence but rather performs the function of procedurally preparing the criminal proceeding for substantive consideration. The submission of evidence during preparatory proceedings is necessitated by the need to ensure the proper organization of the trial, including determining the scope of evidentiary material subject to examination and the procedure for its examination. This, in turn, contributes to the effective fulfillment of the objectives of criminal proceedings and the adoption of a lawful, well-founded, and fair judicial decision (Popeliushko, 2013).

According to Article 337 of the CPC of Ukraine, a trial shall be conducted only with respect to the person against whom charges have been brought and exclusively within the limits of the accusation formulated in the indictment, except in cases expressly provided for by law (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012). Accordingly, during the trial the court is obliged

to examine and verify all evidence submitted by the parties to the criminal proceedings, as well as to establish the circumstances constituting the subject of proof and falling within the scope of the charges brought. In this regard, the analysis of the victim's procedural opportunities in the field of examination and verification of evidence during judicial proceedings is of particular scholarly interest.

In order to provide a broader doctrinal and comparative perspective, it is necessary to examine how different legal systems regulate victims' procedural opportunities in criminal trial proceedings. Such analysis allows for identifying common trends, divergent approaches, and the level of integration of victims into evidentiary and decision-making processes in continental and common law jurisdictions.

4.3 Comparative Legal Analysis of Victims' Procedural Opportunities in Criminal Trial Proceedings

Comparative legal analysis demonstrates that contemporary models of victim participation in criminal proceedings have developed under the influence of two major legal traditions: the continental and the Anglo-American systems. While continental legal systems generally recognize the victim as an independent participant in criminal proceedings endowed with a defined set of procedural rights, common law jurisdictions have traditionally adhered to the view that criminal prosecution primarily constitutes a public-law conflict between the state and the accused. Nevertheless, recent decades have witnessed a gradual convergence of these models through the strengthening of the victim's role and the expansion of procedural opportunities available during trial proceedings.

Within continental European legal systems, one of the most developed mechanisms of victim participation is the French *partie civile* model. Its distinctive feature lies in the possibility for the victim to participate in criminal proceedings not only as the holder of a private interest but also as an independent procedural actor capable of influencing the course of the trial through the submission of evidence, the filing of motions, and the advancement of a legal position independent of the public prosecutor. In legal scholarship, this model is frequently regarded as one of the most comprehensive manifestations of the concept of the "active victim" in criminal proceedings (Van Dijk, 1989; Wemmers, 1996).

The German experience is equally noteworthy. Through the institution of auxiliary prosecution (*Nebenklage*), victims of certain categories of criminal offences may acquire the status of auxiliary prosecutors and exercise a broad range of procedural rights, including participation in court hearings, filing procedural motions, presenting evidence, participating in examinations, and

challenging certain judicial decisions. The German model is widely considered one of the most advanced forms of integrating victims into the criminal justice system and ensuring their meaningful procedural participation (Wolf, 2021).

At the same time, German criminal procedural legislation provides a comprehensive framework for informing victims of their rights, granting access to legal assistance, and enabling participation through legal representatives. This approach reflects the gradual transformation of the traditional criminal process from a system focused exclusively on public interests to one that increasingly recognizes and protects the rights and legitimate interests of victims (Löffelmann, 2008; German Code of Criminal Procedure). Nevertheless, German scholars note that extensive victim participation may occasionally generate tensions between victims' procedural interests and the accused's right to a fair trial, particularly in cases involving emotionally sensitive offences.

European Union law has exerted a significant influence on the development of national legislation concerning victims' rights. In particular, Directive 2012/29/EU established minimum standards on the rights, support, and protection of victims of crime. The Directive guarantees victims the right to be heard during criminal proceedings, to receive information concerning the progress of proceedings, to benefit from protective measures, and to participate in procedural activities in accordance with the national legislation of Member States (Directive 2012/29/EU, 2012).

Particularly important within the European framework is the principle that victims must be afforded effective participation in criminal proceedings. Contemporary European scholarship increasingly emphasizes that the mere formal recognition of procedural rights does not ensure their effective realization in the absence of adequate mechanisms for information, representation, and consideration of the victim's position during procedural decision-making (Groenhuijsen, 2014).

The Anglo-American legal tradition has historically adopted a more restrained approach to the procedural status of victims. In the United States, victims were traditionally regarded primarily as sources of evidentiary information for the prosecution. However, substantial reforms undertaken during the late twentieth and early twenty-first centuries significantly strengthened victims' procedural rights, particularly through the development of the victims' rights movement and the adoption of specialized legislation protecting victims' interests.

One of the most notable mechanisms of victim participation in the United States is the victim impact statement. This instrument allows victims to inform the court of the physical, emotional, social, and financial consequences of the criminal offence for themselves and their families. Such statements enable courts to take victims' interests into account during sentencing and contribute to the realization of restorative justice principles.

The experience of the United Kingdom is similarly illustrative. The development of victims' rights has largely occurred through the adoption of standards governing the treatment of victims and the establishment of mechanisms ensuring that victims receive information concerning the progress of criminal proceedings. Nevertheless, the British model continues to provide victims with fewer procedural powers than those available in France or Germany, reflecting the continued distinction between the functions of public prosecution and the private interests of victims (Doak, 2008).

The comparative analysis of foreign legal systems demonstrates the existence of a broader European and global trend toward strengthening the procedural role of victims in criminal justice. Despite significant differences among national models, contemporary criminal procedure increasingly moves away from the concept of the passive victim toward that of an active participant vested with meaningful procedural mechanisms for the protection of rights and legitimate interests. In this regard, promising directions for the further development of the Criminal Procedure Code of Ukraine include expanding victims' participation in evidentiary proceedings, establishing a statutory obligation to consider victims' views when deciding issues related to preventive measures, and further implementing standards derived from European Union law.

In order to systematize the identified similarities and differences between national approaches to victim participation in criminal proceedings, the principal procedural opportunities available to victims in selected jurisdictions are summarized in Table 1.

Table 1

*Comparative Analysis of Victims' Procedural Rights and Participation Mechanisms in Criminal Trial Proceedings**

Comparative Criterion	Ukraine	France	Germany	United Kingdom	United States
Procedural status of the victim	Independent participant in criminal proceedings	Victim may acquire the status of <i>partie civile</i> and actively participate in proceedings	Victim may act as an auxiliary prosecutor (<i>Nebenklage</i>)	Independent participant with limited procedural powers	Crime victim with statutory rights but not a party to the prosecution
Right to participate in the examination of evidence	Yes	Yes	Yes	Limited	Limited
Right to question witnesses and other participants	Through the court or within the powers of a representative	Yes	Yes	Generally through the prosecution or legal representatives	Generally unavailable

Right to submit evidence	Yes	Yes	Yes	Yes	Yes
Right to file motions and objections	Yes	Yes	Yes	Partially	Partially
Right to support the prosecution	Yes, in cases provided by law, including following the prosecutor's withdrawal of charges	Yes	Yes, within the framework of <i>Nebenklage</i>	No	No
Participation of the victim's representative during examination	Permitted, although further expansion of procedural powers is desirable	Permitted	Permitted	Permitted	Permitted
Right to express views on sentencing	Limited	Yes	Yes	Yes	Broadly implemented through <i>Victim Impact Statements</i>
Right to receive information concerning the progress of proceedings	Yes	Yes	Yes	Yes	Yes
Participation in decisions concerning preventive measures (bail, detention, release restrictions)	Limited or absent	Possible through procedural representation	Victim's interests may be considered in certain cases	Victim safety concerns may be considered	Victim's views may be considered in release-related proceedings
Right to initiate the application of preventive measures	Not provided	Not provided	Not provided	Not provided	Limited opportunities to raise victim-safety concerns
Overall level of procedural participation	Moderate	High	High	Moderate	Moderate
General model of victim participation	Mixed model	Active continental model	Active continental model	Informational and consultative model	Victims' rights model

Source: authors findings

*The categories presented in Table 1 are analytical and do not fully reflect all procedural variations existing within individual jurisdictions

The comparison demonstrates that the decisive criterion distinguishing contemporary models of victim participation is not the formal recognition of victims' rights but the extent to which victims are capable of influencing evidentiary proceedings and procedural decision-making during trial. From this perspective, the French and German models provide broader opportunities for procedural

participation than either the Anglo-American model or the current Ukrainian framework.

In contrast, the Anglo-American model is primarily oriented toward ensuring that victims are informed, heard, and protected, while generally refraining from granting them extensive powers to influence the scope of the prosecution or the evidentiary process. The emphasis is placed on safeguarding victims' rights through participation mechanisms, victim support services, and procedural guarantees rather than through direct involvement in prosecutorial functions. The institution of the Victim Impact Statement in the United States represents a notable exception, providing victims with a meaningful opportunity to influence sentencing decisions.

The Ukrainian model occupies an intermediate position between these approaches. While the Criminal Procedure Code of Ukraine grants victims a relatively broad range of procedural rights during trial proceedings, significant shortcomings remain regarding the practical implementation of these rights. In particular, the victim's role in decisions concerning preventive measures, the consideration of the victim's position when adopting procedural decisions, and the scope of participation in evidentiary proceedings remain comparatively limited. Consequently, further development of Ukrainian criminal procedural legislation should be directed toward strengthening procedural guarantees for victims, expanding opportunities for meaningful participation in judicial proceedings, and implementing best practices reflected in continental European legal systems and the standards established by Directive 2012/29/EU. Such reforms would contribute to enhancing the protection of victims' rights, strengthening the principles of adversarial proceedings and fairness, and improving the overall effectiveness of criminal justice.

4.4 Procedural Forms of Victim Participation in Examination of Evidence and Testimony

The exercise of the victim's right to participate in investigative (search) and other procedural actions, during which he or she may ask questions, make comments, and raise objections concerning the manner in which such actions are conducted, is of significant importance both for safeguarding the victim's procedural interests and for establishing the circumstances of the criminal proceedings. In many cases, the victim's participation in relevant procedural actions contributes to enhancing the effectiveness of the collection and verification of evidentiary information, the prompt establishment of the circumstances of the criminal offense, as well as the clarification of its motives, causes, and facilitating conditions. At the same time, for objective reasons, a victim may refrain from actively participating in the examination and verification of evidence while not objecting to participation in other procedural actions provided for by criminal procedural legislation.

The victim's testimony, as an independent procedural source of evidence, plays an important

role in establishing the factual circumstances of criminal proceedings and in the adoption of a lawful and well-reasoned judicial decision. Unlike the accused, the victim is warned by the court of criminal liability for knowingly providing false testimony. The examination of the victim is conducted according to the rules established for the examination of a witness and, in judicial practice, generally precedes the examination of witnesses. However, Article 353 of the CPC of Ukraine does not contain an explicit requirement that the victim be examined before witnesses. In our opinion, this legislative gap should be eliminated through appropriate amendments to criminal procedural legislation.

The procedure for examining the victim during trial is governed by Article 353 of the CPC of Ukraine. Pursuant to Part 1 of this Article, prior to the commencement of the examination, the presiding judge establishes the identity of the victim and clarifies the nature of the victim's relationship with the accused. In addition, the court is obliged to verify that the victim has received a memorandum explaining his or her procedural rights and obligations, ascertain the extent of the victim's understanding of its content, and provide additional explanations where necessary. Simultaneously, the victim is warned of criminal liability for knowingly false testimony and is placed under oath, provided that he or she has not refused to testify (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012).

In our view, Article 353 of the CPC of Ukraine should be supplemented with a provision requiring that the examination of the victim begin with an invitation from the presiding judge to provide a free narrative concerning the circumstances of the criminal proceedings known to the victim. Thereafter, the examination should proceed through the use of direct and cross-examination procedures, which would fully correspond to the principles of adversarial proceedings and immediacy of judicial examination.

Upon completion of the principal examination, the victim may be questioned by the civil claimant, the civil defendant, their representatives and legal representatives, as well as by the presiding judge and other members of the court. In doing so, the court is entitled to require participants in the proceedings to formulate their questions in a manner that is accessible and understandable to the victim. Such questions must be appropriate, logically coherent, clear, and specific, while also taking into account the age, educational background, and individual characteristics of the person being examined.

The victim may be re-examined either during the same court hearing or at a subsequent hearing upon his or her own motion, upon the motion of a party to the criminal proceedings, or on the court's own initiative. The need for re-examination may arise, in particular, where it becomes apparent during the trial that the victim possesses information concerning circumstances that were

not previously addressed during the examination.

Furthermore, an additional examination of the victim may be conducted in order to clarify circumstances that remained unresolved during the previous examination. Testimony obtained during such an examination may concern new facts or may be aimed at clarifying or elaborating upon information previously provided. At the same time, the victim is entitled not only to communicate factual information but also to express personal perceptions and assessments of the circumstances that form the subject matter of the testimony, within the limits permitted by procedural law.

Support should be expressed for the proposal advanced by O. Solonova to supplement Article 224 of the CPC of Ukraine with a provision allowing the participation of the victim's representative during the victim's examination. Such a representative could provide consultative assistance to the victim in the presence of the investigator, ask clarifying questions with the investigator's permission in order to facilitate a more complete establishment of the circumstances of the criminal proceedings, raise objections to unlawful actions of the investigator to be recorded in the protocol, and use technical means in cases provided for by law (Solonova, 2017).

4.5 Victim's Role in Decision-Making on Preventive Measures

If, during trial, the prosecutor concludes that the charges formulated in the indictment do not correspond to the factual circumstances of the criminal proceedings established during the judicial examination of evidence, the prosecutor is obliged to draft a new indictment. Copies of the new indictment must be served upon the accused, defence counsel, the victim, the victim's representative and legal representative, as well as the representative of the legal entity against which proceedings are being conducted (Part 2 of Article 338 of the Criminal Procedure Code of Ukraine) (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012). These procedural actions are significant not only for the prosecution but also directly affect the exercise of the procedural rights of other participants in criminal proceedings. In particular, where the prosecutor withdraws support for the public prosecution, the court is obliged to explain to the victim the right to maintain the prosecution independently within the scope defined by the indictment.

At the same time, the victim is not vested with the authority to amend, supplement, narrow, or expand the scope of the charges, as such powers belong exclusively to the prosecutor as the subject of public prosecution. Nevertheless, where the prosecutor modifies the charges in a manner that results in a more lenient criminal-law qualification or the application of less severe legal consequences, the victim is entitled to maintain the prosecution in its original scope, thereby exercising the procedural opportunities granted by law.

The procedural activity of the victim acquires particular significance in private prosecution proceedings. Under such circumstances, the victim effectively bears the responsibility of substantiating the relevance, admissibility, and reliability of the evidence submitted, as well as proving circumstances relating to procedural costs and the characteristics of the suspect or accused, where such evidence is presented by the victim. Accordingly, the legal status of the victim and the victim's representative should be regulated as comprehensively and consistently as possible. Moreover, the scope of their procedural rights, subject only to distinctions arising from their respective procedural positions, should ensure a genuine opportunity to effectively defend their legal position before the court.

Within the framework of the issue under consideration, particular attention should be paid to the question of taking the victim's opinion into account when procedural decisions are made. An analysis of the provisions of the current CPC of Ukraine demonstrates the absence of a statutory obligation requiring investigators, prosecutors, investigating judges, or courts to consider the victim's position when resolving a number of important procedural issues. In particular, Article 178 of the CPC of Ukraine does not provide for the participation of the victim in proceedings concerning the imposition of preventive measures (Criminal Procedure Code of Ukraine: Law of Ukraine, 2012).

In practice, such a legislative approach may result in situations where circumstances known to the victim remain outside the attention of criminal justice authorities. For example, the victim may have legitimate concerns regarding unlawful influence exerted by the suspect or accused or may be materially, professionally, or otherwise dependent upon that person, circumstances that cannot always be adequately established by pre-trial investigative authorities. In such cases, consideration of the victim's position could be of substantial importance when determining the necessity of imposing a stricter preventive measure, including house arrest or detention in custody.

Equally illustrative are situations in which the suspect or accused voluntarily compensates for the damage caused, but this information has not yet become known to the investigator, prosecutor, or court at the time a motion for the application of a preventive measure is being considered. In such circumstances, the victim may no longer insist on the imposition of the most restrictive measures against the suspect or accused; however, the victim's position remains unknown to the court due to the absence of statutory mechanisms for its ascertainment and consideration.

In this context, the position advanced by S. Ablamskyi deserves support. He notes that, by granting law enforcement authorities and courts the power to impose preventive measures, criminal procedural legislation effectively excludes the victim from active participation in resolving these issues. Under such circumstances, the only means of response available to the victim is the exercise

of the general right to appeal procedural decisions, actions, or omissions of pre-trial investigation bodies and prosecutors (Ablamskyi, 2015).

The current CPC of Ukraine likewise does not grant the victim the right to independently initiate the application of a preventive measure. In this regard, A. Lapkin justifiably emphasizes the need to reconsider this approach, arguing that depriving the victim of the right to raise before the court the issue of imposing a preventive measure lacks sufficient normative justification. The scholar supports earlier doctrinal proposals advocating the granting of a right to the victim to apply to the court with an appropriate motion, which would contribute to a more comprehensive protection of the victim's rights and legitimate interests and expand the opportunities for defending his or her procedural position (Lapkin, 2011). Sharing this view, we believe that the current criminal procedural legislation unjustifiably restricts the victim's procedural opportunities in the sphere of protecting his or her rights and legitimate interests.

In light of the foregoing, it appears appropriate to introduce amendments to the CPC of Ukraine aimed at strengthening procedural guarantees for victims in matters concerning preventive measures. In particular, legislative recognition should be given to the obligation of investigators, prosecutors, and courts to take the victim's position into account, ensure the victim's participation in proceedings concerning the imposition, modification, or revocation of preventive measures, provide an opportunity to submit explanations and evidence in support of the victim's position, and guarantee the right to appeal relevant procedural decisions.

In conclusion, it should be noted that this study has by no means covered the entire spectrum of procedural opportunities available to the victim in criminal trial proceedings. Several important issues remain beyond the scope of this research, including the exercise of the right to compensation for damage, the appeal of procedural decisions, actions, or omissions of authorized participants in criminal proceedings, and other aspects of the victim's procedural status.

5. Conclusion

The study has demonstrated that the procedural opportunities available to victims in criminal trial proceedings constitute an essential element of their procedural status and serve as an important mechanism for ensuring access to justice, safeguarding legitimate interests, and achieving the objectives of criminal proceedings. Contemporary approaches to criminal justice increasingly recognize victims not merely as sources of evidentiary information but as independent participants whose effective involvement contributes to the legitimacy, transparency, and fairness of judicial proceedings. In this regard, the effectiveness of victims' participation depends not only on the formal

recognition of procedural rights but also on the existence of practical legal mechanisms that enable their meaningful realization during trial.

The conducted comparative legal analysis has revealed a general international tendency toward strengthening the procedural role of victims in criminal proceedings. While continental European legal systems, particularly those of France and Germany, provide victims with broader opportunities for active participation in evidentiary and procedural decision-making processes, Anglo-American jurisdictions primarily focus on informational, consultative, and protective mechanisms. The comparison further demonstrates that the decisive criterion distinguishing contemporary models of victim participation is the extent to which victims are capable of influencing procedural decision-making and the examination of evidence. In this respect, the Ukrainian model occupies an intermediate position, combining elements of participatory justice with a traditionally prosecution-oriented structure of criminal proceedings.

The research has identified a number of shortcomings in the current regulation of victims' participation in Ukrainian criminal trial proceedings. In particular, legislative provisions governing the examination of victims do not fully correspond to the requirements of adversarial proceedings and procedural fairness, while the victim's procedural role in matters concerning preventive measures remains excessively limited. The absence of explicit mechanisms ensuring consideration of the victim's position during the adoption of procedural decisions may reduce the effectiveness of legal protection and weaken the practical implementation of victims' rights guaranteed by criminal procedural legislation.

Based on the findings obtained, it appears advisable to improve the Criminal Procedure Code of Ukraine by introducing a more detailed regulation of victim examination during trial, including the legislative recognition of direct and cross-examination procedures and the expansion of the procedural opportunities of victims' representatives. Equally important is the establishment of legal mechanisms ensuring the victim's participation in proceedings concerning the imposition, modification, and revocation of preventive measures, including the right to present arguments and evidence relevant to the protection of his or her legitimate interests. The implementation of these measures would contribute to strengthening adversarial principles, enhancing procedural fairness, promoting compliance with contemporary European standards of victim protection, and increasing the overall effectiveness of criminal justice in Ukraine.

Finally, the findings of this study confirm the necessity of further research into the procedural status of victims in criminal proceedings, particularly regarding participation in sentencing, compensation mechanisms, restorative justice procedures, and the implementation of victim-centered

approaches within the broader framework of criminal justice reform. Such research may contribute to the further development of a balanced model of criminal procedure capable of ensuring both effective protection of victims' rights and full compliance with fair trial guarantees.

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