

REPORT SUMMARY

Protecting victims of international crimes in criminal proceedings in Ukraine: international experience and national priorities

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Developed by the Ukrainian Legal Advisory Group (ULAG) – a Ukrainian NGO that works on Justice and Accountability in context of armed conflict. ULAG helps victims of grave crimes, society, and the state to overcome the aftermath of the war by crafting and promoting solutions that would ensure justice and accountability in Ukraine and globally.



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Introduction

After more than thirty years of independence and over eleven years of ongoing war, Ukraine still lacks adequate legislative regulation and effective procedures to ensure protection in criminal proceedings. The context of the ongoing armed conflict has demonstrated that those affected by it have an urgent need for justice for the grave international crimes committed against them. They also require comprehensive support measures, both within criminal proceedings and beyond, ensuring the protection of their personal information and, in exceptional circumstances, safeguarding their security. The existing national practice of applying security measures, under the Law of Ukraine “On Ensuring the Security of Persons Participating in Criminal Proceedings”, is primarily focused on preserving testimony that may be vital to high-profile investigations. However, the approaches developed are largely oriented on witnesses – particularly insiders – who may appear in court, making it essential to protect their confidentiality and physical safety.

Although the above need is equally relevant for investigating alleged grave international crimes, implementation mechanisms here have certain characteristics, influenced by the international law standards, case law of various accountability mechanisms and the need to ensure cooperation at the international level (in particular with the International Criminal Court and other countries using the mechanism of universal jurisdiction). General approaches to criminal proceedings in such cases are not suitable, given the scale and specific nature of the trauma and the risks faced by victims. In practice, the situation already results in the application of security measures in such proceedings dependent on the “human factor” and causes retraumatisation of the victims.

The study identified numerous shortcomings in the national system for ensuring the protection and safety of victims of international crimes, reflecting the overall unsatisfactory state of the victim protection system within

the criminal justice system. This situation calls for consistent and comprehensive reform, which would enhance both the quality of criminal investigations in general and the effectiveness and safety of those who work within the criminal justice system. This study highlights the following key areas and directions for change:

- The inability of current legislation to address existing challenges and account for the specific nature of international crimes;
- absence of a single body responsible for coordinating and overseeing the implementation of security measures;
- risks of retraumatisation of the victims;
- inadequate communication with and support for victims, including outside of criminal proceedings;
- challenges in the safety and capacity of criminal justice system personnel;
- the dependence of the implementation of security measures on international assistance, etc.

The legal framework for the protection and safety of witnesses and victims in criminal proceedings is critically outdated and requires substantial revision in accordance with European Union standards and the challenges of the ongoing war. Developing a comprehensive package of legislative and other reforms based on a comprehensive assessment of the risks and needs of victims is a necessary step for Ukraine on its path toward EU membership. Such reforms would not only enable Ukraine to meet its European integration commitments, but would also provide justice and security to the tens of thousands of citizens affected by the war. Despite numerous legislative initiatives, progress on this issue has stalled in parliament and there is likely no consolidated political position supporting a unified systemic solution.

The objective of this study was to test three main hypotheses through comprehensive analysis and expert consultations regarding:

1. the insufficiency of Ukraine's current legislative framework to address wartime challenges and the specific needs of victims of international crimes;
2. the importance of implementing EU Directive 2012/29/EU for developing an effective national system for protecting victims of core international crimes;
3. the low institutional effectiveness and limited capacity of the state to ensure the safety of victims and witnesses in practice.

Conclusions

The study confirmed the critical obsolescence, decentralization and low efficiency of the existing legislative framework. The study confirmed that the current legislative framework is critically outdated, fragmented, and ineffective. The 1993 Law of Ukraine “On Ensuring the Security of Persons Participating in Criminal Proceedings” does not correspond to either the scale of crimes committed or the modern challenges arising from the international armed conflict. This directly impedes the implementation of key provisions of Directive 2012/29/EU.

The significant scale of grave international crimes documented at the national level as well as the attention of international justice mechanisms to the situation in Ukraine requires the meaningful and safe engagement of victims in investigative processes. However, given the negative trends in the interaction observed with victims in the proceedings since 2014, there is a clear need for urgent systemic changes in approaches to victim engagement and protection:

- There is no obligation or unified methodology at the legislative level to conduct an individual assessment of the victims’ needs and risks (signs of psychological trauma, prior victimisation, social context, connection to occupied territories, etc.). Under Directive 2012/29/EU, such an assessment is mandatory to determine the need for special protection measures and to prevent retraumatisation.
- The practice of applying security measures is fragmented and un-systematic, and fully dependent on the “human factor” – the will and discretion of the individual official responsible for assigning them. As experts note in the study: *“Our system depends more on the wishes of an individual investigator or prosecutor... rather than as a general established practice”*.

- Despite eleven years of ongoing armed conflict and the consequences of Russian aggression, victims in legal proceedings are still not viewed as full and active participants, but rather as a source of information. For example, in proceedings in absentia under Article 438 of the Criminal Code of Ukraine, the declared approach is that their primary task is to enable victims to share statements, while keeping them informed about the progress of the case is not treated as an essential obligation.
- Ukraine's criminal procedural legislation does not contain sufficient protection mechanisms for the victims from retraumatisation. This is evident by the need for multiple interrogations and the absence of tools to prevent contact between the victim and the suspect or accused persons.
- In the context of investigations into grave international crimes, criminal justice experts report that victims and witnesses – those from temporarily occupied territories – often request that their personal details be redacted in case files. At the same time, there are no procedural mechanisms for witness protection and protection from disclosure of their identity in court. Moreover, measures such as changing individual tax identification numbers or documents are practically unachievable due to gaps in interagency cooperation and outdated registries.
- The poor provision of information to victims about their rights, the course of proceedings. Victims receive insufficient information about their rights, the progress of proceedings, and available support or protection measures. According to certain studies on justice for international crimes, 87% of surveyed victims said that state officials did not offer them protection. Victims are often forced to seek information independently, mainly through social media. These serious failures by the state to uphold its duty to ensure the right to information from the first point of contact. The few positive examples of support and proactive communication (through dedicated justice system staff, the work of victim representatives, or the Coordination Center at the Office of the Prosecutor General) appear to be exceptions rather than evidence of an effective information system.

The effectiveness of victim and witness protection measures in practice is clearly shaped by outdated legislation, the low institutional capacity of the relevant agencies, and financial constraints. The assessment of victims' needs, taking decisions on security measures, and informing victims and witnesses about the possibility of such measures are in fact influenced by the "human factor" occurring amid poor coordination among different justice system actors. There is still no single body responsible for implementing such security measures, and individual officials within the justice system lack authority to assess the need for protection or to provide victims with information and/or support they expect and require.

- The fragmentation of responsibility and coordination of security measures stems from the outdated Law "On Ensuring the Security of Persons Participating in Criminal Proceedings", which fails to comply with international standards, as well as from the lack of political will to adopt timely legislative reforms. The absence of a central body responsible for coordinating comprehensive security measures results in either duplication of efforts across institutions or the failure to take necessary action. Ukraine's priorities within the framework of European integration underscore the need to establish such a body. Its effectiveness will depend directly on cooperation with other entities, workload distribution, available resources (human, financial, technical), monitoring of results, and flexibility of solutions.
- The full-scale Russian invasion has shifted the focus of proceedings toward addressing the consequences of the war, highlighting the need to develop a robust system of support for victims. Thus, in 2023, the Coordination Center for Victims and Witnesses Support was established under the Prosecutor General's Office. Its practical support is currently focused on referring requests from victims to relevant organisations (mainly non-governmental). In effect, the scope of its work extends beyond the operational capacities of the prosecutor's office. Given the scale of grave international crimes and the number of victims, their needs, and the Coordination Center's limited human and financial resources, the results of its work often depend on international technical assistance and support from civil society organisations. The Coordination Center has had some positive cases

(like in Bucha, Kyiv region), but it still has a limited procedural status within the system which affects modes of engagement with victims in criminal proceedings. Overall, the infrastructure for victim support needs to be comprehensively developed, not only by creating separate units within other justice agencies, but also by ensuring appropriate provisions for victims at all stages of criminal proceedings/ Overall, the victim-support infrastructure requires comprehensive development, not only through the creation of dedicated units across justice institutions but also through ensuring appropriate support mechanisms for victims at all stages of criminal proceedings.

- Security measures in criminal proceedings generally lack stable, dedicated funding from the state budget. As a result the system remains heavily dependent on international technical assistance which threatens its long-term sustainability. Notably, according to some interviewed specialists in the field of criminal justice, the protection of one witness per year can cost the state around UAH 1.5 million (approx EUR 31 000), while a specialised unit with 100 staff can concurrently protect up to 15 witnesses. Therefore, the application of security programs for victims and witnesses in practice should be reserved for exceptional cases based on a comprehensive assessment of the risks and the priorities of the justice process against the backdrop of war. In particular, this approach should allow for an adequate distribution of the workload among authorised bodies.
- The level of distrust among victims and witnesses toward law enforcement and judicial authorities remains a particular challenge for the state. The effects of the ongoing war (dynamic changes at the frontline, the occupied territories factor), the low number of perpetrators actually detained, the vague system for protecting victims' and witnesses' personal data, and the widespread practice of persecuting citizens for activities in the occupied territories or ties to them all lead to witnesses often reporting feelings of insecurity and reluctance to participate in criminal proceedings.

The research confirmed one of the core hypotheses: that the full and effective implementation of EU Directive 2012/29/EU – along with the necessary harmonisation of national legislation and practices to ensure the safety and protection of witnesses and victims in criminal proceedings – is essential for Ukraine's successful European integration.

- Public demand for fair justice regarding war-related crimes combined with the responsibility of national institutions to deliver such justice contributes to the search for new approaches to ensure the safe participation and support of victims and witnesses in criminal proceedings. As a result, human-centered approaches -which place victims' needs and interests at the forefront – are increasingly applied in practice for certain categories of the most serious international crimes. The heads of the relevant justice bodies responsible for investigating international crimes have publicly emphasised their commitment to such approaches. However, their full implementation requires amendments to Ukraine's criminal procedural legislation and practical implementation. In this regard, the standards set forth in the EU Directive 2012/29/EU can and should serve as a key reference point.
- The quality of implementation of EU standards for the protection of victims and witnesses in criminal proceedings will directly affect Ukraine's ability to cooperate internationally in investigating the most serious international crimes. Failure to properly integrate key elements of the relevant EU directives into legislative reforms may hinder cooperation with EU Member States on security measures in criminal proceedings. Moreover, neglecting to consider the context of the armed conflict when shaping national decisions poses a significant risk to the rights and safety of victims.

Recommendations

1. ADAPTATION OF NATIONAL LEGISLATION AND PRACTICES FOR THE PROTECTION OF VICTIMS OF GRAVE INTERNATIONAL CRIMES

- **Develop and adopt a new law on security measures for participants in criminal proceedings.**

The current 1993 law is outdated and no longer meets international standards or responds to modern challenges, including those related to armed aggression, digital threats, and all forms of online persecution. The government should develop and propose to Parliament a draft law that would take into account relevant international standards, in particular Recommendation CM/Rec(2022)9 of the Committee of Ministers of the Council of Europe on the protection of witnesses and collaborators of justice and Directive 2012/29/EU. When developing national standards and infrastructure, it would be useful to draw on the experience of other post-conflict countries, such as Bosnia, as one of the more successful examples. When drafting the bill, the specific needs of victims of international crimes and other categories of victims, such as victims of gender-based violence, hate crimes, human trafficking, child victims, etc., should be taken into account¹.

- **Introduce a comprehensive assessment of the risks and needs of victims in criminal proceedings.** The law should establish the powers of investigators, prosecutors, and judges to conduct individual assessments of the risks and needs of victims, particularly those of international crimes. Where appropriate, such power should be as-

¹ These are consistent with the conclusions of experts in the Shadow Report on Chapter 23 "Justice and Fundamental Rights" and Chapter 24 "Justice, Freedom and Security" of the European Commission Report on Ukraine's Progress within the European Union Enlargement Package in 2024 // Shadow Report of the Coalition of Public Organizations Led by the Agency for Legislative Initiatives, 2025: <https://parlament.org.ua/wp-content/uploads/2025/10/shadow-report-2025-ua.pdf>

signed to the Coordination Center, that engages with victims at various stages of criminal proceedings. The results of the assessment should promptly be accessible to all to those entities responsible for deciding and applying security measures. The assessment should not be a mere formality: It should examine the victims' psychological condition, prior trauma, social context (including ties to the occupied territories) the need to protect privacy and personal data, the risk of retraumatisation, the need to avoid contact with the accused, physical threats to life and health, relocation needs and other relevant factors. There should also be a possibility to engage relevant specialists to conduct such an assessment (medical workers, psychologists, forensic experts, etc.). Protocols and mechanisms for conducting such assessments should be developed, including specific sections on the risks addressing the risks and needs of different vulnerable groups of victims.

- **Amend the Criminal Procedure Code of Ukraine to protect victims of grave international crimes from secondary victimisation:**

- Ensure a direct guarantee to prevent physical contact between victims and defendants in proceedings involving international crimes, and provide practical tools for its implementation.
- Introduce mechanisms for anonymising victims and witnesses in proceedings concerning grave international crimes, applicable during court hearings and usable independently from security measures. In particular, create procedural options for witness protection and preventing disclosure of their identity during court proceedings, when necessary for security and obtaining reliable information needed to prove a crime.
- Introduce provisions to protect victims and witnesses of grave international crimes from secondary victimisation during the proceedings. In particular, limit the number of witnesses' and victims' interviews to ensure respectful treatment throughout investigation and trial. Provide for video/audio recording of interviews in order to avoid repeated questioning. Establish that

interviews with victims and witnesses conducting their pre-trial proceedings in criminal cases involving grave international crimes may be admitted as evidence in court.

2. DEVELOPMENT INFRASTRUCTURE OF AGENCIES THAT PROTECT VICTIMS OF GRAVE INTERNATIONAL CRIMES

Regulate the status of the Coordination Center for Victims and Witnesses Support at the Office of the Prosecutor General, granting it procedural powers to access information on the progress of proceedings enabling it to provide limited, clearly defined forms of support to victims.

- **Establish a single body (agency) responsible for implementing security measures for participants in criminal proceedings.** Develop and formalise an appropriate model, and, subsequently establish a single body (agency) responsible for implementing security measures for participants in criminal proceedings, including victims and witnesses. This body should also serve as a contact point for victims and coordinate interaction with all agencies involved in deciding on and applying security measures.
- **Pending the establishment of a relevant body (agency), ensure co-ordination among the authorities involved in the protection of victims of grave international crimes.** There should be a clear procedure for interagency cooperation between judicial bodies, units, and services providing victim support measures, and agencies responsible for implementing security measures in criminal proceedings. The results of the victims' needs and risk assessment should be shared with the relevant authorities to avoid placing an excessive burden on victims of grave international crimes.
- **Address funding issues. Conduct a forecast analysis of the actual condition and financial needs of national programs for victim and witness protection in criminal proceedings.** The government should support the involvement of international technical assistance to en-

sure the functioning of the relevant body (agency) and the implementation of security measures for victims and witnesses in criminal proceedings. Gradually introduce dedicated programs within the State Budget of Ukraine to finance programs for the protection of participants in criminal proceedings to gradually reduce the dependence on international assistance and ensure stable Long-term operation.

- **Ensure the development of infrastructure for victim and witness support units.** Assess feasibility of expanding the infrastructure of victim support units building on the work initiated through the Coordination Center through the establishment of relevant units at the level of investigative bodies and/or courts. Such expansion should consider scale of opened criminal investigations in certain regions. Provide for mechanisms for interagency cooperation with units responsible for supporting victims and witnesses in criminal proceedings within their mandate.
- **Ensure safeguards for judicial and law enforcement officials.** Given the risks arising from the ongoing armed conflict in Ukraine, develop and implement physical and psychological safety guarantees for justice system and law enforcement officials working with victims and witnesses of international crimes. These measures should take into account the area of operation, procedural workload and other relevant factors; assess the need and, if necessary, ensure the confidentiality of their work.
- **Improve infrastructure for judicial and law enforcement agencies.** Ensure that separate premises are available in investigative agencies, prosecutors' offices, and courts for safe interaction with victims and witnesses of grave international crimes, and for avoiding contact between victims and the defendants. Support and develop the use of technical means in criminal proceedings for grave international crimes to ensure the anonymity of victims and witnesses during interviews and court hearings.

- **Ensure regular professional development for staff involved in support and security measures, as well as representatives of the justice system working with victims of grave international crimes.** Continue and maintain training programs and regular exchanges of experience for investigators, prosecutors, judges, and lawyers on working with vulnerable categories of victims and witnesses, particularly victims of grave international crimes. Such training should include victim-centered approaches and the specifics of working with signs of psychological trauma and post-traumatic stress disorder.

3. IMPLEMENTATION OF COMPREHENSIVE APPROACHES TO PROTECTING VICTIMS OF INTERNATIONAL CRIMES

- **Systematically inform victims and witnesses in criminal proceedings for international crimes about their rights:**
 - Initiate changes to criminal procedural legislation to ensure unhindered access for victims to sufficient and timely information about the content and outcome of criminal proceedings for grave international crimes. Such access can be organized through DIIA service and/or the SMEREKA investigation management, control, and analysis system of the Office of the Prosecutor General. At the same time, provide sufficient protection against unlawful interference and violation of the confidentiality of pre-trial investigations. Access should include proper user verification and be in compliance with personal data protection requirements.
 - Develop standard practices/internal work protocols for investigators, prosecutors, defense lawyers, and courts, to ensure that every victim and witness of an international crime immediately receives clear explanations on how to exercise their right to obtain information about the relevant criminal proceedings.
 - Introduce standardised, accessible and adapted information materials (booklets, videos, etc.) outlining the rights of victims and witnesses, as well as accessible support programs.

Information should be timely, comprehensive, and easily understandable, taking into account the individual needs and circumstances of victims.

- Inform victims and witnesses in proceedings about the importance of reporting threats to their safety to investigators/prosecutors/judges. Judicial authorities should ensure a prompt response, conduct a timely risk assessment and be able to apply effective security measures.
- **Strengthen legal support for victims of grave international crimes.** The government should consider providing free legal aid to victims of international crimes based on individual needs assessments, including through appropriate legislative changes. International technical assistance programs and civil society organisations should emphasise the importance of offering free legal aid and involving victims' representatives in such cases. Additionally, ensure that victims receive sufficient support during interviews by a trusted person or lawyer representing their interests. Such support can significantly improve victims' sense of security, their understanding of the process, communication with the prosecutor, courts, and the defence, and ultimately the quality of the relevant criminal proceedings.
- **Ensure a comprehensive approach to victims of the most serious international crimes within the framework of security measures.** Mechanisms for implementing security measures should include the possibility of providing victims and witnesses with psychological, medical, and social assistance forms and scope compatible with the conditions of the applied security measures.
- **Strengthen support programs for victims of grave international crimes.** The Government (in particular, the Ministries of Social Policy, Family, and Unity) should prioritise support for victims of the armed conflict in Ukraine. Efforts should focus on the development of state programs and support services available to victims within criminal proceedings (recovery, one-time financial support, psychological and medical assistance, including dental services, etc.). Strengthen and

develop public-private partnerships to support victims of international crimes victims with emergency services and social assistance. Ensure effective interaction with the Coordination Center for Victim and Witness Support at the Office of the Prosecutor General where necessary.

4. SUPPORTING AND STRENGTHENING UKRAINE'S INTERNATIONAL COOPERATION IN PROTECTING VICTIMS OF INTERNATIONAL CRIMES. EXPAND COOPERATION WITH INTERNATIONAL PARTNERS.

- Actively utilise international assistance and expertise, in particular from Eurojust, to strengthen the protection of witnesses and victims in cross-border investigations, investigations by the Office of the Prosecutor of the International Criminal Court, and the future Special Tribunal for the Crime of Aggression against Ukraine. This includes effective witness protection programs, organising joint investigation teams, etc.
- **Ensure the effective implementation of international technical assistance programs.** When engaging with stakeholders in the implementation of international technical assistance programs, consider the needs and current capacity of the authorities responsible for supporting and protecting victims in criminal proceedings.

