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INTERNATIONAL EXPERIENCE OF COMPENSATION FOR AN INDIVIDUAL DAMAGE

Any criminal act as a legal fact encroaches on social relations and is the cause of negative changes in them. Due to the objectively existing cause-and-effect relationship, a criminal act generates harmful consequences determined for each of its types, which are specifically expressed in the damage caused to the objects of the crime, protected by both criminal and other branches of law. It is the consequences of the crime that are the main element of its social danger, and its nature is determined by the content of social relations that this crime causes harm.

At the same time, as emphasized in international documents and modern foreign studies, one of the main problems hindering the implementation of the preventive potential of the institution of crime compensation is the problem of determining guidelines for calculating reasonable and fair compensation for criminal damage. Based on the above, the study of the experience of Western European countries in assisting victims of crimes, including the system of state compensation and compensation for damages, is scientifically and practically significant and relevant [1].

The legislation of any democratic legal state in Europe is based not only on international acts of the UN but also on documents of the Council of Europe [2].

- International Covenant on Civil and Political Rights
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- European Convention on Compensation for Victims of Violent Crimes

Germany. In Germany, the issue of state compensation is regulated by the Criminal Code and the Law on Compensation for Victims of Violent

Acts of 1985. State compensation is provided to victims of intentional acts of violence, including acts of sexual violence. The presence of physical or mental harm as a result of the attack is a necessary condition for receiving compensation. Payments are made regardless of the presence of the victim's statement to the law enforcement agency and regardless of the completion of the pre-trial investigation because the mere fact of opening the proceedings is sufficient. Expenses subject to compensation: for medical care; mental help; professional rehabilitation; a pension for the disabled – victims, if the working capacity has decreased as a result of the committed act; for the cost of physical therapy; for a funeral; to support families of victims who lost their breadwinner [3, p. 122].

Austria. In the Criminal Code of Austria, the institution of compensation for damage caused by a crime is established as an approbation condition in the case of conditional release from punishment, conditional early release from serving a sentence in the form of deprivation of liberty, conditional release from serving a coercive measure related to deprivation of liberty in the form of an instruction to the guilty person during the probationary period to compensate for the damage caused by the crime by one's efforts. Compensation is carried out by the Federal Social Service. The source of funding for its activities in this area is fines imposed and collected from convicted persons. In addition, the country operates «Weisser Ring!», an independent non-profit organization that provides assistance and compensation to victims of crimes, including foreign citizens. The sources of filling the fund are financial contributions of its members and sponsorship.

France. In France, the issue of submitting compensation for damage caused to victims is decided by social bodies – Commissions for compensation for victims of crimes, which are created at each local court. French law is based on the principle of full compensation. According to the provisions of the Criminal Code of France, the following are subject to compensation: a) damage caused as a result of the use of physical or sexual violence against a person; b) expenses for treatment and loss of income (loss of working capacity); c) loss of maintenance as a result of the death of the injured breadwinner [4, p. 36].

The responsibility of the state to a person in France is derived from the principle of equal rights of all citizens to state expenses, proclaimed by Art. 13 of the French Declaration of the Rights of Man and Citizen of 1789. According to French law, the state is responsible not only for the actions of authorities but also for the actions of officials of other state institutions: public schools, hospitals, post offices, transport, etc. [5].

Belgium. Measures to help crime victims in Belgium are defined in the Law «On Taxes and Other Measures» dated August 1, 1985. In Belgium, there is a special fund from which crime victims receive monetary compensation from the state. The fund is financed by the Ministry of Justice. The decision to assist is approved by the Commission for Assistance to Victims of Violent Crimes. The victim himself is subject to

compensation: moral damage that led to temporary or permanent incapacity; medical expenses, prostheses, drugs, etc.; temporary or permanent disability; loss or reduction of income due to temporary or permanent incapacity; ethical damage, etc. If the identity of the perpetrator is established, the victim must first try to obtain compensation from him through the filing of a civil lawsuit.

Finland was one of the first in Europe to adopt a special law on compensation for damage caused by crime. In Finland, there is no special compensation fund and assistance to victims of crimes are paid by the State Treasury. The law provides for the possibility of compensation for victims of all types of personal damage and damage caused to property as a result of the commission of any crimes. Victims are compensated for expenses related to incapacity for work, treatment and further medical care, disability, loss of clothing, certain items, etc. If the victim dies, the law defines the categories of persons entitled to compensation.

Czech Republic In the legal system of the Czech Republic, the protection of the rights of victims of crimes, including compensation for damage caused to them as a result of a criminal act, is regulated by the provisions of the Criminal Code, the Code of Criminal Procedure and the Law on Victims of Criminal Acts from 2013. The victim has the right to compensation for damages (compensation medical expenses, the cost of car damage, stolen items, expenses caused by incapacity); moral damage; the value of the unjust enrichment received by the criminal as a result of his committing a criminal act against an individual. The state provides compensation, which includes the amount of lost income and proven medical expenses, as well as burial expenses in the event of the victim's death. One of the mandatory conditions for receiving compensation from the state is the timely submission of a statement about the commission of a criminal act to the police, which was a consequence of the need to conduct investigative measures against the offender. When deciding on the possibility of providing financial assistance from the state, the victim's behaviour during the commission of a criminal act is taken into account [6, p. 155].

Until now, there have been attempts to legislate this issue in Ukraine. For example, in 1993, the Verkhovna Rada of Ukraine adopted Resolution No. 2931-XI «On the state of implementation of laws and resolutions of the Verkhovna Rada of Ukraine on law and order issues and measures to strengthen the fight against crime», in paragraph 6 of which it was stated to consider the issue of creating a Fund for compensation for damages to citizens, who suffered from crimes and abuses of power. However, in 1996, the specified clause of this Resolution became invalid. In 2004 and 2010, draft laws were also submitted to the parliament, which provided for the creation in Ukraine first of the Victim's Fund, and later – the Damage Compensation Fund. However, the relevant laws were not adopted. And today, the legal system of Ukraine is still characterized by a low level of protection of the victim's right to compensation for damage caused as a result of committing a violent crime. For example, «the characteristic features of

obligations of compensation for damage caused by mutilation are that they arise when the absolute rights of the injured are violated, despite the fact that compensation for damage is of a property nature, all obligations are non-negotiable, since its subjects before causing the damage did not were related to the terms of the contract, and the most significant, in our opinion, is that the obligation to compensate for damage can be imposed not only on the person who caused the damage but also on other persons» [7].

The experience of European states indicates the need to adopt a separate law that will regulate the procedures, grounds, conditions, mechanisms and sources of state payments of funds to victims of violent crimes.

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