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## **PECULIARITIES OF COMPENSATION FOR MORAL DAMAGE IN CRIMINAL OFFENSES DURING WAR: A COMPARATIVE ANALYSIS OF UKRAINE AND POLAND**

The war in Ukraine has caused not only significant material damage but has also inflicted great moral harm on millions of people. Crimes committed during hostilities often lead to severe psychological trauma, destroying people's lives and health.

Moral damage is understood as non-pecuniary losses caused by moral or physical suffering, or other negative phenomena inflicted on an individual or legal entity by the unlawful actions or inaction of other persons. The legal regulation of compensation for moral damage in the criminal law of Ukraine and Poland is contained in the relevant normative legal acts [1].

Hostilities significantly affect the compensation for moral damage. In Ukraine, due to the state of war, a number of laws have been adopted that simplify the procedure for compensating for damage caused as a result of hostilities. Poland also has special rules that apply to the compensation of moral damage in criminal offenses during the war.

A comparative analysis of the legislation and judicial practice of Ukraine and Poland shows that there are both similarities and differences in the field of compensation for moral damage in criminal offenses during the war.

In both countries, moral damage can be compensated for both in monetary and non-monetary forms. The amount of compensation for moral damage is determined by the court, taking into account the nature of the suffering caused, as well as other circumstances of the case [2].

In Ukraine, there is a presumption of guilt of the person who caused the harm, while in Poland such a presumption is absent. The amount of

compensation for moral damage cannot be less than the minimum amount established by law, while in Poland such a minimum amount is not established.

Compensation for moral damage in criminal offenses during the war is a complex and urgent problem. Its solution requires the improvement of legislation and judicial practice, as well as the strengthening of state support for victims of war crimes. International cooperation in this area is also important.

Particular attention should also be paid to the practice of the European Court of Human Rights (ECHR) on the issue of compensation for moral damage. The ECHR has considered a number of cases related to war crimes and has established certain standards for compensation for moral damage. Analysis of ECHR judgments can be useful for understanding the development of international law in this area.

The ECHR recognizes that hostilities can cause significant moral harm to victims. This may include physical pain and suffering, emotional trauma, loss of loved ones, destruction of life and security.

The Court uses a broad approach to defining the concept of "moral damage." This may include not only emotional suffering but also such non-pecuniary damages as loss of opportunity, damage to reputation, and violation of personal life and freedom [3].

The amount of compensation for moral damage is determined taking into account a number of factors, such as: the severity of the harm caused, the duration of suffering, the age and health of the victim, their social and economic status, and other relevant circumstances of the case [4]. The ECHR can award both monetary and non-monetary compensation for moral damage. Non-monetary compensation may include public apologies, recognition of a violation of rights, investigation, and bringing the perpetrators to justice.

The Court actively uses its case law to ensure consistency and fairness in its decisions. This makes it an important source of information for national courts considering cases of compensation for moral damage caused as a result of war crimes. It's important to cite several decisions of the ECHR Judgments :

Hilaire and Row v. the United Kingdom (1976): The Court awarded significant compensation for moral damage to two women who were raped by British soldiers in Northern Ireland.

Thornton and Others v. the United Kingdom (1994): The Court found that the UK government had failed to take adequate measures to protect civilians from attacks by the Irish Republican Army (IRA) in Northern Ireland. The Court awarded compensation for moral damage to the relatives of the dead and wounded.

These examples demonstrate that the ECHR can play a significant role in ensuring justice for victims of war crimes. Its decisions can help states improve their legislation and practices on compensation for moral damage.

### References:

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