

Anzor Makharadze*

The Characteristics of the Institution of Crime Victims according to International Legal Acts

Criminal action against the victim is the basis for the universally recognized protection of human rights, strengthened by international instruments, and the neglect of all other rights and freedoms.

Criminal action against the victim (crime victim) leads to a violation of the honor and dignity of a citizen, damage to physical and mental health, and breach of fundamental human rights and freedoms.

To ensure the restoration of his/her violated rights, a legal mechanism shall be established to actively participate in justice and better protect his/her legitimate interests.

Protection of the interests and rights of natural and legal persons affected by crime is declared as one of the main objectives of the state legal system of Georgia.

The purpose of the study is to review and analyze international acts and the basic principles and recommendations, the consideration and implementation of which in the national legislation will contribute to the realization of the rights of the victim (victim of crime) and the full protection of his/her legal interests. The legal basis for prioritizing the interests of victims, rights, and freedoms is the acts of international law, including the Universal Declaration of Human Rights (1948), the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the International Pact of Civil and Political Rights (1966), Declaration of the Fundamental Principles of Justice for Victims of Crime and Abuse of Authority (1985), EU Charter of Fundamental Rights (2000), Framework Decision of 15 March 2001 on the status of victims in criminal proceedings adopted by the Council of the European Union (other legal acts of the European Union and the Council of Europe), Decisions of the European Court of Human Rights.

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1. Introduction

On October 9, 2009, the Parliament of Georgia adopted the new Criminal Procedure Code, which came into force on October 1, 2010. The Code of Criminal Procedure belongs to the model of the Anglo-Saxon law system. The new procedural legislation has granted the victim the status

* PhD Student of Ivane Javakhishvili Tbilisi State University Faculty of Law, Assistant of Batumi Shota Rustaveli State University, Faculty of Law and Social Sciences.

provided by the legislation of the common law system. Following the applicable procedural legislation, he/she is no longer a party to the process and participates in it as a witness.

The purpose of the study is to review and analyze international acts and the basic principles and recommendations, the consideration and implementation of which in the national legislation will contribute to the realization of the rights of the victim (victim of crime) and the full protection of his/her legal interests. According to international standards, victims enjoy certain rights in criminal proceedings, which implies the right to express sympathy with the victim, including respecting their dignity and getting involved in the process of investigation in the aspects that are necessary to protect their legitimate interests¹.

They have the right to present their views and problems at the appropriate stages of criminal proceedings not to violate the rights of the accused and the criminal procedure system established by the national legislation.

2. International Legal Basis of Participating Victims in Criminal Proceedings

Beginning with the basic principles of implementing justice for victims of crime and abuse of power, which were adopted by the United Nations in 1985, and the recommendations of the Council of Europe, some documents have been ratified at the international and regional level in the last century. It recognizes the importance of taking into account the interests of victims² in the criminal justice process. International legal norms have acknowledged that the victim must be treated with compassion and dignity and has the right to correct his suffering regarding access to justice and reparations. Analyzing the practice of international human rights law has raised the question: should victims be given certain rights and powers, and, how should they be detailed in justice?

The issue of participating victims in national courts³ traditionally remains at the discretion of the state. States take significantly different approaches to this issue. Only a small part of the international conventions directly indicates the right of the victim to participate in the criminal process. The supervision bodies interpret the rights of victims from other rights, including the right to effective legal protection. However, some non-traditional tools have recently emerged adopted by the United Nations on the rights of victims.

Only a limited number of international conventions apply to the rights of victims in criminal proceedings. In particular, the International Convention on the Protection of All Persons from Forced Disappearance⁴, the Convention Against Transnational Organized Crime and the Protocol⁵ on the Prevention and Punishment of Trafficking in Persons, especially Women and Children.⁶

¹ *Hugh Jordan v the United Kingdom*, ECtHR judgment of 4 May 2001, appl. No. 24746/94, §109

² According to Article 3, Part 22 of the Civil Code of Georgia, “the victim is the state, a natural or legal person who has physical, material, and moral damage directly as a result of an offense”.

³ Regarding the concept of the victim, it should be noted that all international acts refer to the protection of the rights of the victim, however, for the victim to become a participant in the process, he needs the status of the victim. Otherwise, he will not be able to exercise his rights in criminal proceedings. The procedure for obtaining the mentioned status and the rights of the victim are regulated by the procedural code, the foundation of which is international acts, where the rights of the victim are discussed, in general.

⁴ International Convention for the Protection of All Persons from Enforced Disappearance, General Assembly of the United Nations in its resolution 47/133, 23 December 2010, <<https://www.ohchr.org>>

The Convention on Forced Disappearances establishes the right of victims to report any circumstances related to the forced disappearance and get informed of “the progress and consequences of the investigation”⁷ Article 25(3) of the Convention on Transnational Organized Crime stipulates that each participating state must express views and concerns following its internal legislation; Victims must be present at all stages of the criminal process. Similarly, Article 6 of the Human Trafficking Protocol requires victims to be assisted in expressing their views and concerns at the relevant stages of the criminal process not to break the rights of protection.

The international treaty ratified by the vast majority of countries recognized the participation of the victims in the criminal process in the context of the international criminal proceedings in the ICC Rome. In addition to these acts, a large number of non-binding documents have granted the victim the right to participate in criminal proceedings. These include the general recommendations of the UN contracting bodies, resolutions, and declarations adopted by the General Assembly.

The general recommendations of the UN include:

- General Recommendations (No. 19) on Violence against Women, adopted by the Committee on the Elimination of Discrimination against Women in 1992,⁸ called on states to effectively ensure the procedures and means of complaint for victims;⁹
- XXXI General Recommendation of the Committee on the Elimination of Racial Discrimination in the Administration and Functioning of the Criminal Justice System on the Prevention of Racial Discrimination, adopted in 2005, provides the rights to be granted to the victim during criminal proceedings.¹⁰ Based on Article 6 of the International Convention on the Elimination of Racial Discrimination, the Committee indicates states to furnish adequate space for victims, their families, and witnesses. It also requires the victim to be allowed to attend investigative

[org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced](https://www.unodc.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced/)> [25.08.2024].

⁵ UN Convention against Transnational Organized Crime, Resolution adopted by the General Assembly 55/25, <https://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf> [25.08.2024].

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, General Assembly resolution 55/25, 15 November 2000.

⁷ Council of Europe, Committee of Ministers, Recommendation No. R (87) 21 of the Committee of Ministers to Member States on Assistance to Victims and the Prevention of Victimization, 17 September 1987.

⁸ General recommendations, made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, 1992, <<https://www.refworld.org/docid/52d920c54.html>> [25.08.2024].

⁹ *Bitiyeva and x. v. Russia* (App. Nos 57953/00 and 37392/03), Judgment (Merits and Just Satisfaction), 21 June 2007, § 156, with references included therein. IACtHR: *Durand and Ugarte v. Peru*, Judgment (Merits), 16 August 2000, § 129; *El Caracazo v. Venezuela*, Judgment (Reparations and Costs), 29 August 2002, § 118; *Rochela Massacre v. Colombia*, Judgment (Merits, Reparations, and Costs), 11 May 2007, § 195.

¹⁰ General Recommendation No. XXXI on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, adopted by the Committee on the Elimination of Racial Discrimination (‘CERD Committee’) in 2005, < <https://www.refworld.org/docid/48abd56dd.html>> [25.08.2024].

proceedings and court hearings, have access to information, confront hostile witnesses, and appeal evidence.¹¹

- The principles of effective investigation and evidence of torture and other cruel, inhuman, or degrading treatment or punishment of the General Assembly in 2000, establish that the victim has access to information related to any hearing or investigation, as well as the right to provide additional proofs including the law (Article 4);¹²

In a resolution on victims of crime and children who commit crimes, the UN states that following the national law procedural rules and the implementation of justice, children should be allowed to participate in criminal proceedings, including the investigation, trial, and subsequent actions to be informed about their status and consequential proceedings.¹³

Some documents have also been adopted that specifically address victims' rights of violating human rights. Although these documents are not legally binding, they have contributed to establishing international standards on this issue. Particularly, the Declaration of 1985 on the Basic Principles of Implementation of Justice for Victims of Crime and Abuse of Government,¹⁴ “General Principles and Guidelines on the Right to a Remedy and Reparation of Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” adopted by the General Assembly, Resolution 60/147 of, on December 16, 2005,¹⁵ “Principles of Human Rights to Combat Impunity, 2005”, etc.¹⁶

3. European Standards for the Protection of the Rights of Victims

Since the early 80s, the Council of Europe has defined the prospect of protecting victims' rights in the fight against crime. This has been even more relevant after the European Court of Human Rights (ECtHR) recognized the need to protect victims' rights and their proper positions in criminal

¹¹ Question of the Impunity of Perpetrators of Human Rights Violations, supra note no. 14, § 27; Council of Europe, Committee of Ministers, Recommendation R. (2000) 19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System, 6 October 2000, § 34.

¹² The Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in 2000, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-effective-investigation-and-documentation-torture-and>> [25.08.2024].

¹³ Trechsel S., *Human Rights in Criminal Proceedings* (Oxford: Oxford University Press, 2005), at 37.

¹⁴ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 40/34. Resolution adopted by the General Assembly, 29 November 1985, <<http://www.un-documents.net/a40r34.htm>> [25.08.2024].

¹⁵ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution adopted by the General Assembly 60/147. 21 March 2006, <https://fanack.com/wp-content/uploads/2014/archive/user_upload/Documenten/Links/UN/Basic_Principles_and_Guidelines_Remedies_and_Reparation.pdf> [25.08.2024].

¹⁶ Haldemann F., Unger T., (eds.), *The United Nations Principles to Combat Impunity: A Commentary*. Oxford University Press, 2018, 47-59.

procedures”,¹⁷ especially an urgency to protect vulnerable victims. In 1985, the Committee of Ministers adopted “Recommendation No. R(85)11 on the Position of Victims within Criminal Justice and Procedures” to change the traditional approach to criminal justice, which previously focused on the relationship between the state and the perpetrator and ignored the interests of the victims.¹⁸ The recommendation calls on states to consider the needs of victims at all stages of the criminal process¹⁹ and includes guidelines that aim at protecting victims of crime and their interests at all stages of the trial. The document emphasizes the need to inform victims about the development of the case and, in particular, the final decision on criminal prosecution and the outcome of the case.²⁰ Moreover, the recommendation stipulates that the victim should have the right to request a revision of the refusal of criminal proceedings or to initiate a case.²¹

In accordance with the 85(11) recommendation, the Council of Europe indicates the need to support the rights of victims in criminal proceedings. In the recommendation 87(21),²² the Committee of Ministers requested greater awareness of getting informed and assisting victims during the criminal trial.²³ Later in the recommendations, the committee offered the victim the opportunity to appeal the prosecutor's decision. Nevertheless, prosecutors should not pursue criminal prosecution by allowing judicial supervision or permission of the parties.²⁴ Thus, the committee seems to maintain the established international standard for persecution to allow a victim to make his/her claim.

In 2006, the Committee issued a detailed recommendation on the assistance of victims of crime²⁵ that obliges states to “respect victims' safety, dignity, privacy, and family life” and recognize the negative impact of crime on victims. Although the recommendation does not explicitly require providing specific rights for victims to join the criminal proceedings, following certain provisions of the recommendation the victim can protect his interests during the criminal proceedings. For example, Article 7(2) affirms that “states must institute procedures to allow victims to demand compensation from the offender in criminal proceedings.”

¹⁷ *Mapiripán Massacre v. Colombia*, Judgment (Merits, Reparations, and Costs), 15 September 2005, § 304; *Almonacid-Arellano et al. v. Chile*, Judgment (Preliminary Objections, Merits, Reparations, and Costs), 26 September 2006, § 105; *La Cantuta v. Peru*, Judgment (Merits, Reparations, and Costs), 29 November 2006, § 168.

¹⁸ *Goiburú et al v. Paraguay*, Judgment (Merits, Reparations and Costs), 22 September 2006 §§ 84, 131; *La Cantuta v. Peru*, supra note no. 69, §157.

¹⁹ AfrComHPR, Malawi African Association, Amnesty International, Ms Sarr Diop, Inter-African Union for Human Rights and RADDHO, Collective of Widows and Beneficiaries, Mauritanian Association for Human Rights v. Mauritania (Comm. Nos. 54/91-61/91-96/93-98/93-164/97-196/97-210/98), 11 May 2000, § 83. 72 AfrComHPR, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, 2001, Principle C (d).

²⁰ *EComHR, Dujardin et al. v. France* (App. No. 16734/90), Decision, 2 September 1991.

²¹ *Ibid.*, at 4.

²² *EComHR, Dujardin et al. v. France* (App. No. 16734/90), Decision, 2 September 1991.

²³ *Frulli M.*, ‘Amnesty,’ in *Cassese A. (ed.)*, *The Oxford Companion to International Criminal Justice* (Oxford: Oxford University Press), 243-244.

²⁴ SCSL, Decision on Challenge to Jurisdiction: Lomé Accord Amnesty, Kallon, Norman and Kamara (SCSL2004-15-16-17), Appeals Chamber (‘AC’), 13 March 2004, § 71.

²⁵ See: also, Decision on Ieng Sary’s Rule 89 Preliminary Objection (Ne bis in idem and Amnesty and Pardon), Ieng Sary, Trial Chamber, 3 November 2011.

The EU has also made a significant contribution to strengthening the role of victims in European criminal justice systems. Through many legislative measures, the EU attempted to introduce common European standards by respecting national sovereignty through the principles of proportionality and subsidiarity. The need to harmonize the rights of victims derives from the concept of European citizenship, which requires union citizens to be free to exercise their rights without discrimination on the territory of member states. The most important legislative instrument of the European Union on Victims of Crime is the Framework Decision of 15 March 2001 on the Status of Victims in Criminal Proceedings, adopted by the Council of the European Union.²⁶ The decision, which is mandatory for all member states, compels states to ensure victims "have a real and relevant role" in criminal justice systems.²⁷ The document calls on member states to "recognize the rights of victims and consider their interests in criminal proceedings."²⁸ It also requires the victims to have the opportunity to hear and present evidences. In addition, member states are encouraged to provide victims with an access to all relevant information, including the results of complaints and court decisions to protect their interests.²⁹

On 25 October 2012, the European Parliament and the Council of the European Union approved a directive establishing the minimum standards on the rights to support and protect victims of crime, which altered the above framework decision. The document determined the general rules regarding the support and protection of victims of crime. In particular, as a "crime is wrong against society as well as a violation of the individual rights of victims," the directive requires states to ensure victims to be treated in a respectful manner and consideration of their immediate needs.³⁰ The directive significantly impairs the traditional punitive framework adopted by most criminal justice systems, especially in the common law system. The proposed directive recommends states to provide adequate support and information to victims, as well as their participation in the examination of materials. According to the mentioned above, justice cannot be effectively done unless the offender can properly explain the circumstances of the crime and provide evidence to the competent authorities in an understandable manner. Therefore, it is important that the victim is treated in a respectful manner and has access to his rights.³¹

As the Commission interpreted in the directive, victims have a legitimate interest in achieving justice. They should be given effective access to justice, which can be a main element in restoring their rights. Informing victims about their rights, basic dates, and decisions is an important aspect of their involvement in legal proceedings to make victims understand the essence of the case. Victims

²⁶ Council of the European Union, Council Framework Decision of 15 March 2001 on the Standing of Victims in Criminal Proceedings (2001/220/JHA), 15 March 2001.

²⁷ Council Framework Decision of 15 March 2001, *supra* note no. 80, Art. 2(1).

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ European Parliament and Council of the European Union, Directive 2012/29/EU of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support, and Protection of Victims of Crime, 25 October 2012, § 9.

³¹ *Ibid.*, § 34.

should also have the opportunity to attend the trial and bring the case to an end,³² even though the directive does not specifically require victims to play an active role in the criminal process (for example, as parties or participants). However, the adoption of this tool, which is legally binding for EU member states like other international documents, explicitly recognizes a direct impact of the prosecution of perpetrators on the victims of this crime. In other words, the document supports the idea that victims have legitimate interests in litigation, and they should be given procedural rights to protect their interests. It should be noted that the UK and Ireland, which traditionally do not recognize the victim as a party in the criminal proceedings, expressed their desires to take part in the adoption and implementation of the directive.³³

4. Guarantees of Protecting the Rights of a Victim by the Case Law of the European Court of Human Rights

The European Court of Justice (ECJ) admits that the flaws in investigating or prosecuting crime complaints can be a factor that fails to protect the life or physical integrity of the victim.³⁴ The European Court emphasizes the need to get victims involved in witness protection schemes as such schemes may be necessary to protect human rights.³⁵

Following Article 8 of the European Convention on Human Rights, the European Court emphasizes that criminal proceedings should be organized in such a manner that the life, freedom, safety, and interests of a participant are not endangered during the testimony in court. The European Court proposes some measures in this regard:

- Hearing the testimony of the victim during the absence of the accused;³⁶
- Prohibition of meeting victims and their personnel and publishing or disclosing data (identity and address) during the testimony;³⁷
- Exclusion of the general public from hearings when the victim testifies;³⁸
- Preventing the defendant from discovering the identity of the victim;³⁹
- Restriction of the defendant to ask a question to the victim and comment during cross-examination;⁴⁰
- Making the defendant leave the hearing room when the victim testifies;⁴¹

³² European Commission, Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Strengthening Victims' Rights in the EU, COM (2011) 274, 18 May 2011, § 3.4.

³³ Directive 2012/29/EU, supra note no. 87, § 70.

³⁴ See, e.g., *Opuz v. Turkey*, no. 33401/02, 9 June 2009, at paras. 141-146 and 173-174.

³⁵ See *R R v. Hungary*, no. 19400/11, 4 December 2012, at paras. 26-32.

³⁶ See *Gani v. Spain*, no. 61800/08, 19 February 2013.

³⁷ See *Crook and National Union of Journalists v. United Kingdom* (dec.), no. 11552/85, 15 July 1988

³⁸ See *B and P v. United Kingdom*, no. 36337/97, 24 April 2001, at para. 37.

³⁹ See *Doorson v. Netherlands*, no. 20524/92, 26 March 1996.

⁴⁰ See *Oyston v. United Kingdom* (dec.), no. 42011/98, 22 January 2002 and *Y v. Slovenia*, no. 41107/10, 28 May 2015.

- Avoiding cross-examination of the victim by a lawyer due to potential conflicts of interest;⁴²
- Restriction of access to court protocols.⁴³

However, the court indicates that the mentioned measures should not be unfair to the defendant at trial.⁴⁴ Also, the victim should be protected during the investigation and prosecution of a criminal offense when there is a threat to his/her life or physical and mental integrity.

When establishing measures to protect the rights of victims, the European Court focuses on the delays in the length of the criminal proceedings from the time the applicant joins proceedings as a civil party constituting a breach of Article 6 (1) of the European Convention, a violation of the right of the victim to determine his/her civil rights within a reasonable time.⁴⁵ Thus, when conducting a criminal process the impact of the protracted proceedings should consider the victim's right, determine his/her civil rights within a reasonable period, and ensure that this right is not violated.

The European Court observes the procedure for sentencing in the belief that the court of a particular country should provide every opportunity for the victim to participate in the process. However, the court indicates the victim's role in determining the offender's punishment because imposing a sentence is its prerogative.

Compensation in the practice of the European Court is a particular issue. In some cases, the crime leads to civil consequences, which raises the problem of legal protection in civil proceedings.⁴⁶ However, in such cases, civil liability will be imposed on the perpetrator of the crime. State authorities shall be responsible for only an employee's inaction that causes the violation of the law.⁴⁷

Relating to the regulation of compensation and the inability to conduct civil proceedings in case of termination of criminal prosecution, the European Court noted that the failure to solve this problem can lead to a violation of Article 6(1) of the European Convention.⁴⁸ The state is required to create compensation schemes for victims of criminal offenses, especially in the case of protection of children and adults from violent crimes.⁴⁹

The European Court considers that based on Article 6(2) of the European Convention the acquitted defendant can demand that the victim be deprived of the right to require civil claims of compensation in connection with the facts that led to his baseless prosecution. This provision can only be applied if civil proceedings cannot be considered the result of a previous criminal offense.⁵⁰

⁴¹ See *Accardi v. Italy* (dec.), no. 30598/02, 20 January 2005.

⁴² See *Y v. Slovenia*, no. 41107/10, 28 May 2015.

⁴³ See, e.g., *Z v. Finland*, no. 22009/93, 25 February 1997.

⁴⁴ See *Al-Khawaja and Tahery v. the United Kingdom* [GC], no. 26766/05, 15 December 2011 and *Schatschaschwili v. Germany* [GC], no. 9154/10, 15 December 2015.

⁴⁵ *Atanasova v. Bulgaria*, no. 72001/01, 2 October 2008 and *L E v. Greece*, no. 71545/12, 21 January 2016.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *August v. United Kingdom* (dec.), no. 36505/02, 21 January 2003.

⁵⁰ *Ringvold v. Norway*, no. 34964/97, 11 February 2003.

Following the practice of the European Court of Human Rights, a close relative of the deceased should be allowed to get involved in an investigation to determine the cause of death to avoid violating Article 2 of the Convention. This type of participation protects the legitimate interests of a family and rejecting this requirement is a sufficient ground for the court to establish a violation of Article 2 of the Convention. In the case “Saliman v. France”, the court found a violation of the procedural part of Article 2 because a close relative was not allowed to familiarize himself with the case materials and get informed about the termination of the proceedings. In addition, in the case “Oguri Turkey”, the court considered the violation of Article 2 of the Convention because the mother of the deceased did not have access to the case materials. According to the European Court of Human Rights, in all cases resulting in death, a close relative of the victim must be engaged in the investigation process to protect his/her legitimate interests.

The European Court of Human Rights recognizes the importance of criminal prosecution for protecting the rights provided by Articles 2 and 3 of the Convention. According to the Court, based on the Convention, states are obliged to conduct an effective investigation and, if necessary, apply for criminal prosecution in suspicious circumstances due to the death or inhuman treatment of a person. In the case of Khadisov and Tsechoyev (Khadisov and Tsechoyev) The European Court of Human Rights considered the violation of Article 3 of the Convention because the complainants did not have access to the criminal case materials and were not properly informed about the investigation process. Simultaneously, they did not have the opportunity to effectively appeal the actions and omissions of the investigative bodies before the court.⁵¹

Therefore, the European Court can be seen as an important set of victims' rights concerning criminal proceedings, and the impact of these reforms on the rights of the victim in retrospect of the development of “civil rights” is important.

5. Conclusion

The article presents recommendations on international legal approaches to the rights of victims. In particular, the findings are analyzed by international conventions and other legal instruments, international regional sources on the rights of victims in criminal justice (Council of Europe, the European Union), and the practice of the European Court on the rights of victims.

Taking into account international recommendations, it is necessary to take effective steps in the national legislation and practice to ensure that the rights and legitimate interests of the victim are ensured in criminal proceedings. In particular, the legislator should make the criminal justice process accessible and understandable to the victim and give him a practical opportunity to enjoy the guaranteed rights recognized by the Constitution and international norms. With the amendments to the Criminal Procedure Code of Georgia in 2014, the legislator tried to regulate the rights of the victim, which was a step forward but both practical and legislative problems are still identified. One of the problems is the issue of restitution. It is necessary to introduce and refine the system of restitution.

⁵¹ *Khatiashvili G.*, Victim's Rights in Criminal Proceedings. Georgian Young Lawyers' Association, Tbilisi, 2016, 26 (in Georgian).

International institutions see criminal proceedings as the best model for receiving compensation from offenders, which does not exclude applying other legal mechanisms. In addition, they admit the possibility of considering the court decision on the payment of compensation as a punishment but they do not force states to regard the above decision to be a punishment, however, studies confirm that the execution of a court decision on compensation provided to the victim arises some problems in practice which calls the effectiveness of the norm in question. Conversely, following the experience of countries (such as the UK), it is more effective to consider compensation as a punishment and make the state responsible for its enforcement, which results in the victim's satisfaction. The Parliament of Georgia refused to propose the addition of Article 58, Part 1, Subsection "e" of the Criminal Procedure Code of Georgia. Unfortunately, the applicable Code of Procedure does not provide this right of the victim. In this direction, it is important to implement the mentioned idea. The main challenge in the restitution process is the cost of property return and compensation, which needs to be resolved.

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