



**USAID**  
FROM THE AMERICAN PEOPLE



Analytical Study

# “Cooling Effect. Motivation of Victims to Participate in the Justice Process and Their Support along the Way”

Kyiv, 2024

# Introduction

The international armed conflict has been ongoing in Ukraine since 2014. Russia's war against Ukraine has had various phases, particularly after the first active phase from 2014-2016, where the intensity of battles either decreased or increased. Throughout the eight-year period following the annexation of Crimea, the occupation of parts of Donetsk and Luhansk regions, and the full-scale invasion, the legal and human rights communities initiated a discussion on the necessity for a transitional justice concept in Ukraine. This concept would aim to ensure the accountability of perpetrators, compensation for victims, prevention of conflicts in future, as well as ensure the right to truth. The first and last elements of this concept specifically pertain to the victims and their satisfaction—the feeling that their physical, moral, and emotional damage has been acknowledged and compensated.

In practice, the satisfaction of victims manifests as very specific demands directed towards various actors: the recognition of their special status, respectful treatment, and updates on the progress of judicial proceedings in cases relating to the conflict, representation of their position and defense of their rights in court proceedings, efforts towards the effective establishment of truth, and enforcement of verdicts, among others. To make this happen, both active efforts and amendments to legislation are necessary. However, this has not been fully accomplished to this day. Despite a decade-long war, Ukrainian legislation still does not afford victims of the conflict a distinct status in pre-trial investigations and trial itself. This implies that, through the lens of the law and codes, a victim of a war crime is indistinguishable from a victim of theft<sup>1</sup>, even though the level, intensity of the experience, and context might necessitate far more attention and special measures for such individuals. The Coordination Center for Support of Victims and Witnesses has commenced its operations in Ukraine. While it is too premature to discuss its impact, we delineate what to anticipate from it in this report.

The investigation of war crimes, which up until 2022 was focused on a relatively narrow group of individuals, has expanded into a global challenge with the onset of the full-scale invasion. Presently, data of the Coordination Center for Support of Victims and Witnesses of the Prosecutor General's Office indicates there are approximately 128,000 victims of war crimes in Ukraine, falling under Article 438 of the Criminal Code of Ukraine. This figure is continuously rising. Furthermore, this number does not include victims of the crime of aggression, crimes against national security, and witnesses involved in these processes, who have also frequently endured harm of various degrees and forms.

By directly observing court proceedings and analyzing the legal framework, MIHR has determined that the Ukrainian law enforcement and judicial systems need to improve their work with war crimes victims in a more humane and effective way.

At present, much depends on the human factor, not just on the capability and consistent approach of the system. For instance, the decision by a prosecutor to explain to an individual what will transpire in the courtroom, to prevent them from feeling disoriented, is entirely contingent upon the personal disposition and internal resources of the prosecutor himself. To alleviate the burden on prosecutors, this responsibility could be assumed by lawyers representing victims. Nonetheless, not all victims qualify for free secondary legal aid, including court representation—for example, relatives of civilians who were killed in captivity or individuals who have endured torture. Consequently, they are either compelled to spend their own funds, which they may not always possess, or to navigate the process on their own, which is not always viable.

---

1. <https://law-in-war.org/shho-robyty-yakshho-vy-staly-svidkom-kryminalnogo-pravoporushennya/>

Additionally, within the Ukrainian justice system, there are no sufficiently effective safeguards against the re-traumatization of victims and witnesses. This means that, for example, interrogation with meticulous attention to detail, crucial for the gathering of evidence, can provoke an acute stress reaction or symptoms of post-traumatic stress disorder, inflicting further suffering on the individual and deteriorating their health condition, thereby victimizing them anew through the system.

In summary, it turns that an individual who has suffered losses due to an enemy attack can also experience harm from their own country.

Certain issues could be averted if Ukrainian national legislation were aligned with international law. Therefore, we reiterate the significance of ratifying the Rome Statute—doing so would bolster the capability of the Ukrainian law enforcement system to investigate crimes committed in the context of the war, thereby augmenting the probability of the state fulfilling the expectations of victims seeking justice.

Beyond specific measures, the overarching perception of justice holds significant importance for victims. Achieving this is especially crucial in cases adjudicated in absentia, as these currently form a critical majority among those associated with the war. In this analysis, we directly observed courtroom proceedings and conducted our research. We interviewed 11 individuals engaged in processes related to war crimes (10 victims and 1 witness), utilizing the in-depth interview technique, supported by a questionnaire crafted by the MIHR team. The legal cases involving these respondents have already been initiated in court and exist at various stages of the legal process. Additionally, we encountered 10 instances of refusal, for which we documented the reasons. The findings from our survey persuasively indicate that victims harbor doubts regarding the attainment of justice on an individual case basis. Nevertheless, they hope for accountability at the highest echelons of Russian leadership. This reflects a belief in the capacity of international justice on one hand and, on the other, sometimes manifests as overly optimistic expectations.

For transformative progress, the requisites extend beyond mere material resources to include a pivot towards a more human-centric approach, emphasizing the precedence of victims' dignity in their treatment.

Nevertheless, time operates against us—reflecting on the experiences of other nations impacted by conflict reveals a pattern: the more distant the event, the more prolonged the process, leading to heightened disillusionment, frustration, and disenchantment among victims. It is evident that justice mechanisms should inspire hope, provide assurance of protection, and foster a sense of satisfaction. Instead, we are witnessing a cooling effect.

The good news is that it's not too late to prevent this—specifically, the Coordination Center for Support of Victims and Witnesses is being established, and we welcome this initiative. We believe that the justice system can be made more effective and humane. We propose to do this together.

*With hope for change and respect for the strength of each  
and every one who shared their experience as victims in  
cases of war crimes,*

MIHR Team

# Table of contents

Introduction	2
<b>1. The path of victims: legal framework and issues</b>	<b>5</b>
Who are the victims?	6
Guiding principles of dealing with victims	7
Rights and obligations of victims	8
Interrogation	10
Shortcomings in the protection of victims' rights	12
Absentee verdicts and their impact on victims	14
Focus on the individual	15
<b>2. International experience</b>	<b>16</b>
International Criminal Court	17
National support systems	19
Result and disappointment	21
<b>3. And how do victims feel in Ukraine?</b>	<b>22</b>
Meeting	23
Testimony	24
Communication	25
Legal assistance	25
Trial	26
Publicity	27
Justice and expectations	27
<b>4. Ukrainian victim support system</b>	<b>29</b>
Structure	30
Services	30
Impact	31
Approach	32
<b>5. Recommendations</b>	<b>33</b>

---

# THE PATH OF VICTIMS: LEGAL FRAMEWORK AND ISSUES

---

In this analysis, we examine the experience of victims of war crimes, which are one of the forms of international crimes. However, since we are studying only the context of criminal proceedings and judicial processes in Ukraine, we primarily analyze national legislation. Notably, in the Ukrainian legal framework, there is no specific status for victims of war crimes (or any other international crimes) procedurally. However, international humanitarian law establishes standards and approaches that the national system should strive for. Therefore, although the victim does not have a special status, they should still receive special treatment.

We will discuss international standards in the next section. In the first section, we will outline what the path of a victim looks like procedurally in Ukraine, what rights and duties they have, whether they are sufficiently protected within the judicial system, and what problems the system workflows have exacerbated and highlighted during full-scale war.

# Who are the victims?

The General Assembly of the United Nations provides a general definition of the term "victim." On November 29, 1985, by Resolution 40/34, it adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>2</sup>.

The Declaration defines victims as individuals or groups who have suffered harm as a result of acts or omissions. This harm may include physical injury or moral damages, emotional suffering, material loss, or significant infringement of fundamental rights.

A person is considered a victim regardless of whether the perpetrator has been identified, arrested, prosecuted, or convicted. Family relationships between the victim and the perpetrator also do not affect this status.

Victims can include close relatives or dependents of the person who directly suffered harm. They can also include those who wanted to help prevent this harm from occurring.

In Ukrainian legislation, the term "victim" is defined by Article 55 of the Code of Criminal Procedure (CCP<sup>3</sup>).

If criminal proceedings concern a war crime, **a victim can be:**

- a person who has suffered moral, physical, or property damage;
- a legal entity that has suffered property damage.

(For the sake of simplicity, we refer to a person, but the same rights, duties, and processes apply to legal

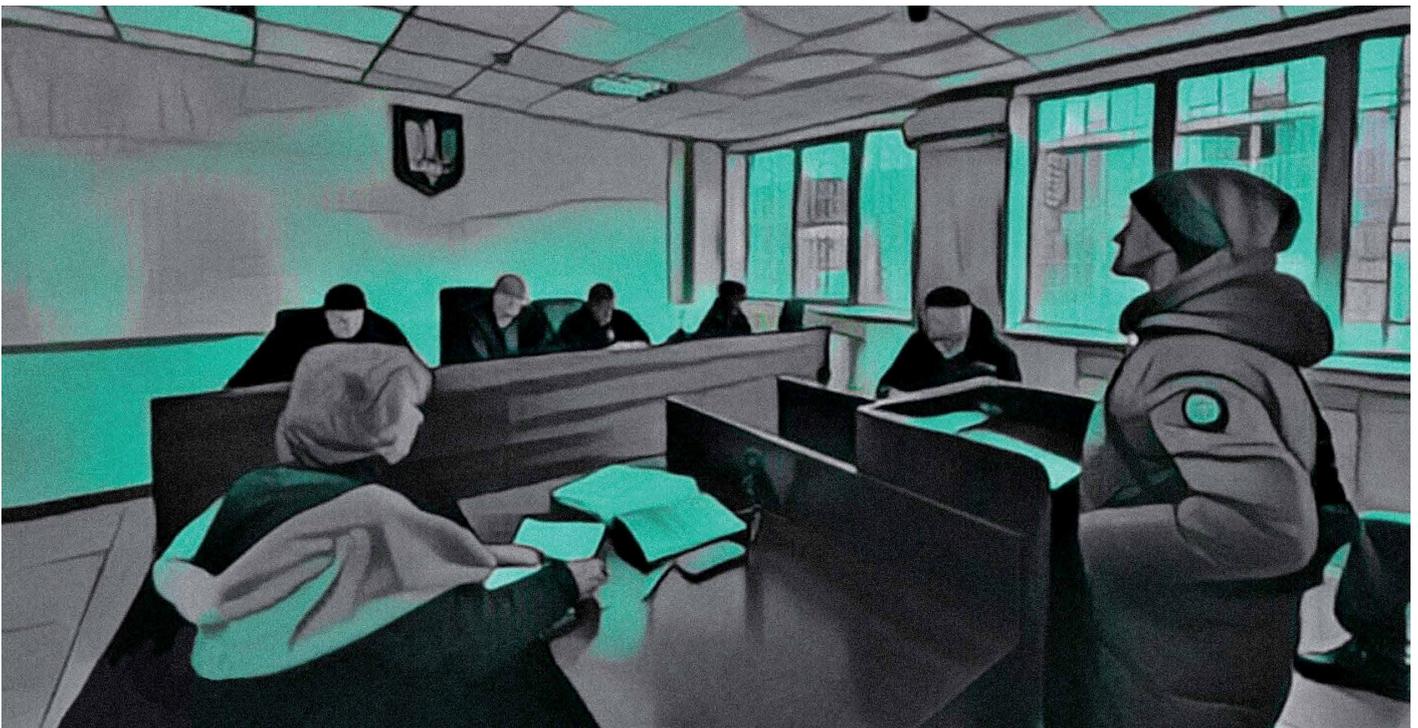
entities. However, a legal entity cannot suffer moral damage under law, only property damage).

A person is granted victim status when they file a statement with law enforcement authorities stating that a crime has been committed against them. A person who did not initially report the crime but suffered harm can also become a victim. In this case, after the start of criminal proceedings, they must submit a statement to be involved in the proceedings as a victim. An investigator or prosecutor may refuse to grant victim status, but this decision can be appealed with the investigating judge. Along with victim status, the person simultaneously acquires corresponding rights and duties (we will discuss this later).

The person who accepts the individual's statement of a crime issues them a memorandum of procedural rights and duties. Along with the extract from the Unified Register of Pre-trial Investigations, this document should contain information about the victim — then it also confirms that the person has been granted the procedural status of a victim.

If a person who has directly suffered harm from a crime has died or physically cannot file a statement, their relatives can become victims. In this case, it should be decided which one of the relatives will submit a statement to be involved in the proceedings as a victim. It is also possible to request that several relatives have such status.

If a person who has suffered harm does not file any statements, an investigator, prosecutor, or court has the right to recognize them as a victim only with their written consent. Otherwise, the person is involved in criminal proceedings as a witness.



2. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>  
3. <https://zakon.rada.gov.ua/laws/show/4651-17#Text>

# Guiding principles of dealing with victims

---

European normative regulation regarding the status and protection of victims' rights is influenced by Directive of the European Parliament and of the Council of the European Union 2012/29/EU<sup>4</sup> of October 25, 2012, establishing minimum standards on the rights, support, and protection of victims of crimes, and the Framework Decision of the Council of the European Union of March 15, 2001, on the status of victims in criminal proceedings<sup>5</sup>.

Also, Directive of the European Union 2012/29/EU, adopted on October 25, 2012, establishes minimum standards pertaining to the rights, support, and protection of victims. Thanks to the Directive, there is an approach oriented towards victims, and EU Member States are obliged to implement its requirements at the national level:

- Ensure the right of victims to understand the process and to be understood. This means that they should be explained in understandable language how they can exercise their rights, how to get assistance, and what role they play in the criminal process.
- Ensure access to support services for victims and their families. The state must also establish such services.
- Ensure the right of the victim to testify and to be active in the process.
- Ensure the right of victims to review decisions to refuse to prosecute.
- Protect victims from re-traumatization, ensuring their right to confidentiality.
- Train law enforcement and judicial system personnel in dealing with victims.

---

Although Ukraine is not yet a member of the EU, these documents define European standards of dealing with victims, which our country aspires to, and which it evidently must adopt for future EU membership.

---

Typically, criminal justice is conceptualized from the standpoint of legal relations between the state and the offender, leaving victims seemingly marginalized and their status inadequately regulated.

Moreover, the complexity of the process discourages victims from participating in the justice process. However, investigating crimes without the participation of victims is extremely difficult. After all, victims are both witnesses to the crime and those whose interests criminal justice is supposed to protect. The balance between the roles of "witness" and "victim" is essential for the goals of justice, so the legal system must reinforce the victim's trust in criminal justice and encourage their cooperation, especially as witnesses.

The aforementioned Declaration of the UN General Assembly also defines basic guarantees for victims.

- Victims must be informed about their role in the judicial process, the scope, timing, course, and results of the judicial proceedings.
- Victims must have the opportunity to express their own thoughts and wishes. These should be considered at relevant stages of the judicial process when their interests are affected.
- Victims must be adequately assisted throughout the judicial process.
- Efforts should be made to minimize the inconvenience to victims, protect their personal lives when necessary, and ensure their safety, that of their families, and their witnesses. It is important to protect these individuals from revenge and intimidation.

On June 28, 1985, the Committee of Ministers of the Council of Europe adopted Recommendation to member states on the position of the victim in the framework of criminal law and criminal procedure (No.R(85)11<sup>6</sup>). It contains requirements for the law enforcement system:

- Police officers must be trained to communicate with victims with empathy, constructively, and encouragingly.
- The police must inform the victim about the possibilities of receiving support, practical and legal assistance, compensation from the offender or the state.
- The victim must have the opportunity to receive information about the results of the police investigation.
- At all stages of the proceedings, the victim must be questioned taking into account their state and with respect for their rights and dignity. When possible and appropriate, children, people with mental disorders, and people with disabilities should be questioned in the presence of their parents, guardians, or legal representatives.
- The victim must be informed of the date and place of the court hearing and understand how to find out about its outcome.
- The court must receive all relevant information about the harm suffered by the victim to take into account the compensation they require.
- Consideration should be given to protecting the victim from the disclosure of any facts that may unduly affect their privacy or offend their dignity.
- The victim and their close relatives should be protected from intimidation or revenge.

---

4. [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX%3A32012L0029&fbclid=IwAROE\\_PiKKEhSN3RI3VJgou7wHG2wHLMLxlniAC-sgOzXwagPx9uZOSYnnjM](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX%3A32012L0029&fbclid=IwAROE_PiKKEhSN3RI3VJgou7wHG2wHLMLxlniAC-sgOzXwagPx9uZOSYnnjM)

5. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001F0220>

6. <https://polis.osce.org/council-europe-committee-ministers-recommendation-no-r85-11-member-states-position-victim-framework>

In the Rome Statute of the International Criminal Court<sup>7</sup>, Article 65 concerns the protection of witnesses. It stipulates that the Court must ensure the safety, physical and mental well-being, dignity, and privacy of victims and witnesses. In doing so, the Court must take into account the age, gender, health status of the victims, as well as the nature of the crime, particularly in cases of sexual or gender-based violence, violence against children<sup>8</sup>.

Proceedings must be open, but as an exception—to protect victims, witnesses, or the accused—any part of the proceedings can be heard in camera (in closed session) or it can be allowed to present evidence through electronic or other special means. This (and other protective measures) can be recommended to the

prosecutor and the court by the Victims and Witnesses Unit (VWU) of the ICC. For example, this is done when dealing with victims of sexual violence or children. However, this is not mandatory. The court may decide to conduct hearings openly, taking into account all circumstances (especially the opinion of the victim or witness<sup>9</sup>).

Also, when the disclosure of evidence or information may pose a serious threat to any victim, witness, or their family, the Prosecutor may choose not to disclose this evidence but only present their summary.

All of this should not prejudice the accused, should be compatible with their rights, and should not obstruct fair and impartial judicial proceedings.

## Rights and obligations of victims

---

At the national level, the important role of the victim in criminal proceedings is declared because one of its key tasks is to protect individuals from criminal offenses, safeguard the rights, freedoms, and legitimate interests of the participants in the proceedings.

Although the victim is a participant in the process<sup>10</sup>, a party to the criminal proceedings<sup>11</sup> on the side of the prosecution, they have limited instruments to influence the investigation.

The parties in Ukrainian criminal proceedings are the prosecution and the defense. The concept of the modern Code of Criminal Procedure envisages that the prosecutor takes care of the rights of the victim. In the event that the prosecutor refuses to support the prosecution, the victim acquires the rights of the prosecutor. In practice, the

prosecutor does not refuse to support the prosecution, so the victim does not acquire real procedural rights that could significantly influence the pre-trial investigation or judicial proceedings.

Therefore, the victim is somewhat limited in rights compared to the accused, who is a party to the process. For example, the defense can appeal to the investigating judge or the court with a motion to collect new evidence, but the victim cannot because this should be done by the prosecutor as part of the latter's rights. So if the prosecutor does not act in the interests of the victim, it is more difficult for them to achieve more effective protection of their interests in court.

Despite certain limitations, victims still have rights at various stages of the proceedings.

### General rights of the victim in the Code of Criminal Procedure (CCP):

- Receive notification of their rights and obligations;
- Know the essence of the suspicion and accusation, receive notification of the selection, change, or cancellation of interim measures with respect to the suspect or accused (summoning by law enforcement or court, temporary restrictions on certain rights, fines or suspension from office, temporary seizure or arrest of property, detention or interim measure), completion of pre-trial investigation;
- Present evidence to the investigator, prosecutor, investigating judge, or court;
- File recusals and motions;
- Right to personal safety, safety of their family, property, and residence;

---

7. [https://zakon.rada.gov.ua/laws/show/995\\_588#Text](https://zakon.rada.gov.ua/laws/show/995_588#Text)

8. <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>

9. [https://www.icc-cpi.int/sites/default/files/iccdocs/otp/Policy\\_Paper\\_on\\_Victims\\_Participation\\_April\\_2010.pdf](https://www.icc-cpi.int/sites/default/files/iccdocs/otp/Policy_Paper_on_Victims_Participation_April_2010.pdf)

10. Participants in criminal proceedings include: parties to criminal proceedings, the victim, their representative and legal representative, a civil plaintiff, their representative and legal representative, a civil defendant and their representative, a representative of a legal entity under investigation, a third party whose property is subject to arrest, another person whose rights or legitimate interests are restricted during the pre-trial investigation, a person concerning whom the issue of extradition to a foreign state is considered, a petitioner, including a whistleblower, a witness and their lawyer, an attesting eyewitness, a surety, an interpreter, an expert, a specialist, a representative of the probation service staff, a court reporter, and a court clerk.

11. Parties to criminal proceedings: on the side of the prosecution - investigator, inquiry officer, head of the pre-trial investigation authority, head of the inquiry authority, prosecutor, as well as the victim, their representative and legal representative in cases provided by this Code; on the side of the defense - suspect, person against whom sufficient evidence has been collected to notify them of suspicion of committing a criminal offense but who has not been notified of suspicion due to their death, accused, convicted, acquitted, a person for whom the application of medical or educational coercive measures is envisaged or the issue of their application was considered, their defenders, and legal representatives.

- Provide explanations or testimony—or refuse to do so;
- Appeal decisions, actions, or inaction of the investigator, prosecutor, investigating judge, or court;
- Have a representative and at any time refuse their services;
- Provide explanations or testimony in their native or another language they speak fluently and use the services of an interpreter free of charge, if they do not speak the official language or the language in which the criminal proceedings are conducted;
- Receive compensation for damages caused;
- Familiarize themselves with materials directly related to the criminal offense committed against them;
- Use a camera, video camera, voice recorder, etc., during procedural activities (the court may prohibit this by its ruling);
- Receive copies of procedural documents and written notifications.

## During pre-trial investigation, the victim has the right to:

- Prompt acceptance and registration of a complaint about a criminal offense, recognition of their status as a victim, along with the issuance of a document confirming this;
- Present evidence to substantiate their complaint;
- Participate in investigative (detective) and other procedural activities, during which they can ask questions, make comments and objections (to be reflected in the official record), as well as review the official records of investigative (detective) and other procedural activities conducted with their participation;
- The victim has the right to appeal decisions or omissions on the part of the investigator, detective, or prosecutor—for example, if they fail to enter information about the criminal offense into the Unified Register of Pre-Trial Investigations after receiving a relevant complaint or notification, or fail to take other procedural actions;
- After the completion of pre-trial investigation, receive copies of materials directly related to the criminal offense committed against the victim.

## Rights of the victim during court proceedings:

At all stages of criminal proceedings, the victim has the right to reconcile and reach an agreement with the suspect/accused.

The victim may also have a representative during the process.

- Know in advance about the time and place of the court hearing;
- Participate in the court proceedings;
- Participate in the direct examination of evidence;
- Support the prosecution in court if the prosecutor refuses to do so;
- Express their opinion when it's time to decide on the punishment for the defendant or to subject them to involuntary medical or educational measures;
- Review court decisions, the court session log, and the technical recording of the criminal proceedings in court;
- Appeal court decisions.

## At the same time, the victim has obligations:

- To appear when summoned by the investigator, prosecutor, investigating judge, or court, and if this is not possible, to notify them in advance and explain the reason;
- Refrain from obstructing the establishment of the circumstances of the crime;
- Refrain from disclosing information, without permission from the investigator, prosecutor, or court, where the victim acquired this information through involvement in the criminal proceedings and which is legally protected as confidential.

# Interrogation

---

The Code of Criminal Procedure (CCP) establishes general rules for interrogations, as well as rules for the interrogation of victims and witnesses. They are regulated by articles 224, 225, 226, 352, 353, 354.

We also examine the rules for the interrogation of witnesses because, in some limited<sup>12</sup> cases, a person may refuse the status of a victim in criminal proceedings. Then they can be involved in criminal proceedings as a witness — and be questioned according to the relevant rules.

---

## 1. Pre-trial stage

In general, interrogations are conducted by a prosecutor or investigator at the place of pre-trial investigation (this can be the prosecutor's office, police, or the Security Service of Ukraine). However, it can also be conducted elsewhere with the consent of the person being interrogated. An interrogation is subject to time limits: it cannot last more than two hours without a break and no more than eight hours per day in total.

Before the interrogation, there are several formal procedures: establishing the person's identity, explaining their rights, and the procedure for conducting the interrogation. If the age of the person is not established, but it is apparent or obvious that they are under 18, they are interrogated according to the relevant rules until their exact age is determined. An interpreter may also be involved in the interrogation.

The person being interrogated has the right to use their own records and notes during the interrogation if their

testimony involves any information or calculations that are difficult to remember.

Also, if desired, the person being interrogated has the right to write down their testimony by their own hand. Additional questions may be asked based on these statements.

A person has the right not to answer questions about circumstances:

- If the law expressly prohibits answering questions (the seal of confession, medical confidentiality, attorney-client privilege, privilege of judge's chambers, etc.);
- If answering could lead to suspicion or accusation of a crime against the person being interrogated or their family members.

The victim may choose not to explain the refusal, while the witness must explain it, but not when it would be self-incrimination or incrimination of close relatives.

---

## 2. Court proceedings

The beginning of the interrogation at this stage also follows a certain algorithm. Firstly, the presiding judge establishes the identity of the victim, clarifies their relationship with the accused. The judge also inquires whether the victim received a memorandum of their rights and duties, whether they understand them (if something is unclear, the presiding judge explains it), and warns about criminal liability for knowingly false testimony.

The victim is interrogated according to the rules of witness interrogation: the person is sworn in, the presiding

judge controls the interrogation to avoid wasting time, protect the victim from insult, or prevent violations of interrogation rules.

The victim can be interrogated again during the same or subsequent hearing upon motion. The motion can be filed by the victim themselves, the party to the criminal proceedings, or at the court's initiative when it becomes clear during the hearings that the person may be able to offer testimony regarding other circumstances.

During the interrogation or other evidence examination, the victim may be questioned by participants in the criminal proceedings, an expert, and the court.

---

12. We are talking about the provisions of Part 7 of Article 55 of the CCP, according to which if a person has not filed a complaint about a criminal offense committed against them or a statement requesting their involvement in the proceedings as a victim, then the investigator, prosecutor, or court has the right to recognize the person as a victim only with their written consent.

### 3. Video interrogation

Victims can be interrogated via video conference — that is, online. This is regulated by Article 232 of the CCP. Such an interrogation can be conducted when:

- Due to health or other compelling reasons, the victim cannot come directly to the investigator or prosecutor or to the hearing;
- It affects the safety of the victim;
- The victim is under 14 years old (an underage person) or 14-18 (a minor);
- It is needed to expedite the pre-trial investigation or court proceedings;
- Other grounds exist, as determined by the investigator, prosecutor, investigating judge, or court.

If the victim is under protection, they can be questioned via video link, changing their appearance and voice so that they cannot be recognized.

At the pre-trial stage, the decision on such interrogation is made by the investigator or prosecutor, and during the court hearing — by the investigating judge on their own initiative or upon motion of one of the parties or other participants in the criminal proceedings.

At the pre-trial stage, throughout the video interrogation, a representative of the pre-trial investigation authority conducting the case must be present with the victim. They provide the victim with a memorandum on their procedural rights, check their identity documents, and ensure compliance with the rules of interrogation.

During the interrogation, the victim cannot be in a random location: it is either the premises under the jurisdiction of the pre-trial investigation authority or the city where this authority is located. At the judicial examination stage, such interrogation can be conducted from another courtroom or premises outside its limits (this is called remote court proceedings).

At the trial stage, the interrogation via video link can be initiated by participants in the criminal proceedings, including the victim, or by the court on its own initiative. The court order is the basis for conducting a video conference.

To participate in such a court hearing, the victim must be in the premises within the jurisdiction of the court or in the city where the court is located. Throughout the court hearing, there must be a court clerk or court reporter of another court alongside the victim. They are obliged to provide the person with a memorandum on their procedural rights and check their identity documents.

The victim can review the recording of their interrogation. Also, the investigator or prosecutor may conduct a telephone or video interview with the victim or witness. This can be done to expedite the investigation when the person cannot come for the interrogation. After the interview, the prosecutor prepares a report, indicating the date and time of the interview, the details of the interviewee, the method by which they verified their identity, describes the means of communication with the interviewee and the circumstances they reported. If necessary, the interview is recorded. Subsequently, the investigator or prosecutor may interrogate the same person again.

---

### 4. Interrogation of vulnerable victims

Victims who have experienced potentially traumatic events or have not reached adulthood are considered vulnerable. Ukrainian criminal legislation defines the specifics of interrogating minors or underage children. However, there are no clear rules for other categories.

Article 226 of the Code of Criminal Procedure stipulates that during the interrogation of individuals under 18 years old, there must be a legal representative, educator, or psychologist present, and if necessary, a doctor. Before the interrogation begins, they are informed of their duty to be present, the right to object to questions, and to ask their own. If the presence of a legal representative may harm the interests of the victim, at their request or at the initiative of the investigator or prosecutor, their participation may be restricted or another legal representative may be appointed instead.

This interrogation has time limits—it cannot exceed an hour without a break and no more than two hours per day in total. It can be conducted in any convenient location, not necessarily in the investigator's or prosecutor's office.

Toys can be brought for children during the interrogation, and for example, a psychologist can ask questions in a language understandable to the child.

At both the pre-trial and trial stages, victims under 16 are informed of their duty to provide truthful testimony, but they are not warned about criminal liability for refusing to testify or for knowingly providing false testimony. They are also not required to take an oath in court.

At the start of the full-scale invasion, the Prosecutor General's Office developed guidelines on interrogating victims of conflict-related sexual violence. Marta Zmysla, a lawyer from the NGO JurFem, who represents victims in courts, explains: *"For example, a person of the same sex should conduct the interrogation, questions should be as sensitive and open as possible, relating to the general context, circumstances preceding the crime, the event itself, and its impact on the victim's life. The person can narrate in any form what happened to them and may take a break to speak with a psychologist."*

In the interests of objective clarification of circumstances or the protection of the victim's rights, they may be interrogated outside the courtroom via video. This requires a relevant court order.

## 5. Court interrogation

Article 23 of the Code of Criminal Procedure states that the court must examine evidence directly during the court proceedings. Testimonies of participants in criminal proceedings are received orally by the court. Anything not voiced in court cannot be considered evidence (excluding the exceptions under the Code of Criminal Procedure, but they are not relevant here).

The law also stipulates that prosecution witnesses and victims must be present in the courtroom for interrogation—this is ensured by the prosecution. This obliges the prosecutor to initiate a repeat interrogation of the victim in court—otherwise, the court will not consider their testimony. This provision aims to protect witnesses or victims during interrogations by investigators at the pre-trial stage. Before the introduction of this provision, there were cases where pressure was exerted on those being interrogated to obtain incriminating information—this was part of Soviet practices transferred to national legislation after the country gained independence (in the Russian Federation, they are still preserved). Excluding this provision brought the Ukrainian system closer to the European approach and made procedures more comfortable for those being interrogated. However, it resulted in another drawback—now victims are interrogated twice, which can be harmful both to them and to the case.

Overall, martial law does not change the way the judicial system works. However, war affects the people's ability to fully participate in the process: for example, witnesses or victims may not be able to reach the court, they may be forced to leave while the process is ongoing, or the interrogation itself may become re-traumatizing and harmful to them. The victims' fear of repeat occupation also plays a role: if this happens, their testimonies will make them an easy target for Russians or local collaborationists. Additionally, victims fear testifying due to threats to their families and relatives who are still in the occupied territories.

Another reason for the victims' fear concerns those who experienced sexual violence at the hands of Russian soldiers. Marta Zmysla says: *"Victims are definitely afraid to testify or fear societal stigma. Therefore, they may not seek help, refuse to testify, or conceal their ordeal. Due to stereotypes, people—even family members—may think the victim*

*is to blame: there are cases where a woman does not tell her husband about violence against her because he would then end the marriage. Also, in small communities, older people may accuse the victim of collaborationism."*

Due to all of this, whether consciously or not, individuals may avoid being re-interrogated, thus delaying the process.

That's why amendments were made to the Code of Criminal Procedure by the Law of April 14, 2022<sup>13</sup>. This improved the procedure for conducting criminal proceedings under martial law. In particular, the new version of Article 615 of the Code of Criminal Procedure defines a special regime for criminal proceedings under martial law. Amendments to Part 11 of Article 615 of the Code of Criminal Procedure allow using as evidence in court the testimonies given by a witness or victim at the pre-trial stage (especially when multiple people are interrogated). This can only be done if the interrogation was recorded on video. It is also advisable to involve the defense counsel of the accused in such interrogations: otherwise, the defense will have the right to challenge the credibility of the testimonies, leading to a repeat interrogation.

It is up to the court to decide whether or not to use this instrument. Marta Zmysla explains why this happens: *"For example, a defense attorney may request an interrogation at the trial stage to ask the relevant questions. Or the video from the pre-trial stage may be of poor quality, when it's filmed from an angle that doesn't show the victim, or there may be technical malfunctions: for instance, if the camera's battery dies and no one notices. Also, individuals may be summoned to court by the judge's decision, so it's necessary to increase awareness among law enforcement and judicial system personnel and instill a people-centered approach."*

Another issue that Zmysla underscores is the need to disclose the true identity of the victim of sexual violence in order to file a civil lawsuit: *"In all criminal proceedings involving conflict-related sexual violence (CRSV), personal data is modified, and the case is submitted to the court with modified data. And within the framework of the judicial process, this measure can be revoked, for example, if a civil lawsuit needs to be filed to seek compensation for emotional distress. Because there is no clear mechanism in national legislation to revoke such measures after the court has made a decision, this can create problems, so this should be corrected."*

## Shortcomings in the protection of victims' rights

One of the fundamental rights of the victim is the right to initiate an effective investigation to punish the guilty, the right to be informed about the progress of the investigation, and to receive decisions regarding compensation. However, Ukrainian legislation has

shortcomings that do not allow the victim to take an active position in the investigation and court proceedings, and recommendations from the Code of Criminal Procedure do not guarantee that the court will necessarily adhere to them.

---

1.

Ukrainian legislation does not allow discretion upon registration of a complaint about a criminal offense, meaning that an investigator or prosecutor cannot decide on their own whether to register a complaint or not. Attorney Andriy Yakovlev, managing partner at Umbrella Law Firm and MIHR expert, says: *"However, in practice, not all complaints about criminal offenses are registered in the Unified Register of Pre-trial Investigations. Law enforcement agencies act as if they have this discretion and apply it. As a result, complaints may be registered by the police not as notifications about a crime, but as non-criminal petitions (Law of Ukraine "On Petitions of Citizens")."*

Therefore, victims often find it **extremely difficult to initiate an investigation**. To start it, it has become common practice to appeal to an investigating judge with a complaint—then the case is opened based on the judge's decision. However, sometimes even after this, the investigation does not begin, and the appeal process has to be repeated. Although it is not complicated, not all victims can do it because it requires the assistance of a lawyer.

---

2.

There are also problems when it comes to **obtaining victim status**, especially when cases are initiated other than based on victims' complaints: investigators do not engage with victims, do not enter information about them into the Unified Register of Pre-trial Investigations. This limits people in the exercise of certain rights, including the right to be informed about the progress of the investigation and accordingly does not allow them to control its course. Law enforcement agencies may also initiate criminal proceedings, for example, based on the fact of shelling of a city or village or the existence of a torture chamber, but initially have no victims and look for them later. Often, within the framework of criminal proceedings, only one of a series of crimes committed against the victim is considered. For example, MIHR fact finders witnessed the interrogation of a man arbitrarily detained by Russian military personnel in Bucha district. An SBU investigator questioned him about being held in a torture chamber outside Bucha. The man was transported from the torture chamber to Hostomel, held there, then to Belarus, and later to Russia for several months, where he was tortured and held in inhuman conditions. However, the investigator did not inquire about any of this. This leads to inconsistency, low quality, and fragmentation of investigations and, ultimately, to the confusion of victims.

Victims are not always granted official status, especially when the investigation has not identified any suspects. In such cases, victims have to demonstrate persistence. One such case was observed in one of the courts in Kyiv Region, where a woman was forced to hire a lawyer in order to obtain victim status two years after her family members were killed by Russians — six of her relatives were killed. More details about her experience are discussed in the section titled "And how do victims feel in Ukraine?"

---

3.

3. A proactive victim during pre-trial investigation encounters difficulties in collecting evidence, especially when the **investigator does not support their initiative**. There can be various reasons for this, including the investigator's excessive workload.

---

4.

Currently, **victims are unable to retain lawyers from Free Legal Aid Centers**, although this would solve a number of problems, including some of those already listed.

Marta Zmysla says that victims are mostly unaware of their rights and, therefore, need assistance: *"Unfortunately, nobody explains to victims what support they can receive, what rights they have. They may be quoted articles of the Code of Criminal Procedure, but they are not explained in layman's terms. For example, I see that in processes where victims are not represented, civil lawsuits for compensation are not filed."*

---

5.

Legislation has endowed the victim with a passive role: although they have the right to initiate procedural actions, their possibilities are still unjustifiably smaller compared to those of the defense.

Because of this, for example, a victim does not have the right to petition the investigating judge with a motion to gather evidence from third parties, as the defense can do in the interests of the suspect or the accused. For a while, victims used to file such motions, and investigating judges granted them, but this practice was changed by the Supreme Court (Resolution of the Supreme Court, Criminal Court of Cassation of April 2, 2020, case No. 161/19398/17, proceeding No. 51-8733km18<sup>14</sup>). Legislators have not addressed this problem yet, so from the perspective of Ukrainian legislation, **victims have fewer rights than the accused**.

---

6.

Another problem concerns the **actual presence in court**. Alma Taso Deljkovic, a psychologist and co-founder of the Bosnian victim support system, describes what she saw in the Irpin City District Court during the trial of the Russian paratrooper Andriy Medvedev, accused of violating the laws and customs of war: *"From the standpoint of victim support, everything — from entering the court to the hearing itself — should look different. Because what happened there was horribly wrong. Firstly, at the entrance, the victim was called out loudly, so everyone knew who this person was. You never know who else is waiting outside and whether there is anyone there who may pose a threat to the victims. Moreover, this method of summoning them is very difficult for them. There are many other ways to check if the victim or witness has arrived, to allocate a separate room for them to wait in, where there will be no journalists or other people who want to talk to them. In most cases, a person is very stressed before the hearing — not only because of what they will say, but simply because they are in court."*

# Absentee verdicts and their impact on victims

The vast majority of war crime cases are tried in absentia. In response to a request from MIHR, the Prosecutor General's Office made it known that as of January 31, 2024, Ukrainian courts had issued 44 verdicts in absentia regarding 62 defendants in cases under Article 438 of the Criminal Code of Ukraine. Of these, 34 have become legally binding, involving 51 convicted individuals.

During the trial process, the accused is on the wanted persons list, and accordingly, after the verdict, they remain on the wanted persons list as convicts. Typically, they are either in temporarily occupied territory of Ukraine, on the front lines, or abroad (most likely in Russia or Belarus).

For such cases, there is a special algorithm outlined in the Guidelines on the Procedure for International Legal Cooperation on Matters of Mutual Legal Assistance, Extradition of Offenders, Transfer (Acceptance) of Convicted Persons, Execution of Verdicts, and Other Issues of International Judicial Cooperation in Criminal Proceedings during the Judicial Process. They were approved by the Order of the Ministry of Justice of Ukraine dated August 19, 2019, No. 2599/5 (hereinafter referred to as "the Guidelines")<sup>15</sup>.

Section X of the Guidelines stipulates that verdicts of Ukrainian courts must undergo the process of recognition and enforcement in the territory of other states. To initiate this process, the court that handed down the verdict must prepare a request for the recognition and enforcement of the verdict of the Ukrainian court in the territory of a foreign state and send it to the Ministry of Justice.

However, it is obviously impossible to send a verdict to Russia<sup>16</sup>. Moreover, conducting a search in other countries is extremely challenging: for it to be effective, the process of recognizing the decision of the Ukrainian court would have to be carried out in many countries.

The situation is further complicated by the fact that even under Ukrainian law, absentee judgments of foreign courts are not enforced in Ukraine. This is only possible when the convicted person has been served a copy of the judgment and given an opportunity to appeal. With such requirements imposed on its judicial system, Ukraine may face similar challenges in other countries.

Thus, currently, without an effective system for enforcing absentee verdicts, justice is practically not served, and victims are not compensated for their damages. It is important for the state not only to adhere to the principles of fair justice but also to ensure that judgments are enforced — meaning that the convicted individuals are found and held accountable. Otherwise, what is the point for victims to participate in investigations and court proceedings that do not bring them closer to justice?

MIHR sent a request to the State Judicial Administration regarding the legal force and execution of verdicts rendered *in absentia*, as well as what the Ukrainian judicial system is currently doing to ensure that verdicts of Ukrainian courts are recognized and executed abroad. We were denied a response because this information is "not reflected and not documented" in the SJA. At the moment, we have a reasonable assumption that in absentia verdicts are not being executed — especially since the convicted individuals are most often in the Russian Federation, making it impossible to do so.

We have extensive experience with absentee cases and verdicts in the Balkans. We will discuss their impact in more detail in the next section. Here, we will only add the words of Alma Taso Deljkovic: "*Working with expectations is always difficult, both at an individual and societal level. I can imagine that victims and their communities hope for swift justice and for the guilty to be punished in court. I have seen many trials and verdicts, but I have not seen a single verdict that satisfied everyone.*"

15. <https://zakon.rada.gov.ua/laws/show/z0956-19#Text>

16. Ukraine has declared a severance of diplomatic relations with Russia and has also ceased postal correspondence exchange with Russia.

# Focus on the individual

---

Since satisfaction through a verdict can be challenging, it is worth bringing this feeling closer to the victims through assistance instruments and providing them with the most comfortable conditions during the process.

Overall, the Ukrainian law enforcement system is only now beginning to develop practices for dealing with victims. We believe that these practices should be based on a people-centric approach, which prioritizes the rights, dignity, safety, and well-being of the victim.

The UN notes that this approach is victim-oriented and is based on their rights. This involves a systematic way of interacting with victims throughout the process and requires sensitive, individualized, comprehensive provision of continuous and reliable services without condemnation or discrimination. These general concepts have specific manifestations.

---

## **Environment**

It is important to create a favorable environment in which victims can safely and confidentially talk to someone they can trust, who will listen to them, support them, and allow them to express their needs and desires.

---

## **Awareness**

Victims should know what is happening at every stage of the process. It is also important to explain to them what to expect and what cannot be influenced within the scope of justice.

---

## **Control**

A person, especially after experiencing potentially traumatic events, should feel that they can influence the situation, control it, and that their personal will matters. For example, no actions on behalf of the victim can be taken without their informed consent.

---

## **Space**

Physical space—the interrogation room, courtroom, waiting area—should be adapted to the needs and interests of the victims, promote trust between them and law enforcement or the judicial system, and should not have irritants that cause discomfort or trigger trauma.

---

## **Protection**

It is important to protect the victim from stigmatization, discrimination, revenge, and re-traumatization.

---

---

# INTERNATIONAL EXPERIENCE

---

Ukraine's situation regarding the investigation of war crimes is unique because law enforcement and judicial systems are dealing with them while the hot phase of the war is still ongoing. However, the challenges and problems faced by victims and witnesses, the dynamics of their attitude toward the process and justice in general, can be understood and anticipated by examining the experience of other countries, as well as international justice systems that work both to establish truth and justice and to satisfy victims.

In this section, we consider four approaches. Using the example of the International Criminal Court, we study practices for supporting, interrogating, and protecting victims, as well as the work of the Trust Fund for Victims. Through the examples of the national systems of Croatia and Bosnia and Herzegovina (BiH), which suffered from hostilities between the former Yugoslav member states, we see how time, the presence of a support network, and the effectiveness of the entire system affect the motivation of victims and their readiness to cooperate with justice. And the example of Georgia, which experienced aggression from Russia, demonstrates how international justice can cause disappointment and frustration.

# International Criminal Court

---

In its Statute and Rules of Procedure and Evidence, the International Criminal Court provides assistance to witnesses and victims. Although victims are not parties to the proceedings, the institutional structure of the ICC<sup>18</sup> reflects its obligation to facilitate the observance of their rights. The Secretariat is responsible for this, which has two main units for this purpose: the Victims and Witnesses Unit (hereinafter “the VWU”) and the Office of Public Counsel for Victims.

## 1. Assistance

The Victims and Witnesses Unit plays a key role in bridging the gap between victims and the court by administering the process of submitting their applications to participate in the proceedings. It also helps organize legal representation for victims in court: the VWU provides them with a list of pro bono lawyers to choose from.

The VWU also facilitates the participation of victims in the process: for example, by informing them of court decisions that may affect their interests or by implementing a gender-sensitive approach at all stages of judicial proceedings when working with victims of sexual violence.

Overall, assistance from the VWU may go beyond support strictly within the courtroom. This includes psychosocial support, crisis intervention, and facilitating access to medical care. This is provided by experts and VWU staff themselves, not through a referral system from auxiliary organizations.

Also, within the Secretariat, there is the Office of Public Counsel for Victims. It performs only administrative functions. Its main task is to support and assist victims and their legal representatives. The Office can provide legal research and consultations, as well as represent interests in court on specific issues. Under certain circumstances, the court may appoint a member of the Office as the legal representative of the victim or victims.

## 2. Protection

The ICC Statute provides for the protection of the safety, physical and psychological well-being, dignity, and privacy of victims and witnesses. Thus, the court must protect individuals who may be threatened due to their participation in the process and testimony.

The protective system is based on practices aimed at concealing the interaction of a witness or victim with the Court from their community and the general public. These practices are adhered to by all who interact with witnesses or victims.

For example, in the witness's place of residence, the Initial Response System may operate: a round-the-clock emergency response system that can evacuate witnesses and victims to a safe location in case of a threat. They are also explained the importance of privacy and “credible legends,” and reserve plans are agreed upon for emergencies.

The court may also apply procedural measures: for example, altering the appearance of the face or voice on the recording, using a pseudonym for the witness or victim.

The court may also order specific special measures when the case involves victims of sexual violence, individuals who have suffered trauma, children, or the elderly. For example, a psychologist or family member may be present during their interrogations, which may be conducted behind a screen to prevent visual contact with the accused. In critical cases, the Court’s Protection Program (ICCPP) operates, under which a witness or victim and their close relatives are relocated away from danger. Despite its effectiveness, this is only done out of absolute necessity, as such relocation is very stressful.

It is also important not to re-traumatize victims and witnesses during interrogation, that is, to ask questions in such a way that the person does not re-experience the traumatic event. It should be noted that the processes involving these individuals can be quite lengthy, so it is important to establish appropriate and timely communication with them so that the person does not lose faith in justice and remains motivated to testify and participate in the process.

Protective measures do not affect the fairness of the judicial proceedings, and they can be applied equally to both prosecution and defense witnesses. All parties are obliged to respect these measures and maintain confidentiality.

---

18. <https://www.hrw.org/reports/2008/jicc0708/10.htm>

### 3. Interaction and feedback

Another function of the VWU is to prepare all victims and witnesses for court. For this purpose, introductory sessions are conducted. The initial sessions can be held in the city or village of the witnesses: they are shown videos about what it's like to be a witness at the ICC, given brochures with routes to The Hague. Travel expenses to the court are reimbursed in certain cases. In The Hague, witnesses and victims are shown the courtroom, procedures are explained to them, and they are introduced to the staff. This is important because many victims or witnesses have never been to court before, and an unfamiliar environment can affect their well-being and testimony. This overview does not affect the testimony, as the case itself is not discussed during the familiarization. Additionally, the VWU staff are advised to be particularly cautious in contacting victims and witnesses one day before

giving testimony, remembering their own professional responsibility.

When a person has finished testifying, contact with them continues until the end of the overall process. At the request of the witness or victim and by court decision, a copy of their testimony may be issued to them. Additionally, the VWU strongly recommends arranging a meeting between its employees and the witness to thank them for their cooperation and recognize their contribution to the process.

The VWU also has a feedback system: this helps to understand what improvements should be made in the interaction with witnesses, what changes should be made to the protocols. This information is passed on to other divisions of the court. More details about these recommendations can be found in the Unified Protocol on the practices used to prepare and familiarize witnesses for giving testimony<sup>19</sup>.

### 4. Compensation

Under the Rome Statute, the Trust Fund for Victims was established. It is from this Fund that the ICC awards compensation to victims. It was created to protect the interests of victims and their communities. The Fund finances or creates innovative projects to meet their physical, material, and psychological needs. Compensation from the Fund may include financial compensation, return of property, rehabilitation, or symbolic measures, such as requests for forgiveness and memorial practices.

The Fund can act directly at the request and on the demand of the Court for the benefit of victims of crimes, regardless of whether there is an ICC verdict. However, the Fund collaborates with the Court to avoid any interference in the judicial proceedings. The funds for the compensation come from seized assets of convicted individuals or as voluntary donations.

The compensation in the case of Germain Katanga<sup>20</sup> is an example of how this process works. In 2014, the ICC found him guilty of crimes committed on February 24, 2003, during the attack on the village of Bogoro in the Democratic Republic of the Congo: these are crimes against humanity (murder) and war crimes (murder,

attack on civilians, destruction of property, and looting). During the attack, women were raped and subjected to sexual slavery, and children were used as soldiers: regarding these charges, the Court acquitted Katanga due to insufficient evidence, although it acknowledged that such crimes could have occurred. Katanga was sentenced to 12 years in prison.

In 2017, the Court awarded collective and individual reparations to victims of his crimes. In total, 341 individuals requested compensation, and the Court found sufficient evidence provided by 297 of them. At the same time, the ICC assessed the total harm to the victims at USD 3,752,620. Following the principle of proportionality, Katanga's liability was set at USD 1,000,000. However, he did not have the money to pay this compensation, so other resources of the Fund were used.

Ultimately, the Court awarded each of the 297 victims USD 250 as symbolic individual compensation. The Court emphasized that this symbolic amount, while not intended to fully compensate for the harm they suffered, provides significant relief to the victims. Additionally, considering the community's needs and requests, funding was directed towards long-term projects for housing, income-generating activities, education, and psychological support<sup>21</sup>.

## National support systems

Between 1991 and 2001, wars of varying intensity were waged in the territory of the former Yugoslavia due to ethnic and religious intolerance. Cases involving war crimes committed during that period are still being tried by national courts. Over the past 20 years, offices supporting victims and witnesses have been established within national judicial systems, referral networks for assistance have been set up, and it has been observed what exactly gives people a sense of justice and satisfaction.

The Witness Support Office of the Court of Bosnia and Herzegovina was established in 2005 within the judicial system. Its main goal is to provide psychological support to witnesses and victims, particularly in cases involving war crimes. These services are provided to both prosecution and defense witnesses. The team working before, during, and after the judicial process consists of three psychologists, a social worker, and two assistants. They can also be contacted round the clock through a dedicated

19. [https://www.icc-cpi.int/sites/default/files/RelatedRecords/CR2011\\_12190.PDF](https://www.icc-cpi.int/sites/default/files/RelatedRecords/CR2011_12190.PDF)

20. <https://www.icc-cpi.int/drc/katanga>

21. <https://www.icc-cpi.int/news/katanga-case-icc-trial-chamber-ii-awards-victims-individual-and-collective-reparations>

phone number. The office can cover travel expenses to court or arrange for caretaking services for the person traveling if necessary.

Someone from the team accompanies the witness or victim directly to a special waiting room in court, describing what to expect during the session, possible risks and advantages, and their rights.

During testimony, the support team also remains in the courtroom to inform the judge about the stress level of the witness or victim, observe changes in their condition, and warn about questions that may have a negative impact. If necessary, the support staff draws the judges' attention to the rules of communication with witnesses and victims. Additionally, the testimony may be transmitted to the office staff for remote monitoring purposes.

However, the approach of courtroom support in the process means that the support for the witness or victim from this system starts from the moment the case is transferred to court. Meanwhile, a person needs assistance from the very beginning of the case, which should be provided by an additional system.

Also, at the end of 2008, the UNDP in Bosnia and Herzegovina initiated the establishment of integrated Witness Support Offices at cantonal/district courts and prosecutor's offices. From September 2010 to September 2013, 648 victims and witnesses in 384 criminal cases received support from them.

In 2010, the OSCE released a report on the support system for witnesses and victims in war crime cases in the national judicial system<sup>22</sup>. The authors analyzed both security measures and the referral support system, as well as how the court adheres to these measures and requirements. We draw attention to this early report because the support system for victims and witnesses in Ukraine is just emerging and may face similar challenges.

**Physical protection.** Among these measures are relocation from danger, protection for victims during the journey to court, testifying under a pseudonym, behind a screen or curtain, altering the appearance and voice, separate entrances for victims and witnesses. However, there were problems with this: for example, witnesses under pseudonyms received summonses to court under their real names, thus exposing their role to the community.

**Psychological support.** Testifying in cases of war crimes means recalling an event that could have been traumatic. Active work with these memories in court can lead to re-traumatization. Therefore, by agreeing to this risk, a person should have access to psychological assistance. However, legislation must clearly define what services are provided and who provides them. Otherwise, there is a risk of misinterpretation of the law. Professional psychologists are also needed for psychological support, and there may be a shortage of them. Another challenge for psychological support is dealing with repeated interrogations. In Bosnia and Herzegovina, there were cases where a person gave the same testimony 4-5 times: this was exhausting, stressful, re-traumatizing, and demeaning. This happened due to a lack of coordination between judicial and law enforcement agencies, the consolidation or separation of proceedings.

**Social support.** In Bosnia and Herzegovina, a referral system has been created from civil society organizations providing social services to victims and witnesses: they are referred there by the support office. Organizations have signed a Memorandum of Understanding with the prosecutor's office. However, at the beginning, their work and authority were not regulated and clear standards were not established, and coordinators did not always use the opportunity to refer a person to an organization, so the support was not systematic. Moreover, the organizations themselves often lacked specialists trained to handle trauma. Thus, there was a lack of transparency, accountability, and standards in this system.



22. <https://www.icc-cpi.int/news/katanga-case-icc-trial-chamber-ii-awards-victims-individual-and-collective-reparations>

Special Witness and Victim Support Offices have also been established in district courts in Croatia. They have permanent staff assisted by over 200 trained volunteers. These offices protect the human rights of victims, enhance the effectiveness of the justice system by helping to obtain confident and reliable testimonies, and help restore citizens' trust in the rule of law<sup>23</sup>. To this end, they provide comprehensive support to witnesses, free legal aid, psychosocial assistance, monitor the observance of the rights of victims and witnesses during the judicial process. In the long term, these offices improve the legal and social status of victims and witnesses, track positive practices within the country and the EU, and advocate for their implementation.

To fully inform witnesses, the National Call Center for Victims of Crime has been established. It was launched by the Victim and Witness Support Service in Croatia, the UNDP wiki-database, and the Ministry of Justice. The call center is meant to explain the rights of victims and witnesses, provide emotional support, refer them to relevant civil society organizations and institutions, and assist in filling out applications for financial compensation<sup>24</sup>.

The Croatian example is important for Ukraine because most of its courts in cases of war crimes also operate in absentia. The NGO Documenta monitors courts in Croatia. Its report for 2020-2021 is eloquently titled "A Slow Approach to Justice"<sup>25</sup>. The authors write that the trend of in absentia proceedings in cases of war crimes continues to dominate and is exclusively present in criminal proceedings against members of Serbian military formations and the Yugoslav People's Army. In the reporting period, in four competent courts, 41 out of 59 criminal proceedings (70%) were held in absentia. Considering the scheduling of new reviews of cases and requests from convicts for reconsideration, the report authors call *in absentia* courts futile: at the same time, in countries where convicts or defendants live, there is no political will to search for and extradite them. However, the Croatian prosecutor's office still rarely sends requests to these countries (most defendants live in Serbia).

The authors note that witnesses and victims are dissatisfied with *in absentia* court proceedings and are unsure about the possibility of enforcing such verdicts. Also, repeated interrogations affect their attitude towards the court: this tires them out and re-traumatizes them. People who the judicial system at work lose faith in its effectiveness.

Of course, systems that facilitate access to justice exist in countries where there are not many war crime cases. For example, in the Netherlands, a national network of victim support points was created in 2011. They are located in courts, police, and prosecutor's offices. Victim support service staff provide them with information throughout the criminal proceedings (for example, about procedural actions, hearings, and decisions). The service can also organize meetings with the prosecutor, help prepare statements, and obtain compensation.

In France, a similar network of Houses of Justice and Law was created in 2021. They are subordinated to the prosecutor and the presiding judge of the court in which they are located. They can be staffed by judges, lawyers, court bailiffs, notaries, representatives of victim support associations, or probation officers. Admission is free, anonymous, and confidential<sup>26</sup>.

There is also a developed support system in the United States. The Office for Victims of Crime<sup>27</sup> operates under the Department of Justice, focusing on assistance immediately after the offense and continuing to support them in the process of rebuilding their lives. Experts advise victims in crisis situations, provide legal assistance, emergency shelter, therapy, and so on. This is funded through the Crime Victims Fund, which receives money from fines, debt confiscations, and offender fines. This is 1-3 billion dollars per year. In 2022, the Fund provided assistance<sup>28</sup> to 9.8 million victims.

The US Attorney's Office has a program for dealing with victims and witnesses. One of its functions is to inform about the criminal process. Employees inform victims and witnesses about events in the case, guide them in the courtroom, and if desired, accompany victims to court hearings.

In addition, the United States has the National Center for Victims of Crime<sup>29</sup>. This is a non-profit advocacy organization that works on behalf of victims and their families. Among the Center's services are hotlines for psychological support and legal advice, direct legal representation, training of lawyers for better work with victims.

Also, in the United States, victims, in addition to general rights, have the right to accurate and timely notification of any public court proceedings, any proceedings regarding parole, any release or escape of the accused. Victims also have the right to speak at hearings regarding the parole of the offender<sup>30</sup>.

---

23. <https://www.undp.org/sites/g/files/zskgke326/files/migration/eurasia/UNDP-CROATIA---Witness-and-Victim.pdf>

24. <https://pzs.hr/en/offices/national-call-center-for-victims-of-crime/>

25. <https://documenta.hr/wp-content/uploads/2022/07/War-Crime-Trials-2020-2021-Summary-Report.pdf>

26. <https://www.vie-publique.fr/fiches/268688-justice-de-proximite-les-maisons-de-justice-et-du-droit-mjd>

27. <https://ovc.ojp.gov/about>

28. <https://ovc.ojp.gov/about/crime-victims-fund>

29. <https://victimsofcrime.org/ncvcs-center-for-victim-survivor-services/>

30. <https://www.justice.gov/usao-cdca/programs/victimwitness-assistance-program>

# Result and disappointment

---

In December 2008, the Council of Ministers of Bosnia and Herzegovina adopted the National War Crimes Investigation Strategy (National Strategy), which outlined a systemic approach to better equipping and organizing the judicial system to handle war crime cases. Over the course of a year, the OSCE analyzed investigation problems at the national level, studying 184 war crime cases (50 collective cases involving 177 defendants and 134 individual cases) tried in courts from 2004 to 2009.

The analysis revealed that the most significant obstacles to effective investigation were repeated interrogations of victims and witnesses and the state and judicial system's inability to protect them from privacy violations, harassment, and violence. Additionally, the system failed to ensure their meaningful participation in judicial proceedings.

This indicates a systematic failure to ensure the protection of victims' and witnesses' rights. This is a fundamental problem without the resolution of which achieving justice is impossible. Due to systemic flaws, victims and witnesses increasingly refuse to cooperate in criminal prosecutions either out of fear of pressure or re-experiencing traumatic events. Many victims lose faith that judicial processes can deliver justice<sup>31</sup>.

Attitudes towards justice and its outcomes (e.g., reparations) are also influenced by time. Waiting for years for a court decision is a trial of motivation for victims and witnesses. A relevant, albeit grim, example for Ukraine is Georgia.

Russia invaded Georgia in 2008. The ICC officially began its investigation in 2016.

In 2018, the Georgian Coalition in support of the ICC prepared a report for the Prosecutor's Office. Half of the surveyed victims in the case had not heard of the ICC, and any information they had about the ICC was extremely limited. Only 3% of the victims met with ICC staff. A number of Georgian civil society organizations prepared a report titled *August Ruins*, which, among other things, addresses the socio-economic problems of the victims. The authors visited camps for internally displaced persons, where, according to their estimates, about 20,000 people were staying. Many of those surveyed did not believe that the ICC investigation would yield results or that anyone in Russia would be punished<sup>32</sup>.

In 2021, Georgian human rights activists also did not believe that the ICC investigation would be successful: *"For Georgia, it's all over, the only thing that makes sense is a mandate to assist the victims."* Civil society organizations worked with the victims, providing medical and psychological assistance, legal services, and representation at the ECHR in Strasbourg and the ICC in The Hague. According to them, they tried to protect the victims, but no one cared about them and these people were no longer on the agenda.

Other activists from the Georgian Young Lawyers Association were also disillusioned. A representative of three hundred out of 5,782 Georgian victims who were officially named in ICC proceedings said that when they started actively working with the Court, their hope vanished: *"Every answer from them was like 'this is confidential' or 'we can do this without you.' It took us five years, but the trust of the victims and civil society disappeared."* Also, criticism was directed at the ICC for its "non-victim-oriented approach." The ICC's decision to accept victims' claims does not grant them formal rights, there is no procedure for submitting information or evidence. Not being able to interact with the Court is a problem<sup>33</sup>.

Ultimately, real disappointment arose after the closure of the ICC Prosecutor's Office investigation. Karim Khan completed the investigation into the situation in Georgia on December 16, 2022. He emphasized that the ICC's work in Georgia "is far from over," and efforts are now focused on "ensuring the successful prosecution of individuals subject to arrest warrants"<sup>34</sup>. The International Partnership for Human Rights (IPHR) Program Director Simon Papuashvili said he was disappointed with this decision: *"When I learned that the investigation was closed, I was very disappointed because it means there will be no justice and fairness for the victims. And those who are responsible for the crimes will not be punished."* At first, he believed in the Court. And now he believes that the ICC made a "senseless decision" because it spent 15 years and millions of euros for the sake of three mid-level individuals<sup>35</sup>. During the ICC investigation, arrest warrants were not issued for senior Russian leadership.

The Trust Fund for Victims at the ICC announced the official launch of the transformative compensation program in Georgia on April 6, 2023. The program focuses on the treatment, counseling, and psychosocial support of the most vulnerable victims. It also aims to provide them with means of livelihood and to overcome the harm caused by the conflict through socio-economic initiatives. This program concerns victims of war crimes and crimes against humanity during the war in South Ossetia and its surrounding areas, which lasted from July 1 to October 10, 2008.

Therefore, the experience of other countries that have dealt with the investigation of war crimes demonstrates the main problems that discourage victims and witnesses and reduce their involvement in the justice process:

- Lack of constant and quality communication with investigators and judicial system personnel;
- Prolonged time spent by the court on case processing;
- Need for repeated testimonies in court;
- In absentia proceedings;
- Inability of the state to enforce in absentia verdicts against war criminals.

---

31. <https://www.osce.org/bih/118893>

32. <https://www.publicinternationalawandpolicygroup.org/lawyring-justice-blog/2018/12/12/side-event-10-years-after-the-war-victims-of-the-georgia-situation-co-hosted-by-georgia-the-netherlands-and-justice-international>

33. <https://www.justiceinfo.net/en/68922-icc-victims-fund-waiting-for-godot-in-georgia.html>

34. <https://www.icc-cpi.int/news/prosecutor-international-criminal-court-karim-aa-khan-kc-announces-conclusion-investigation>

35. <https://babel.ua/texts/89142-rosiya-u-2008-roci-napala-na-gruziyu-voyenni-zlochyni-rosiyan-vivchali-v-mizhnarodnomu-kriminalnomu-sudi-14-rokiv-ale-zhodnogo-ne-pokarali-ce-zh-chekaye-na-ukrajinu-poyasnyuyemo>

## AND HOW DO VICTIMS FEEL IN UKRAINE?

Research by the UHHRU<sup>36</sup> indicates that victims are generally dissatisfied with the performance of law enforcement and judicial systems. Surveys were also conducted among lawyers representing the interests of victims. Overall, the data shows that:

**87,9%** of victims consider the investigation of their case to be ineffective;

**87,9%** of victims stated that they are not informed about the progress of pre-trial investigation;

**80%** of lawyers believe that communication of law enforcement agencies with victims of war crimes is inadequate;

**45%** of lawyers noted that after filing a crime report, they were not contacted by representatives of law enforcement agencies;

**20%** of lawyers do not receive responses to requests or motions at all, and 30% receive them occasionally;

**42%** of lawyers reported difficulties in accessing materials of criminal proceedings (mainly due to communication problems with investigators);

**In 50%** of cases, investigations practically do not take place at all, and case materials only contain a statement of the crime and evidence provided by the victim;

Often, in some of the cases studied, evidence is lost, expert examinations are not conducted or they are already impossible to conduct due to delays in investigative activities;

In most of the cases studied, pre-trial investigation does not take place at all or is very ineffective.

At the request of MIHR, the State Judicial Administration provided statistics on the number of war crime cases referred to the court.

As of February 23, 2024, the Prosecutor General's Office of Ukraine documented 122,000 war crimes committed during the period of Russia's large-scale aggression against Ukraine<sup>37</sup>. Also, the Prosecutor General of Ukraine, Andriy Kostin, announced that 511 suspects had been identified<sup>38</sup>. However, according to the SJA, only 246 cases were referred to the court: 66 in 2022 and 180 in 2023. According to the approximate calculations of the Coordination Center for Support of Victims and Witnesses, as of February 2024, there are about 128,000 officially recognized victims of war crimes in Ukraine. This figure will only increase over time, and currently, it does not include witnesses.

To explore the experience of Ukrainian victims of war crimes, MIHR conducted a survey among those whose cases have already been referred to court, including those where the merits review is underway. We managed to conduct in-depth interviews with 11 individuals who are victims in cases under Article 438 of the Criminal Code of Ukraine. We are aware of how small this number is compared to the total number of victims, but we are mindful of the fact that

only a minuscule fraction of cases have been referred to courts from the overall mass of cases.

Furthermore, we received 10 refusals. Their reasons are also telltale: people do not want to recall what they went through in any context, do not believe in the possibility of positive changes and the weight of their own opinion, and also have a negative experience of dealing with the media.

Overall, our survey showed that over time and after a negative experience, victims lose motivation to testify in court, do not believe in the enforcement of in absentia verdicts, have unrealistic expectations regarding the capabilities of the justice system as a whole, and, despite a desire to be heard, are exhausted from interacting with the media and dissatisfied with its outcome. At the same time, they deeply appreciate the humane approach from prosecutors, listen to them if communication has been established successfully, critically assess the course of the investigation to monitor its quality, and are willing to cooperate with the court if they feel support from the prosecutor, lawyer, community, or media.

Using the responses of the surveyed victims as examples, we will further delve into specific aspects of their experience.

## Meeting

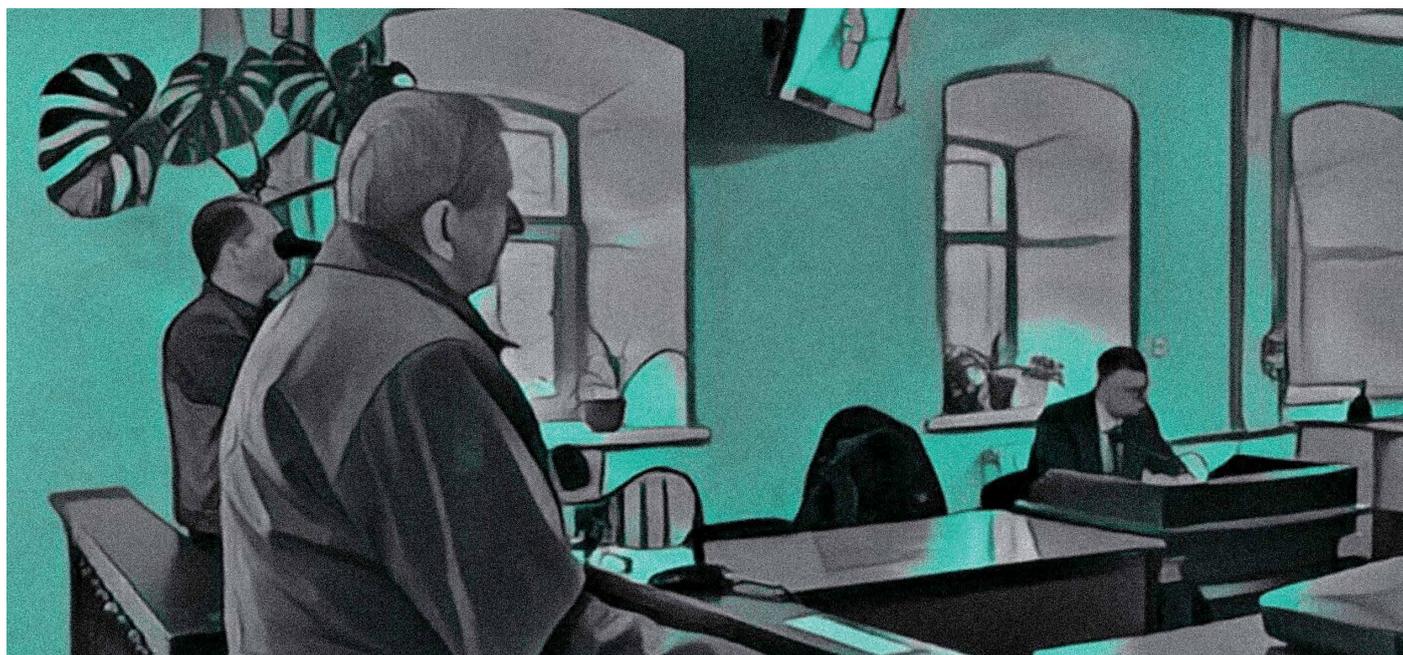
---

When studying the experience of victims in judicial processes, it is impossible to bypass the pre-trial stage. Our surveys show that the problems and positive phenomena characteristic of the experience of victims later on can be noticed even at the investigation stage.

Indeed, the first encounter with the system occurs at the moment of the initial contact with law enforcement officers. There is no single scheme for this contact: it all depends on the region, law enforcement agency, duration of occupation, and so on. For example,

a respondent from liberated Kyiv region first gave testimony to the national police: officers came and visited every house.

However, such clarity in responses is rather an exception than the rule. Later on, victims cannot recall who exactly first approached them and questioned them. *"I don't remember because I was in such shock,"* says one of the interviewed women. Also, not all interviewed victims know exactly who they are cooperating with on the side of the prosecution.



37. <https://www.holosameryky.com/a/kostin-voenni-zlochyny/7500095.html>

38. [https://www.reuters.com/world/europe/ukraine-probing-over-122000-suspected-war-crimes-says-prosecutor-2024-02-23/#:~:text=BERLIN%2C%20Feb%2023%20\(Reuters\),have%20identified%20already%20511%20perpetrators](https://www.reuters.com/world/europe/ukraine-probing-over-122000-suspected-war-crimes-says-prosecutor-2024-02-23/#:~:text=BERLIN%2C%20Feb%2023%20(Reuters),have%20identified%20already%20511%20perpetrators)

At the same time, most of the respondents encountered difficulties during their initial contacts with law enforcement officers.

An interviewee from Kyiv region says: *"My son informed me that the bodies of my deceased husband and uncle were lying in our yard, so I came the following day. There were a lot of journalists from all over the world in the yard. I came over for two days in a row and couldn't collect the bodies until the police arrived: because without the police, they would have been buried as unknowns. The police came on the second day: I said on camera that it was my husband and my brother, gave their full names, dates of birth. Everything was recorded, but no one contacted me afterwards. Although I left my phone numbers, no one needed this."*

Or consider the story of a woman from Kherson region: *"The police I met after the de-occupation said there was no police department yet. I went to Kyiv, went to the Security Service, they didn't let me in, but a person came out and explained how to write a complaint about a war crime, gave me the name of the website, I wrote the complaint at home, took a photo of it, and sent it to the Security Service website. My complaint was registered, and they informed me of its number. Then nothing happened until I met a lawyer and he intervened."*

We also documented cases of initial contact while the person remained in the occupied territory. This approach poses risks for the respondents because they were contacted through unprotected communication channels.

One of the respondents refused to testify from the occupied territory: *"Our prosecutor first called my wife in Odessa. Then he called me: I said I couldn't communicate for the time being because everything is being monitored in the occupied territory, and he treated this with understanding. And in the fall, I came to Kryvyi Rih, the prosecutor found out about it, and we agreed to meet when he comes. It happened in winter, I hadn't given any testimony before, but I talked to journalists."*

Another victim from Kherson region, on the contrary, showed initiative and found a representative of the Prosecutor General's Office through acquaintances whom he could trust. The following day after being released from captivity, the man gave testimony online via video call. However, after leaving the occupied territory, he repeated this process several times: *"Then the local prosecutor's office contacted me: they also needed me to testify. They interrogated me online for an hour and a half according to the rules. When I was in Lviv, I received a call from the regional prosecutor's office: they needed to meet in person for investigative activities. They showed photos for identification, asked purely formal questions. Then I went to the prosecutor in Zhovkva for interrogation. Then they contacted me in connection with other proceedings, asked me to come to Ivano-Frankivsk, where they were based. We had two meetings there."*

All respondents noted that during their initial contact and thereafter, they were reminded of their rights and obligations. However, not everyone indicated that they understood exactly what was being discussed.

## Testimony

---

One of the main stages in communicating with law enforcement is giving statements, testimony. All respondents, except one, indicated that this happened several times: for different law enforcement agencies, due to the loss of documents from the first interrogation, due to formal rules that were strictly followed. For instance, victims described the number of times by using phrases like *"definitely about 10 times," "there were many of them: impossible to remember."* All testimonies were documented.

Almost all respondents mentioned the careful attitude of law enforcement officers and the respect during interrogations and investigative experiments, despite the fact that sometimes the questions were repeated from one interrogation to another. Their work was described as *"humane," "appropriate," "tactful," "sympathetic."* They also spoke about support. One of the respondents described it as follows: *"People are just people. It's their job. It was unpleasant for me to recall all of it, so they supported me: said everything would be okay and that they would put him [the Russian] in jail. It helped."*

One of the respondents said that the main criterion for appropriate questions for him was sincere interest and understanding of his background. He noticed this in communication with the prosecutor's office but not with the police, which he described as *"overbearing"*: he got the impression that the police were trying to offload some of the work onto him, asking about obvious things, in his opinion, related to the cases of other victims, and repeatedly suggesting repeat interrogations or personal

familiarization with the case. He couldn't come to the city, but eventually confirmed in writing that he had reviewed it.

At the same time, the personal experience of dealing with law enforcement often mattered in the attitude of victims towards the entire process. For example, a respondent from Kherson region mentioned this: *"They reassured me when I started crying. But I felt as if they didn't understand: 9-10 months into the war already, and they were shocked to learn about what we experienced under occupation. How can they not know this?"*

A problem arose when victims moved: leaving the occupied territory, leaving dangerous de-occupied territory, simply relocating to other cities within the country. If they had to come for investigative actions and repeated interrogations to the city where the prosecutor's office was based, no one organized or reimbursed them for this trip, which we see as part of international practice. Instead, waiting for law enforcement to visit their city could negatively affect the quality of testimony: sometimes they had to wait for months.

Also, despite the tactful work of investigators and prosecutors, victims talked about feeling uncomfortable recalling their experiences. Here's what one of them said: *"You can't forget all of this. But you have to tell [the prosecutors]. It was for three months. A lot and very often. But that's their job: you have to help."*

# Communication

---

One of the key conditions for motivating victims to testify in the process is proper communication from law enforcement and representatives of the judicial system. This means that people should feel respected and receive full information about the progress of the investigation and judicial process. It is important that people do not feel abandoned.

The CCP only addresses informing witnesses. The Code does not regulate the tone or mood of such communication, so in this case, the human factor and additional training are essential.

Most respondents support ongoing contact with investigators or prosecutors in their own cases. However, the quality of this contact varies—some constantly receive information about the progress of the case, while others communicate only when they need help with documents, and some know about the fate of the accused from investigators, including from their social media.

Communication with prosecutors and investigators also helps maintain the motivation of victims to testify in the process when they become discouraged. For example, one victim recounted how a prosecutor explained the importance of her testimony: *"He explained everything: so that hopefully if we win, our testimony will help prove that Russia is guilty and an aggressor. That it needs to be done not so much for our course as for international courts."*

However, victims also talked about negative experiences: particularly about the lack of information between hearings.

One woman giving testimony noted that at the prosecutor's initiative, she was ultimately not included in the process as a witness: apparently, he pitied her because she was a woman. However, her husband is a witness in the case. All communication with him happens through law enforcement, and she also attends court hearings with him. Therefore, it is difficult to understand the prosecutor's motivation.

Occupation also affects trust. Here's what one of the respondents from Kherson said: *"I don't trust the Kherson law enforcement agencies specifically. Everyone says that Kherson was surrendered very quickly because they leaked everything to the Russians, they were looking for Kherson SBU officers all over the country. So, at the time of the investigative experiment, I had a great distrust of them. It was easier for me to give testimony to a prosecutor from another region."*

Additionally, several respondents had remarks about the Kherson police: for example, one respondent described their communication style as "overbearing," and another victim said: *"With the prosecutor's office, I have direct communication, they are more professional, react faster, while the police only call when documents need to be signed, asking to come to Mykolaiv. I don't have such an opportunity."* The woman also mentioned that the police lost the official record of her first interrogation, so she had to go through the process of giving testimony again. And when they decided to gather her and other victims in one group in a messenger, without warning, they were all added to a chat named "Torture Chamber"—the woman says she was shocked by this.

# Legal assistance

---

*"I don't need a lawyer's help—I'm not the accused,"* replied one of the victims when asked about options for legal assistance. Overall, this statement illustrates the unawareness of the respondents about their rights regarding representation in court or the possibility of consulting with someone other than a prosecutor or investigator.

However, those who used legal representation during the process—whether paid or free—speak about significant improvements in their own understanding of what was happening, as well as increased activity from the prosecution side.

One of the victims, whom, according to her, the law enforcement "forgot," recounts her acquaintance with a lawyer: *"In May, we finally returned home. Our street was notorious for being the place where they shot 14 people. I lost my husband and brother, two cousins, [the brother's] wife and a son, who was my godson. They were tortured, had their limbs cut off, and then burned on a playground, along with two elderly neighbors. So, we had a lot of media representatives. The interpreter for one journalist recommended*

*a lawyer to me. He saw that no one was helping us. Thanks to him, I was brought into the process as a victim, and it took me two years just to achieve that."*

The situation of another woman demonstrates why victims not being parties to the process creates problems and illusions about cooperation with the prosecution: *"At first, we didn't think we needed a lawyer. Because the prosecutor said they would represent our interests, that they were for us and against Russia. But when we went to court, we saw that many victims in our case had a lawyer. We didn't make it to the second hearing, and after the third, we realized that we needed a lawyer: a person who would explain what was happening and how to behave."*

Another victim from the same region also has the support of a lawyer. She says that *"thanks to him, there have been breakthroughs in the process"* because before that, everything was at a "dead end." This woman's lawyer also checked whether court sessions would actually take place, and she saw that some of the other victims were informed about the hearings only after they had already taken place.

One of the basic rules of international standards regarding victims is their communication support throughout the court process. However, the survey shows that not all prosecutors adhere to this.

One of the victims from Kyiv region says, *"They told us something about how the hearing would go. But they often postponed them and didn't inform us."* Eventually, after several such postponements and after the hearing where he saw the accused who had been captured, the man stopped coming to court due to his own anxieties, the difficulty of asking for time off from work, and the desire to forget about what happened.

Another victim who sought representation by a lawyer also stopped attending court hearings; currently, she is focused on addressing her family's health issues. This happened because she was not informed about the preparatory stage, and she had to travel for 5 hours to the city where the case was being heard just to attend a 15-minute hearing. This happened "4-5 times," and besides the time, it required money. The lack of explanation about her rights and what would happen at the hearing disappointed her: *"No one really explained what rights I have and what will happen at the hearing. I tried to communicate with the prosecutor, called several times, but he didn't pick up the phone. I understand he's busy. But I had naive thoughts that he would represent my interests. I needed someone to explain, not to ignore, making me feel foolish and annoying. During the hearings, it seemed to me that no one cared about justice except me: lawyers agreed with everything just to close the case quickly and get paid. But I needed someone to represent and defend me. It's personal to me. I don't like that I constantly have to ask them to answer the phone or send me an SMS. I didn't do anything to deserve such treatment (cries)."*

Another victim expresses a negative impression of the court process: *"Everything is always disorganized: someone wasn't informed, someone doesn't have a lawyer, someone's video has no sound. It's a mess. The judges are semi-alive: not active, as if they are doing a favor, such a drag. My lawyer made them slightly nervous, but not enough."*

Another victim, who obtained this status two years after the incident, also faced a negative experience in court, especially due to the absence of status. She is also outraged that the defense or prosecution side sometimes doesn't appear without warning, and also because of the lawyer's meticulous questions when the hearings did take place. She says: *"You have to fight because the system is imperfect. Victims without a lawyer have nothing to do in court: it feels like I'm guilty of what happened to me. The judicial system should protect victims. Moreover, a war crime is not like stealing a chocolate bar from a store. Everyone shouts 'everyone will be punished,' but in fact, it turns out differently. These processes are very difficult for me. I can't sleep for a week before each hearing. And after the hearing, it's also very*

*difficult. It's scary to live with this. Especially since I live where my relatives were killed..."*

However, in the survey, we encountered cases of more coordinated and successful work of the prosecution with the victims.

For example, a victim from the south, who had already testified in court, says that the prosecutor explained how the process would go. It also created an impression of teamwork: *"Before the hearing, the prosecutor let me reread the interrogation record to make sure I didn't forget anything since then. It wasn't pressure; I even found it interesting. Also, the prosecutor explained: since the accusation concerns specific individuals, we need to focus on their involvement as much as possible. He also communicated with another victim, and we communicated among ourselves."* In addition to the respondent, there are two more victims in the case (one of them has already died), and the man says that, despite the tragic situation, being "in the same boat, with the same goal" supports him.

This victim also calls attention to the work of the defense. The lawyer asked him questions during the interrogation, and he tried to perceive it as part of her work: *"Indeed, it annoyed me a little. But I understand the rules; I took it as a kind of game. This is an online hearing; the state appointed the lawyer, it's her job. I think it would have been harder for me if I hadn't had my own work experience or if the accused had been in the room."* He also added that the court staff were polite, and the hearings were not delayed. Despite this and despite numerous previous surveys and interviews, giving testimony was physically difficult: *"After the hearing, my head hurt badly. It's very exhausting. And that's the hardest part, not irritation from the questions. Because afterward, I feel like a squeezed lemon."*

A victim from Chernihiv region talks about her own experience of testifying at the hearing: *"It was uncomfortable, but it's their job. They ask for names, but they [Russians] didn't introduce themselves to me. I've never dealt with lawyers before, but as for the defense of the Russian side, they were still soft: if there had been a Russian representative, it would have been worse."*

Another victim from Chernihiv region also talks about the attitude towards defense lawyers: the prosecutor explained before the hearing what would happen: *"They explained to me that it's necessary for the court process so that it wouldn't bother or surprise me. Some questions bothered and worried me, but I handled this with understanding."* However, the testimony process itself, he calls interesting, albeit difficult: *"It wasn't scary at all. If it happens again, I know what I'll do. Although it was hard... Even now, when I speak, a lump rises in my throat. It's been two years, and I'm still standing by the window, from which I photographed the Russian military equipment, and it's all like before my eyes..."*

# Publicity

---

The perception of the surrounding community plays a significant role in how victims view their participation in the judicial process. Although most respondents mentioned positive or neutral attitudes from the community, it doesn't always translate into support.

A victim from Kherson Region says he feels the community's interest because the defendants in his case *"have caused a lot of grief, so many people feel connected to the case."* At the same time, there are those who are hostile towards him and support the Russians, publicly accusing him of lying about being in captivity. Due to the publicity surrounding the victim's case, the mass media often write about it: *"Sometimes it really annoys and bothers me, but I understand their curiosity. Rarely did journalists not know key details—such as who I am. That was annoying. But I understand because I myself got into the public eye—this is my weapon. And irritation is just a normal human reaction that can be controlled."*

Another victim from the same region has chosen the opposite strategy—he communicates with the media but tries not to publicize his involvement in the case, as he fears negative reactions: *"I endured it, so be it."*

A woman from Kyiv region speaks about the positive attitude from the community. She believes that court proceedings and war crimes should be discussed worldwide. However, the media only became interested in her after the region's de-occupation: *"There was a lot written about our family abroad and in Ukraine. While it was the scariest period, there was a lot of press. They filmed everything, and then everyone just left, and that was it."*

One of the victims returned to Kherson. She confidently speaks about the threat she feels due to her involvement in the process: *"I have a less-than-lethal pistol, and I talk so much on the Internet that they could take me out at any moment."*

Another victim from Kherson, who has now left her city, talks about feeling threatened by colleagues: *"I work in a government agency where there are many collaborationists. They consider me an enemy because I publicly speak about their activities. I've been in that team since 2007; I know them all: how they lived before the full-scale invasion, before the Revolution of Dignity. They used to say, 'We'd rather be annexed like Crimea.' After the de-occupation, they didn't even go through filtration. And I don't know if they still cooperate with the Russians now."*

This woman also actively collaborates with the media she trusts because she's unsure about the quality of the

work of law enforcement and the testimonies of other victims in the case: she says they "don't recognize" people they definitely saw in captivity, attribute others' stories to themselves, and mislead the investigation. Despite the large number of people with similar experiences in the case, she doesn't feel a sense of trust and support.

Despite opinions about the importance of highlighting crimes and judicial processes, overall, increased media attention has a rather negative impact on victims. A victim whose case was widely covered by both Ukrainian and foreign media is exhausted from numerous interviews about her experiences. Moreover, she's not always satisfied with how it's portrayed: *"Journalists have become annoying. You tell them one thing, and they write another. They've written so much nonsense that it's disgusting to watch."*

At the same time, attention from the authorities also causes dissatisfaction: *"After a year and a half, the trials began. Of course, we're disillusioned because they're laundering money off us—so many people came to us to make a PR move, promised, but did nothing. And in court, we still have to prove that we're victims. I have no complaints about the prosecutor's work—but I do about the authorities." However, this woman says that people in the village talk little about it among themselves: after going through it together, they are now "on their own." (This refers to unlawful deprivation of liberty and detention facilities).*

Communicating with the media can also be dangerous for victims. One of the victims from Kherson says that the danger to her relatives who remained on the occupied left bank prevents her from talking about her own story. For this reason, she requested closed hearings: *"It's a double-edged sword: you need to talk about it so that people and other organizations know, but I worry about my relatives."*

One of the respondents mentioned that his colleague, who also has victim status, refuses to talk about the case and the judicial process because he experienced a minor stroke after the interview: specifically, a journalist asked, *"Why weren't you killed?"*

However, this victim doesn't feel the negative impact of publicity; on the contrary: *"In court, I saw only one local journalist: I would like more coverage. Local media didn't interview me, but international correspondents did. I know that some colleagues could also tell the investigation more, but didn't do it for various reasons. I think people are afraid that, God forbid, the Russians will return. Some say, 'Why do you need this?' But I don't listen to that: I just know it's necessary."*

## Justice and expectations

---

Despite being involved in legal proceedings, victims mostly do not believe in justice. Even when actively participating in trials and publicly advocating for their importance.

One of the respondents, who has been testifying since the occupation began, explains: he believed it was important and worth the risk. Despite threats from the occupied territory, he continues to actively talk about his

own process, and his attitude towards it has not changed since the very first day of testimony. However, he does this not only for the sake of justice: *"I believe that even in absentia justice is important because the verdict will be valid even in 5-10 years. Therefore, it is important to do everything correctly, while observing legal formalities. But for me, the most important thing is to learn more about what happened and why through the process, to establish the truth. I think many people are interested in what happened, who is guilty, whether this crime was inevitable, what conclusions can be drawn so that others can save themselves. And punishment comes second. I believe that such creatures will be punished either by law or found in a ditch. That's their fate."*

A victim from Sumy region also talks about strong conscious motivation: *"I sincerely wanted to help the investigation because I am one of the few 'valuable' witnesses who saw and can tell something specific. Most colleagues refused to testify."* The man also believes in the importance of *in absentia* proceedings: *"We are a civilized European country; we are not northern savages. I have serious doubts that the guilty will be caught—from the main criminal in the Kremlin to the tank commander who ordered to shoot at the building. But I want to believe that evil will be punished."* He believes in his historical mission as a witness, and the judicial process convinces him that all his testimonies and photos will eventually *"be useful for history and understanding the processes that are happening now."*

The man will consider justice not as the punishment of the accused in his case but as the punishment of the aggressor country as a whole: *"This is a fair punishment for the northern horde that treacherously attacked us after calling us brothers for centuries. And I was a Comsomol member, they forced me to love, praise, and glorify it. I will wish and I wish only for the just harsh punishment of Russia. That is, the victory of Ukraine. I understand it will be very difficult, but with the help of the civilized world, we must destroy the empire of evil, as Ronald Reagan said."*

However, such a clear motivated position and especially understanding of their own historical role are rare among other experiences we have noted.

One of the victims talks about it very uncertainly: *"When I testified, I didn't really think. I just wanted to share because it was difficult. I wanted to tell more about who the occupiers were. As for the verdict against a specific person—I don't know... The verdict against the aggressor country, maybe."*

Another victim from Kyiv region also speaks about justice as a verdict against the state, not against individuals: *"I hope that the entire aggressor state will be held accountable in The Hague, not just their president, because they are all the same there. If we don't punish this country, they will continue to invade."* The woman plans to continue attending court hearings despite her awareness that the process will take years: *"Honestly, going to court is very difficult. I don't know what will happen next, but I'm grateful to my lawyer. We hold on and try to attend hearings thanks to his support. We will do everything necessary because we must not forget about our loved ones. We must believe. I hope we will see the court's verdict, and let this country be held accountable. So that it does not go unpunished."*

Although the previous victim mentions the role of the lawyer, apparently not all victims use such a service. For most, the closest person in the process is the prosecutor, and they may even listen to him when they are close to losing faith. Here's what one of the victims from Chernihiv region says: *"At first, I didn't want to testify and recall it, but then the prosecutor said it would help recognize Russia as an aggressor: not just for our prosecutor's office but for international courts too. Whether I believe it will happen or not, I hope they [the Russians] will be found and detained. I can't answer for others, but people don't believe in us anymore. An old granny won't go to court to prove anything; she doesn't care anymore."*

A victim from Kherson Region discusses despair: *"You know, I understand those who have lost faith. We attended the investigative experiment, expert examination because we wanted to be heard. So that it wouldn't just be 'thank God we're alive' and that's it: I wanted to prove guilt. So we went there at our own expense. But it all drags on so much. In courts, everything happens as if they just want to wrap this up. We also started to lose faith, but that means making it easier for the Russians: and that's not an option either (cries). So even if we don't believe in justice, we will still see the case through to the end: maybe it will help bring them to justice."* The woman adds that for her, justice will not be a verdict against the accused in her case, but a verdict against those who ordered the war to start: *"Yes, specific people did this, but they were tools, and Russia and its leadership need to be punished. For me, the verdict in my case will not be the end. Moreover, there were many Russians in the torture chamber, but only a few are accused, and I'm not sure if they are the ones who mocked us with my father."*

Another victim from Kherson Region, who returned home, says she wants to show people through personal example that they can receive compensation and the state is ready to help them. However, she also shares her despair about the Ukrainian judicial system: *"I really wish our judicial system would be rebuilt, and this process would be more active, transparent, clearer, faster. Everything is dragging on either due to lack of personnel, or due to insufficient qualification, or due to the unwillingness of judges to work more actively and effectively, or war crimes do not bring profit to the same judges and everyone else involved... It seems that this can last for decades. Seeing this, people lose faith. I heard that there was red tape in courts, and now I am just convinced of that."*

Ultimately, there are victims who are convinced that no matter what the Ukrainian or international court decides, it will not be enough to make up for losses. One such victim says: *"I understand that the guilty will not be punished through in absentia trials. I see on their social media that they continue to live normally with their families and enjoy themselves. I myself filed a statement of a crime because I want things to be as they should be. Still, I hope that the cases will reach international courts. Compensation must be both moral and financial. But... When we girls were sitting in the torture chamber, we dreamed: if our turn came, we would put them [Russians] in the same cells and make them sing the Ukrainian anthem. Even if they are deprived of freedom now, they will not feel the same as we did: because you can also live in prison. So even full legal punishment will not be enough for me."*

---

# UKRAINIAN VICTIM SUPPORT SYSTEM

---

In April 2023, the Prosecutor General of Ukraine approved the Concept for the implementation of the mechanism for supporting victims and witnesses of war and other international crimes. This marked the beginning of the creation of the Coordination Center for the Support of Victims and Witnesses. This is the first such specialized agency in Ukraine. The experience of Croatia, Bosnia and Herzegovina, and Georgia served as the basis.

As of March 2024, the Center is working on several pilot cases, and full-fledged work has not yet begun. However, we can already outline the main plans and risks of such a system.

---

# Structure

---

The Center is an independent structural unit of the Prosecutor General's Office, which includes 36 positions:

- front-office administrators;
- system analyst;
- manager;
- 30 coordinators.

The front office handles administrative issues, prepares guidelines, communicates within the PGO, with other government agencies, and with civil society organizations that are expected to create a referral support system around the Center. Currently, such a referral system does not exist.

Coordinators work in groups of 2-3 people. They are already handling the first dozen pilot cases, but so far this is a non-public process, and it is too soon to talk about the results of the assistance.

Veronika Plotnikova, the head of the Center, explains that these are cases where immediate assistance was needed. For example, in one case, the victim saw her child being killed, got injured, which prevents her from working, and she takes care of disabled relatives. Therefore, she currently needs comprehensive assistance: both psychological, informational, and social. Also, the Center works with victims in cases related to places of mass detention, and coordinators travel to remote locations organized by the police in Bucha and Hostomel: there they collect testimonies from locals.

Currently, the Center consists of an administrative office, a team in Kyiv, and has premises for receiving

victims in Kyiv. By August 2024, they plan to launch nine units in the regions: one each under the Mykolaiv, Kherson, Zaporizhzhia, Donetsk, Luhansk, Kharkiv, Sumy, Chernihiv, and Kyiv regional prosecutor's offices. *"We are also considering establishing such units in western regions, analyzing the number of victims of war crimes we have there. Because many people are there and they need this assistance,"* says Veronika Plotnikova.

She says that launching units will take another six months (until August 2024) due to the time it takes to find premises and coordinators, and most importantly—the time it takes to train them. Coordinators undergo basic training consisting of five blocks:

- legal framework (rights and obligations of victims, statuses they can claim);
- psychological first aid, managing trauma;
- state social services and support;
- work with vulnerable groups;
- international standards.

Specialized training is not provided to all coordinators. For example, only the Kyiv team will be trained to cooperate with the ICC.

# Services

---

Not all victims require the same level of support. The necessary assistance can vary from comprehensive social and psychological support in particularly severe cases to brief information in less complex cases.

The contact of these individuals with the Center will either come through the transfer of data from the prosecutor (after informed consent) or through direct contact (in person or online).

The Center plans to offer several service tracks for victims and witnesses:

- **Informational** (explaining rights and obligations in clear language, providing information about the course of the case and participation in it, describing what a judicial process entails, the courtroom, who participates in the process, and what their role is);

- **Psychological** (screening and analysis of the individual's condition, identifying motivation, psychologist support before and after interrogation, teaching self-regulation techniques, referral to organizations from the referral network);

- **Social** (assistance with documentation, contacts with government agencies, referral to organizations from the referral network).

Priority groups will include victims of sexual violence in wartime conditions, children, torture survivors, people with disabilities, families of those killed due to war crimes, military personnel, and their families affected by war crimes (for example, those in captivity).

Until the units are launched and the Kyiv office operates in pilot mode, the team is creating brochures to be handed out by prosecutors to victims.

The Center also plans to work with the judicial system, although pilot courts for the project have not yet been selected. According to the plan, courts hearing cases related to war crimes would create a separate space for victims (and witnesses if desired), as currently, they wait alongside everyone else: people involved in their case, other cases, free listeners, monitors, journalists. This puts people in a particularly vulnerable position. Veronika Plotnikova says they also see violations of a people-centered approach during interrogations. Problems have also been identified in administrative approaches: for example, the Center recorded a case where a victim was not allowed to use the restroom because it was "only for staff." Plotnikova adds: *"If a judge is interested in the victim providing quality testimony during the process and understands that the basis for this is a normal attitude towards the victims; a lot will change. The delivery of justice should be respectful to the individual and with understandable procedures, so that even if there is no guilty verdict, the person understands that everything possible was done for them."*

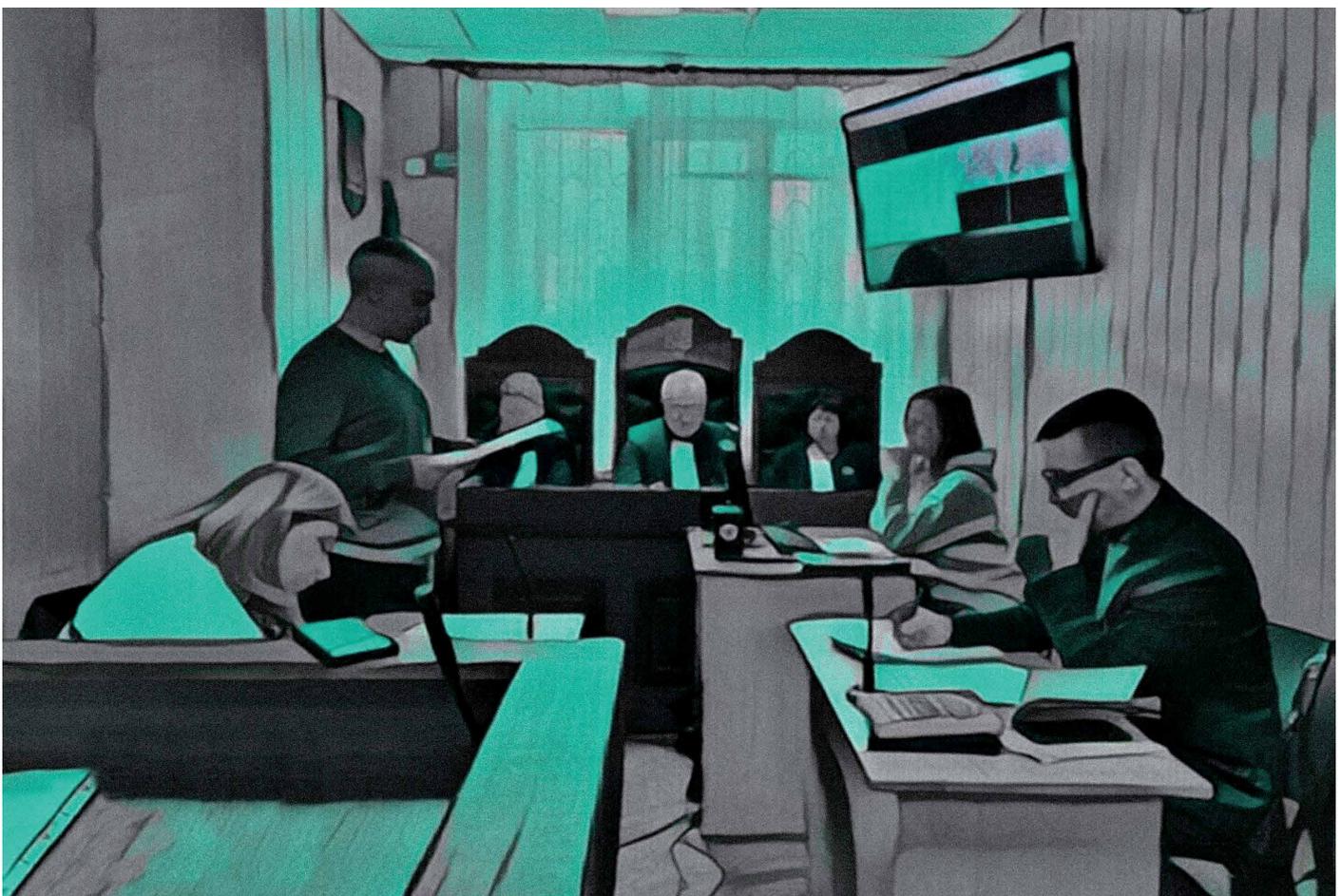
Plotnikova also says that Center coordinators could accompany victims directly during the judicial process, before and after it. Currently, this is not done.

The Center will provide legal assistance and refer to relevant organizations because currently, not all categories of victims of war crimes have access to state legal aid. For example, families of the deceased. Free legal aid would allow individuals to have representation

in court. Such support is also important to explain rights and obligations, real perspectives of civil lawsuits or reparations, work on expectations. Secondary legal aid is important for victims to restore lost documents, disputes over housing, establishing legal statuses.

To meet all these needs, the Center plans to create a referral network consisting of NGOs. In this scheme, Center coordinators will act as facilitators, intermediaries between the individual and the NGO (or government agency).

Coordinators handling a case will work with victims in person, online, or by phone (for this, there will be a special number and rules for urgent calls). If there is a need for a face-to-face meeting, it will be held at the Center's premises—where, besides offices, there is a relaxation room, a children's room, and a room where one can stay overnight. Plotnikova says they tried to make the Kyiv center comfortable: such as soft colors in the interior, the absence of "motivational inscriptions," separate rooms for the prosecutor's or investigator's interrogation if necessary, a limited number of law enforcement officers (only the security of the Center itself). However, its shortcomings are already noticeable: for example, the lack of an elevator, automatic doors, and the presence of a "turnstile" at the entrance. All this makes it non-inclusive, while among the target groups, the Center identifies people with disabilities. Premises in the regions are still being sought.



# Impact

---

It is important in working with victims not to influence their testimonies. When the support system is built on the basis of courts, there are no concerns about influencing victims. However, when it operates under the prosecutor's office, which represents the prosecution side, there is a risk of departing from the neutrality standard.

Since the Center has not yet started systematic work, it is too early to draw conclusions about whether its affiliation with the prosecutor's office will influence witnesses. Currently, it is known that in its creation, this risk was attempted to be minimized.

## Approach

---

According to Plotnikova, in order for the Center to function fully, changes need to be made to the Code of Criminal Procedure (CCP)—for example, allowing support personnel to accompany victims in closed hearings and communicate with the court regarding their condition. However, Plotnikova says that even without this, the Center can work because the issue lies not in the regulatory acts but in the politics of their implementation: *"Our victim-centered approach is not prescribed in any act."*

The Center currently does not have a comprehensive analysis of the needs and situations of victims—data analysts are still being sought for this. However, Plotnikova adds that they see that despite the large number of actors, there is no strategic planning of assistance to victims in the system.

*"All of this takes a long time, and the most affected person will be the victim themselves,"* says Plotnikova, adding: *"Our process is not victim-centered. While the processes are ongoing, a person must be able to live their life. From the experience of Croatia and Bosnia and Herzegovina, we know that processes related*

The Center does not report to the same Deputy Prosecutor General as the "war" prosecutors. None of the Center's staff can hold a prosecutor's position—only a position in public service. Communication with prosecutors is limited to information about victims and recommendations regarding the risk of re-traumatization or other negative impacts during interrogation.

Also, Center staff assisting victims or witnesses are prohibited from taking testimony from them. If during communication, a person expresses a desire to tell something new about the case, they must be stopped and offered a meeting with a prosecutor.

*to war crimes can last for decades. During all this time, the only body that constantly interacts with the victim is the prosecutor's office. That is why we work within the Prosecutor General's Office. It is clear that this is not our domain, but it's just the beginning. If we realistically look at the process, a 'satisfied victim' is ready to continue working and provide quality evidence. This is beneficial to all parties."* Victims also automatically expect that their interests will be represented by the prosecutor, although this is not part of the prosecutor's duties—and with a heavy workload, prosecutors are physically unable to properly communicate with the victim regarding all issues and needs.

In particular, the Center should explain to victims the realistic horizon of expectations from justice so that a person does not end up in a situation of losing control after empty promises and work towards achieving justice. Plotnikova says, *"Justice is not just retribution. A person should feel that if they make efforts to testify, the system also makes efforts to care for them. Because many expect some kind of catharsis during the process, but it doesn't happen—this is why we talk about accompanying support."*

## Comment on risks

Experts from the International Institute for Humanitarian Law have some reservations about the successful operation of the Center, particularly due to the wide range of assistance tracks, which could dilute focused work on informing and supporting victims within the case itself. Lack of impartiality due to structural ties with the prosecutor's office also appears to be a threat.



So we asked Alma Taso Deljkovic, a psychologist and co-founder of the victim and witness support system in Bosnia and Herzegovina, to explain whether it is permissible to combine functions as the Center does.

*"The court and the prosecutor's office are not social structures; they are part of the justice system. Therefore, they must follow institutional rules, but at the same time, they bear moral and ethical responsibility to care for witnesses and victims. Having such a center as part of the prosecutor general's office is normal,"* she believes. *"The team's priority is to help and support, and being part of the prosecutor general's office is just a way to reach out to victims. The pre-trial stage is important in the process, and at this stage, many people need support, not just psychologically."*

Alma adds that the Center should be viewed from the perspective of people who need help: they don't know who to turn to, and the Center will be a point where all information can be gathered and referrals made to specialized organizations.

*"It's normal to help in so many areas,"* says Alma. *"In court, you only need to accompany the person in the process, but here, more problems are covered because the person is supported from the pre-trial stage. It's typical for prosecutors to have such a support center. And it's important because not all involved witnesses will testify in court. There's no need to fear that the prosecutor's office will become a social service."*

Alma says that in Bosnia and Herzegovina, a similar center was not immediately accepted. Therefore, she believes that the Center just needs time.

*"If everything is reduced only to the person's testimony and nothing is given in return, it harms both the person and the whole system. Working with such centers can help understand the criminal process. This is one of the ways to achieve justice."*

---

# RECOMMENDATIONS

---

Working on this analysis, the MIHR team identified systemic deficiencies in the functioning of the judicial and law enforcement systems concerning individuals with victim status in cases of war crimes. Based on the analysis, we propose recommendations that can help improve the quality of this work and reduce negative consequences for the victims themselves.

## For the Ukrainian Parliament:

- Supplement the Code of Criminal Procedure (CCP) with provisions recognizing the status of support service personnel accompanying victims during court hearings and introduce CCP provisions that facilitate victim support (e.g., create a court support infrastructure).
  - Expand the list of those eligible for free secondary legal aid, considering vulnerable categories of victims of war crimes.
  - Incorporate procedures outlined in the Rome Statute of the International Criminal Court (ICC) into national legislation for handling victims during the investigation of war crimes and conducting judicial proceedings.
  - Regulate the procedure of compensation by suspects/accused for harm caused to the victim.
  - Enshrine a victim-centered approach at the legislative level.
  - Establish a procedure for informing INTERPOL about individuals convicted in absentia for the enforcement of such verdicts outside Ukraine.
  - Regulate and establish standards for assistance provided by civil society organizations to victims in order to prevent fraud or harm.
  - Create an effective mechanism for protecting victims of war crimes and their families.
- 

## For the Prosecutor General's Office, regional prosecutors' offices, prosecutors, and investigators:

- Strengthen practices for handling with victims and conducting investigations with a victim-centered approach.
- Synchronize work among different law enforcement agencies to prevent victims from testifying multiple times before different agencies and introduce corresponding standards.
- Identify and involve victims in criminal proceedings, promptly enter data on victims into the Unified Register of Pre-trial Investigations.
- Minimize the number of victim interrogations in war crime cases.
- Explain the victims' rights and duties in layman's terms.
- Inform victims that they can use the services of a lawyer.
- Ensure that pre-trial interrogation recordings are of high quality and can be used in court.
- Maintain contact with victims between hearings, informing them about the progress of the investigation if they choose to stay informed.
- Explain to victims the elements of the judicial process, describe what a hearing looks like, and the courtroom itself.
- Explain to victims the role of defense lawyers and the importance of the adversarial process.
- Explain to victims the real prospects of their case, the significance of *in absentia* proceedings, and the possibility of justice at the international level.
- Speak respectfully to victims, remembering their dignity.
- Have skills for working with individuals who have experienced potentially traumatic events, regularly undergo training on this topic.
- Regularly assess one's psychological state to understand one's ability to work with traumatic situations.
- Create convenient, accessible, understandable, and needs-oriented informational products for victims.
- Develop a victim support system.

## For the judicial authority:

- Create safe spaces for victims and witnesses.
  - Adhere more strictly to a victim-centered approach during interrogations.
  - Avoid excessive questioning and, if possible, use video recordings from pre-trial interrogations.
  - Monitor the condition of victims throughout the process.
  - Regulate unethical, excessively emotional, or aggressive questioning by the defense team.
  - Train judicial personnel to communicate properly with victims of war crimes and show respect for their dignity.
  - Implement pilot projects in specific courts to test future victim support systems and scale up this approach.
- 

## For defense attorneys:

- Take into account the state and dynamics of victims during court interrogations, avoiding anything that may cause re-traumatization of the victims.
  - If possible, ask the prosecutor to explain the role of defense lawyers to the victims.
  - Pay attention to what may trigger victims (e.g., specific types of questions or the use of Russian during breaks in hearings).
- 

## For victims:

- Actively inquire about their role in the process.
  - Understand their own attitude toward justice and their motivation for participating in the process.
  - Understand what justice means specifically to them and whether the court can meet this demand.
  - Exercise their right to file a civil lawsuit within the process.
  - Understand why processes in absentia occur.
  - Learn about the prospects and possibilities of justice at the international level.
  - Honestly and directly communicate their condition, needs, or lack of understanding of the process to the prosecutor.
  - Ask when something in the process is unclear.
  - Maintain contact with the prosecutor.
  - If possible, join with other victims in formal or informal groups to support each other.
- 

## For the mass media:

- Do not insist on interviewing victims of war crimes if they are against it or hesitant.
- Do not exploit victims' readiness to share their own story.
- Do not exploit the vulnerability of victims while waiting for the start of a court hearing together.
- Consider the status of "victim" when working on material to avoid interfering with the judicial process.
- Consider trauma-informed journalism approaches when working with individuals who have experienced potentially traumatic events.



**USAID**  
FROM THE AMERICAN PEOPLE



Media Initiative for Human Rights is a Ukrainian NGO established in September 2016. The goal of the organization is to combine awareness raising, analytics, and advocacy towards detecting and responding to human rights violations.

This analysis is a product of the Media Initiative for Human Rights, which is part of the project “Trials on the Events of the War in Ukraine: Monitoring, Coverage, Analysis”. The project is supported by the United States Agency for International Development (USAID) under the Justice for All Program. The opinions and views of authors expressed in this publication do not necessarily reflect those of USAID or the US Government.

+38 095 415 95 46  
info@mipl.org.ua



mipl.org.ua



MediaInitiative  
forHumanRights



@mihr\_ua



mipl.org.ua



miplua