

LEGISLATIVE AND DOCTRINAL DETERMINATION OF VICTIM STATUS IN THE CIS MEMBER STATES

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Annotation. The article analyzes the legislative and doctrinal definition of the status of a victim in the criminal proceedings of the CIS member states.

Keywords: the status of the victim, the victim of a crime, the protection of the rights and interests of the victim.

In the CIS countries, which are close in legal traditions to Uzbekistan, it is possible to identify common features in the legislative definition of the status of the victim and special ones that reveal trends in the modernization of the approaches of the legislator of each of the CIS countries to compensation, the following approaches of the legislators of the CIS countries to the legal definition of the status of the victim: constitutional guarantees of ensuring the right of victims of crimes to compensation for harm.

As an example, the following provisions can be cited: Part 6. Art. 29 of the Constitution of the Republic of Uzbekistan dated May 1, 2023, Section two. The fundamental rights, freedoms and duties of man and citizen, «The rights of victims of offenses are protected by law. The State provides victims with protection and access to justice, and creates conditions for compensation for the harm they have suffered»¹.

Part 1 of Article 68 of the Constitution of the Republic of Azerbaijan dated November 12, 1995 «the injured person has the right to participate in the administration of justice and to demand compensation for the damage caused to him»²;

Article 60 of the Constitution of the Republic of Belarus No. 2875–KP dated March 15, 1994: «In order to protect the rights, freedoms, honor and dignity, citizens,

¹ The Constitution of the Republic of Uzbekistan dated May 1, 2023.//<https://lex.uz/docs/6445147>

² Constitution of the Republic of Azerbaijan dated November 12, 1995 <https://president.az/ru/pages/view/azerbaijan>

in accordance with the law, have the right to seek in court both property damage and material compensation for moral damage»³;

Part 4 of Article 29 of the Constitution of the Kyrgyz Republic dated June 27, 2010: «everyone is guaranteed...the right to compensation for material and moral harm caused by unlawful actions»⁴;

61 of the Constitution of Turkmenistan dated May 18, 1992 No. 691 – XII: «Everyone has the right to demand compensation in court for material or moral damage caused to him by illegal actions of state bodies, other organizations, their employees, as well as individuals»⁵, the main normative act regulating the legal status of a victim of a crime is the Criminal Procedure Law. Summarizing the prescriptions contained in the Criminal Procedure Codes of the Republic of Azerbaijan dated July 14, 2000 No. 907 (art. 87)⁶, Of the Republic of Armenia dated September 1, 1998. No. ZR-248 (Article 58)⁷, Republic of Belarus No. 295-3 dated July 16, 1999 (Article 49)⁸, Of the Republic of Kazakhstan dated July 4, 2014 No. 231 –V SAM (art.71)⁹, No. 129 of the Kyrgyz Republic dated October 28, 2021 (Article 40)¹⁰, Republic of Moldova No. 122-XV dated March 14, 2003 (Articles 58-59)¹¹ of the Republic of Tajikistan dated December 3, 2009 (Article 42)¹², of the Republic of Turkmenistan dated April 18, 2009 (Article 86)¹³, Of the Republic of Uzbekistan dated September 22, 1994 (Article 54)¹⁴, it can be concluded that the legislators of these countries understand the victim as:

a) individuals who have suffered property, physical and moral damage indexed in monetary terms by a criminally punishable act, as well as their legal successors in criminal cases involving acts involving death, and legal representatives in cases of crimes committed against minors and the insane (Part 1,2. 87 of the CPC of Azerbaijan; part 1 of Article 58 of the CPC of Armenia; part 1,4, Article 49 of the CPC of Belarus; part 1,11 of Article 71 of the CPC of Kazakhstan; Article 49 of the CPC of Kyrgyzstan;

³ The Constitution of the Republic of Belarus of November 24, 1996 <https://president.gov.by/ru/gosudarstvo/constitution>

⁴ The Constitution of the Kyrgyz Republic (Kirgiz. The Constitution of the Kyrgyz Republic) <https://www.gov.kg/ru/p/constitution>

⁵ The Constitution of Turkmenistan dated May 18, 1992 // https://base.spininform.ru/show_doc.fwx?rgn=2376

⁶ The Criminal Procedure Code of the Republic of Azerbaijan (approved by the Law of the Republic of Azerbaijan dated July 14, 2000 No. 907-IQ) (with amendments and additions as of 09/29/2024) https://continent-online.com/Document/?doc_id=30420280

⁷ The Criminal Procedure Code of the Republic of Armenia// https://base.spininform.ru/show_doc.143021

⁸ The Criminal Procedure Code of the Republic of Belarus// <https://etalonline.by/document/?regnum=hk9900295>

⁹ The Criminal Procedure Code of the Republic of Kazakhstan dated July 4, 2014// <https://adilet.zan.kz/rus/docs/K140000231>

¹⁰ The Criminal Procedure Code of the Kyrgyz Republic dated October 28, 2021 <https://mvd.gov.kg/rus/ministry/normative-bases/23>

¹¹ Уголовно-процессуальный кодекс Республики Молдовы// <https://www.refworld.org/legal/legislation/natlegbod/2003/en/104339>

¹² The Criminal Procedure Code of the Republic of Tajikistan dated December 3, 2009 (with amendments and additions as of 01/03/2024)// https://continent-online.com/Document/?doc_id=30594304

¹³ The Criminal Procedure Code of Turkmenistan// https://sherloc.unodc.org/cld/uploads/res/document/tkm/turkmenistan-code-of-criminal-procedure_html/Turkmenistan_Code_of_Criminal_Procedure.pdf

¹⁴ The Criminal Procedure Code of the Republic of Uzbekistan// <https://lex.uz/docs/111463>

part 1 of Article 59 of the CPC of Moldova; part 1 of Article 42, part 6 of Article 42 of the CPC of Tajikistan; part 1 of Article 86 of the Code of Criminal Procedure of Turkmenistan; Article 54 of the Code of Criminal Procedure of Uzbekistan);

b) authorized representatives of legal entities in criminal cases of causing them material or moral harm (Part 3 of Article 87 of the Criminal Procedure Code of Azerbaijan; part 5 of Article 59 of the Criminal Procedure Code of Armenia; part 7 of Article 72 of the Criminal Procedure Code of Kazakhstan; part 1 of Article 42 of the Criminal Procedure Code of Tajikistan);

c) granting a person the procedural status of a victim after the start of criminal prosecution (establishing the event of the crime, the fact of harm caused by the crime) and issuing a procedural act of the criminal prosecution body or court recognizing the victim (Part 4 of Article 87 of the CPC of Azerbaijan, Part 2 of Article 58 of the CPC of Armenia, Part 1 of Article 49 of the CPC of Belarus, Part 2 of Article 59 of the CPC of Moldova, Part 3 of Article 71 of the CPC of Kazakhstan, Article 49 of the CPC of Kyrgyzstan, Part 3 of Article 86 of the CPC of Turkmenistan, Article 54 of the CPC of Uzbekistan).

If there are no sufficient grounds for recognizing a person as a victim by the beginning of criminal prosecution, an appropriate decision is issued immediately upon the establishment of sufficient grounds,

(part 4 of Article 87 of the Criminal Procedure Code of Azerbaijan, part 2 of Article 49 of the Criminal Procedure Code of Belarus). If in the course of criminal proceedings it is established that there are no grounds for granting a person the status of a victim, the criminal prosecution body or the court, by its procedural act, terminates the person's participation in the criminal case as a victim (Part 5 of Article 87 of the Criminal Procedure Code of Azerbaijan, Part 3 of Article 49 of the Criminal Procedure Code of Belarus, Part 3 of Article 71 of the Criminal Procedure Code of Kazakhstan, Part 3 of Article 59 of the Criminal Procedure Code of Moldova).

The special criteria included in the legislative definition of victim status relate to the essential expansion of the categories of persons included in the concept of "victim": the criminal procedure legislation of some CIS countries, along with the indication of the recognition of a victim of a person who has suffered actual harm by a crime, contains a special indication of the recognition of victims of persons with the so-called potential victim status.

As defined in Part 1 of Article 58 of the Criminal Procedure Code of Armenia and Article 42 of the Criminal Procedure Code of Tajikistan, the legislative definition of a victim additionally includes persons who could have suffered moral, physical or property damage if the crime was completed; in some countries, in particular Kazakhstan (in Part 2 of Article 71 of the Criminal Procedure Code) and Tajikistan

(Article 42 CPC), an individual or a legal entity is recognized as a victim even in the case of harm caused by an act committed by an insane person.

The restrictions established in the national criminal procedure legislation may relate to the procedure for granting the procedural status of a victim - a legal entity.

For example, within the meaning of Article 49 of the Criminal Procedure Code of Belarus, only an individual can be recognized as a victim if he has suffered physical, property, or moral harm by a crime that is directly completed or unfinished or by a socially dangerous act committed by an insane person provided for in criminal law. A person who has suffered from a crime committed by himself or who has been harmed during his detention while committing a crime (unless the necessary measures have been exceeded) cannot be recognized as a victim. The Criminal Procedure Code of Belarus does not provide for granting the procedural status of a victim to a representative of a legal entity on the grounds that a legal entity that has been harmed by a crime or a socially dangerous act of an insane person exercises its rights by filing a civil claim.¹⁵

The criminal procedure legislation of some CIS countries simultaneously operates with one (victim), two (victim and victim) and three (victim, victim and victim) categories of persons who are harmed by a criminally punishable act. For example, the Criminal Procedure Code of Kazakhstan (Article 71) and Uzbekistan (Article 54) introduced one category of persons – victims, who are granted the procedural status of such on the basis of a procedural act due to the existence of grounds to believe that they suffered moral, physical or property damage as a result of a crime.

According to the Criminal Procedure Code of Moldova, a natural or legal person is recognized as a victim with the consent of the victim on the basis of a decision of the criminal prosecution authority (part 1.2 of Article 59), the victim has the right to demand from the criminal prosecution authority that he be recognized as a victim in a criminal case (paragraph 5 of Part 3 of Article 58), and immediately after his identification – for protection and compensation for damage (Part 5 of Article 58);

In the event of a threat of murder, violence, destruction or damage to property, or other violent acts, a victim of domestic violence has the right to submit an application to the criminal prosecution body, prosecutor or judicial authority for the application of interim measures by issuing a protective order (art. 215). The CPC of Belarus mentions categories of victims and victims of crime. Thus, according to the Criminal Procedure Code of Belarus and the comprehensive interpretation of norms (for example, Articles

¹⁵ Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated April 28, 2022 No. 6 "On the practice of applying the norms of the Code of Criminal Procedure governing the participation of the victim in criminal proceedings" // https://court.gov.by/ru/jurisprudence/post_plen/criminal_proc/d44919db77a147c4.html

26, 28, 29, 51, etc.), victims are those who have been harmed by a crime, but they have not yet been granted the full status of a victim on the basis of a procedural act.¹⁶

The CPC of Tajikistan also establishes categories of persons who are harmed by a crime, for example, a victim of a crime is recognized as a private prosecutor (his legal representative and a representative of a legal entity) who has filed an application to the court for initiation, and the victim (his representative) – in cases of public and private-public prosecution (parts 2, 3 of art. 24, part 1 of Article 354). The Criminal Procedure Code of Kyrgyzstan grants a victim of a crime the right to demand the initiation of criminal proceedings, to participate in criminal proceedings as a victim, a private prosecutor, to receive compensation for harm caused to him (Part 2 of Article 21), and the victim (his representatives) – the right to participate in the criminal prosecution of the accused, and in cases of private prosecution – to bring and to support the charge against the person concerned and refuse to support the charge (part 1 of art. 27). In the Code of Criminal Procedure of Turkmenistan, an unidentified person who has been harmed by a crime is recognized as a victim, but if such a person is identified, then simultaneously with the initiation of a criminal case, he is recognized as a victim (Part 1 of Article 216).

The criminal procedure codes of many CIS countries, along with other principles of criminal procedure, establish the priority of the victim's rights. Thus, Part 2 of Article 12 of the CPC of Azerbaijan guarantees the provision of constitutional human and civil rights and freedoms, including the right of a victim of a crime.: a) to demand the initiation of criminal prosecution; b) to participate in the criminal prosecution as a victim or a private prosecutor; c) to receive compensation for the moral, physical and material damage caused. Similar rights of persons affected by crimes are established in Article 21 of the Criminal Procedure Code of Kyrgyzstan. According to part 3 of Article 12 of the Criminal Procedure Code of Kazakhstan, the state is obliged to provide everyone with compensation for the damage caused. In accordance with Part 2 of Article 11 of the Code of Criminal Procedure of Turkmenistan, the State is obliged to provide compensation for the damage caused. With the exception of some exceptions, the criminal procedure legislation of the CIS countries is characterized by largely identical approaches to regulating the legal status of victims. In particular, in criminal proceedings, the victim (an adult close relative in the event of the death of the victim or his inability due to age or physiological characteristics to express his will) is endowed with rights.

– to participate in criminal prosecution personally and through a lawyer and other representative, to bring and support charges, as well as to withdraw charges (Part 4 of Article 59 of the Criminal Procedure Code of Armenia; Article 28, part 5.6 of Article

¹⁶ Compensation for material damage to victims in the Criminal Procedure Code of Belarus. https://court.gov.by/ru/justice/press_office/04b05b563f4e4cbd.html

50 of the Criminal Procedure Code of Belarus; paragraphs 6, 16, Part 6, part 11 of Article 71 of the Criminal Procedure Code of Kazakhstan; Article 27, paragraph 5 of art. 50 of the Criminal Procedure Code of Kyrgyzstan; part 4 of Article 60 of the Criminal Procedure Code of Moldova; Article 25 of the Criminal Procedure Code of Tajikistan; part 2,5 of Article 86 of the Criminal Procedure Code of Turkmenistan) and the procedural status of the victim (part 3 of Article 60 of the Criminal Procedure Code of Moldova);

– have a lawyer and a representative authorized by law to represent the victim in criminal proceedings (paragraph 18 of Part 1 of Article 59 of the Criminal Procedure Code of Armenia; paragraph 21 of part 1 of Article 50 of the Criminal Procedure Code of Belarus; paragraph 6 of Article 71 of the Criminal Procedure Code of Kazakhstan; paragraph 7 of Part 1 of Article 50 of the Criminal Procedure Code of Kyrgyzstan; part 4 of Article 17, paragraph 17 of Part 1 of Article 60 of the Criminal Procedure Code of Moldova; part 2 of Article 42 of the Criminal Procedure Code of Tajikistan; Article 85, paragraph 10 of Part 4 of Article 86 of the Criminal Procedure Code of Turkmenistan; Article 55 of the Criminal Procedure Code of Uzbekistan);

– to use qualified legal assistance (Article 10 of the Criminal Procedure Code of Armenia; part 4 of Article 20, part 1 of Article 50 of the Criminal Procedure Code of Belarus; Article 27 of the Criminal Procedure Code of Kazakhstan), including free of charge (Part 6 of Article 71 of the Criminal Procedure Code of Kazakhstan; paragraph 18 of Part 1 of Article 60 of the Criminal Procedure Code of Moldova);

– to know the essence of the charge, to give evidence and explanations, to file complaints, petitions and challenges, to withdraw complaints and petitions, to submit materials for inclusion in a criminal case and investigation at a court hearing, to participate in investigative, judicial and other procedural actions, to declare oneself as a private prosecutor (Articles 87 of the CPC of Azerbaijan, paragraphs 1-5, 12 of part 1 of Article 59 of the CPC of Armenia; paragraphs 1-4, 15, 16, 18 of Part 1 of Article 50 of the CPC of Belarus; paragraphs 1,3,4,10,19 of Article 71 of the CPC of Kazakhstan; paragraphs 1-4, 8, 17 of part 1 of Article 50 of Kyrgyzstan; paragraphs 1-5, 14 of part 1 of Article 60 of the CPC of Moldova; part 2 of Article 42 The Criminal Procedure Code of Tajikistan; paragraphs 2-5,8, part 4 of Article 86 of the Criminal Procedure Code of Turkmenistan; Article 55 of the Criminal Procedure Code of Uzbekistan);

– to use the native language or the language spoken by the victim and the free assistance of an interpreter (paragraph 5, part 1 of Article 50 of the Criminal Procedure Code of Belarus; paragraph 2.5, part 6 of Article 71 of the Criminal Procedure Code of Kazakhstan; paragraphs 5-6 of the Criminal Procedure Code of Kyrgyzstan; part 2 of Article 42 of the Criminal Procedure Code of Tajikistan; paragraph 1 of Part 4 of Article 86 of Turkmenistan; Article 55 of the Criminal Procedure Code of Uzbekistan);

– participate in the court's consideration of complaints and submissions (paragraph 18, part 1, Article 50 of the Criminal Procedure Code of Kyrgyzstan), in particular complaints about the detention, detention, house arrest of a suspect or accused, and appeal the court's decision (paragraph 7, part 1, Article 50 of the Criminal Procedure Code of Belarus);

– to get acquainted with the materials of the criminal case, with the protocols of investigative, judicial and other procedural actions, to make extracts from them, to give comments and objections about the objectivity and completeness of their conduct and to demand that they be included in the relevant protocols (Part 6 of Article 87 of the Criminal Procedure Code of Azerbaijan; paragraphs 7-9, 11 of Part 1 of Article 59 of the Criminal Procedure Code of Armenia; paragraphs 6.8 1, Article 50 of the Criminal Procedure Code of Belarus; paragraph 9, 17, part 6, Article 71 of the Criminal Procedure Code of Kazakhstan; paragraphs 9-11, 14, part 1, Article 50 of the Criminal Procedure Code of Kyrgyzstan; paragraphs 6-7, part 1, Article 60 of the Criminal Procedure Code of Moldova; part 2, Article 42 of the Criminal Procedure Code of Tajikistan; paragraph 6, 11, part 4, Article 86 of the Criminal Procedure Code of Turkmenistan; Article 55 of the Criminal Procedure Code of Uzbekistan);

– receive information on the course of criminal prosecution and on making decisions affecting the rights and interests of the victim, get acquainted with the materials of the criminal case, make extracts from it and receive copies (part 6 of Article 87 of the Criminal Procedure Code of Azerbaijan; paragraphs 9, 14 of part 1 of Article 50 of the Criminal Procedure Code of Belarus; part 4 of Article 36, paragraphs 11, 13, 20 part 6 of Article 71 of the CPC of Kazakhstan; paragraph 10 of part 1 of Article 60, Article 287 of the CPC of Moldova; part 2 of Article 42 of the CPC of Tajikistan; paragraph 7 of part 4 of Article 86 of the CPC of Turkmenistan; Article 55 of the CPC of Uzbekistan);

– to participate in sessions of courts of first and higher instances, as well as in criminal proceedings in view of new and newly discovered circumstances, to make speeches, make remarks, participate in debates, and object to the actions of the presiding judge (Part 6 of Article 87 of the CPC of Azerbaijan; paragraph 10 of Part 1 of Article 59 of the CPC of Armenia; paragraphs 10-13 of Part 1 50 of the CPC of Belarus; paragraphs 14, 15 of Article 71 of the CPC of Kazakhstan; paragraphs 12, 13 of part 1 of Article 50 of the CPC of Kyrgyzstan; paragraphs 8,9,15 of part 1 of Article 60 of the CPC of Moldova; part 2 of Article 42 of the CPC of Tajikistan; paragraph 7 of part 4 of Article 86 of the CPC of Turkmenistan; Article 55 of the CPC of Uzbekistan);

– to appeal and protest actions (inaction) and procedural documents of the criminal prosecution and court authorities, as well as to withdraw complaints and representations filed (Part 6 of Article 87 of the CPC of Azerbaijan; paragraph 14 of

Part 1 of Article 59 of the CPC of Armenia; part 1 of Article 50 of the CPC of Belarus; paragraph 15, 16 of part 1 of Article 50 of the CPC of Kyrgyzstan; paragraph 11, 12, 151, part 1 of Article 60 of the CPC of Moldova; part 2 of Article 42 of the CPC of Tajikistan; paragraph 12 of part 4 of Article 86 of the CPC of Turkmenistan; Article 55 of the CPC of Uzbekistan);

– to reconcile with the accused (defendant) in cases stipulated by the criminal and criminal procedure legislation (Part 6 of Article 87 of the Criminal Procedure Code of Azerbaijan; paragraph 13 of Part 1 of Article 59 of the Criminal Procedure Code of Armenia; paragraph 17 of Part 1 of Article 50 of the Criminal Procedure Code of Belarus; paragraph 19 of Part 1 of Article 50 of the Criminal Procedure Code of Kyrgyzstan; paragraph 13 of Part 1 of Article 60 of the Criminal Procedure Code of Moldova 55 of the CPC of Uzbekistan), including through mediation (paragraph 8, part 6, Article 71 of the CPC of Kazakhstan);

- to file a civil claim, to demand compensation for the damage caused (paragraph 9, part 4, Article 86 of the Code of Criminal Procedure of Turkmenistan), to receive reimbursement of expenses incurred during the conduct of criminal proceedings, as well as financial compensation for illegal actions (inaction) of the criminal prosecution authorities and courts (Part 6, V. 87, Article 89 of the Code of Criminal Procedure of Azerbaijan; paragraph 16 Part 1 of Article 59 of the Criminal Procedure Code of Armenia; paragraph 19 of Part 1 of Article 50 of the Criminal Procedure Code of Belarus; part 4,5,6, Article 71 of the Criminal Procedure Code of Kazakhstan; paragraph 16 of part 1 of Article 60 dictionaries);

- receive property and documents seized by the body conducting criminal proceedings as material evidence in a criminal case or on other grounds, as well as those held by the convicted person (Part 6 of Article 87 of the Criminal Procedure Code of Azerbaijan; paragraph 17 of Part 1 of Article 59 of the Criminal Procedure Code of Armenia; paragraph 20 of Part 1 of Article 50 of the Criminal Procedure Code of Belarus; paragraph 7 of Part 6 of Article 71 of the Criminal Procedure Code of Kazakhstan; paragraph 21 of part 1 of Article 50 of the Criminal Procedure Code of Kyrgyzstan; paragraph 17 of part 1 of Article 60 of dictionaries);

– to file petitions for the provision of security measures for him and his family members, non-disclosure of the circumstances of his private life, and the application of a ban on approaching the suspect (paragraph 12, part 6, Article 71 of the Criminal Procedure Code of Kazakhstan);

– before the age of 14, participate in interrogation in cases of sexual crimes, child trafficking or domestic violence only if it is conducted by a criminal prosecution judge with the help of a psychologist and teacher in specially equipped rooms equipped with audio-video recording facilities (Part 5 of art. 60, part 1 of art. 110 of the Criminal Procedure Code of Moldova);

– submit biological samples for expert examination and undergo an examination only with the consent of the victim, and in his absence – on the basis of court approval (part 4 of art. 60 of the Criminal Procedure Code of Moldova);

– to know about the intention of the parties to conclude a procedural agreement "with justice", about its terms and consequences, to propose their own terms for compensation for damage caused by a crime, or to object to its conclusion (Part 6 of Article 71 of the Criminal Procedure Code of Kazakhstan);

– to inform the prosecutor's office and the courts about the violation of a reasonable period of criminal proceedings (paragraph 19, part 1, Article 60 of the Criminal Procedure Code of Moldova);

– to protect their rights and legitimate interests in other ways not prohibited by law (Part 6 of Article 71 of the Criminal Procedure Code of Kazakhstan), and to enjoy other rights provided for by the Criminal Procedure law (Part 6 of Article 87 of the Criminal Procedure Code of Azerbaijan; part 3 of Article 59 of the Criminal Procedure Code of Armenia; part 3 of Article 60 of the Criminal Procedure Code of Moldova);

The block of duties of victims, similarly regulated in the criminal procedure legislation of the CIS countries, consists of: - appearing at the summons of the body conducting the criminal process, giving evidence, providing things and documents as material evidence and for other reasons, as well as samples for comparative research; undergoing an examination, outpatient examination and other examination in accordance with the legislation of the CIS countries. in case of injury to health (Part 7 of Article 87 of the CPC of Azerbaijan; paragraphs 1-5 of Part 2 of Article 59 of the CPC of Armenia; paragraphs 1-5 of Part 2 of Article 50 of the CPC of Belarus; paragraphs 1-4 of Part 2 of Article 50 of the CPC of Kyrgyzstan; paragraphs 1-5 of Part 2 of Article 60 of the CPC of Moldova; part 3 of Article 42 of the CPC of Tajikistan; paragraph 1.2 of Part 6 of Article 86 of the CPC of Turkmenistan; 55 of the Criminal Procedure Code of Uzbekistan), passing an examination of the mental and physical condition, provided that the person is recognized as a victim of torture, inhuman or degrading treatment (part 1 of Article 60 of the Criminal Procedure Code of Moldova);

- following the lawful instructions of the inquirer, investigator, prosecutor and judge to observe order in the court session (Part 7 of V. 87 of the CPC of Azerbaijan; paragraph 6 of Part 2 of Article 59 of the CPC of Armenia; paragraph 6 of Part 2 of Article 50 of the CPC of Belarus; part 8 of V. 71 of the CPC of Kazakhstan; paragraph 6.7, part 2 of Article 50 of the CPC of Kyrgyzstan; paragraph 6 part 2 of the Article of the Criminal Procedure Code of Moldova);

– a ban on the disclosure of information that became known during the criminal proceedings, subject to a warning to the authorities conducting the criminal press (paragraph 7, part 20 of Article 50 of the Criminal Procedure Code of Belarus; part 8

of Article 71 of the Criminal Procedure Code of Kazakhstan; paragraph 5 of Part 2 of Article 50 of the Criminal Procedure Code of Kyrgyzstan; part 3 of Article 42 of the Criminal Procedure Code of Tajikistan; paragraph 3 of 63, art. 86 of Turkmenistan), as well as information concerning the inviolability of private life, personal and family secrets or related to professional, commercial, banking, state and other legally protected secrets (Part 7, art. 87 of the CPC of Azerbaijan);

– Not obstructing the establishment of the truth by destroying or falsifying evidence, persuading witnesses and other illegal actions (Article 55 of the Criminal Procedure Code of Uzbekistan);

– be criminally responsible for disclosing the data of a preliminary investigation or a closed court session without the permission of the body conducting the criminal process (Part 3 of Article 50 of the Criminal Procedure Code of Belarus), giving deliberately false testimony, refusing and evading testimony (part 4 of Article 50 of the Criminal Procedure Code of Belarus; part 10 of Article 71 of the Criminal Procedure Code of Kazakhstan; part 4 of Article 50 of the Criminal Procedure Code of Kyrgyzstan; part 5 of Article 42 of the Criminal Procedure Code of Tajikistan; Article 55 of the Criminal Procedure Code of Uzbekistan);

– observing order at a court hearing (paragraph 7, part 2, Article 59 of the Criminal Procedure Code of Armenia; paragraph 7, Article 60 of the Criminal Procedure Code of Moldova) and during the investigation of a criminal case (part 3, Article 42 of the Criminal Procedure Code of Tajikistan; paragraph 4, part 6, Article 86 of the Criminal Procedure Code of Turkmenistan; Article 55 of the Criminal Procedure Code of Uzbekistan), be subjected to measures of criminal procedural influence, for example, compulsory for failure to appear without valid reasons at the summons of the body conducting the criminal procedure (Part 9 of Article 71 of the CPC of Kazakhstan; part 4 of Article 42 of the CPC of Tajikistan; Article 55 of the CPC of Uzbekistan), removal from the courtroom (part 9 of Article 71 of the CPC of Kazakhstan) or monetary punishment (part 3 of art. 50 CPC of Kyrgyzstan) for violating the established procedure during the court session;

– performance of other duties stipulated in the criminal procedure regulations (Part 7 of Article 87 of the Criminal Procedure Code of Azerbaijan, Part 3 of Article 59 of the Criminal Procedure Code of Armenia, Part 3 of Article 60 of the Criminal Procedure Code of Moldova, Part 7 of Article 42 of the Criminal Procedure Code of Tajikistan). At the same time, the criminal procedure legislation of some CIS countries has specific features of securing the rights, duties and legitimate interests of victims. First of all, the issue of the extrajudicial settlement of conflicts through mediation is related to the victim's right to compensation for damage caused by a criminal offense. It should be noted that independent laws on mediation have been adopted in Belarus

(Law No. 58 –«On Mediation» dated July 12, 2013)¹⁷, Moldova (Law No. 137 "On Mediation"¹⁸ dated July 3, 2015) and Kazakhstan (Law No. 401–IV «On Mediation»¹⁹ dated January 28, 2011).

However, the mechanism of implementation of the institution of mediation in these countries is no longer limited to a single special regulatory legal act, it acquires an interdisciplinary character, covering not only civil²⁰ and arbitration proceedings. For example, the criminal procedure legislation of Kyrgyzstan only establishes the concept of "mediator", which is common to criminal proceedings.

In Moldova and Kazakhstan, the instruction to involve mediators in conflict resolution is already provided for among the rights of victims, and the administrative and criminal legislation of Kazakhstan criminalizes the disclosure by mediators of information that became known to them as a result of moderating activities. So, in accordance with Part 9 of Article 23, paragraph 15 of Part 9 of Article 64, paragraph 8 of Part 6 of Article 71 and paragraph 5 of Part 1 of Article 170 of the Criminal Procedure Code of Kazakhstan, an agreement may be concluded between the suspect (accused, defendant) and the victim to settle the dispute through mediation. For these purposes, an independent individual involved by the parties in conducting mediation is included in the number of participants in the criminal process – a mediator (paragraphs 24 of art. 6, art. 85 of the Criminal Procedure Code of Kazakhstan).

In addition, the Criminal Code of the Republic of Kazakhstan dated July 3, 2014 No. 226-V ZRK²¹ establishes a special basis for exemption from criminal liability for committing a criminal offense or a nonviolent crime of minor or moderate severity in the case of reconciliation with the victim through mediation (Parts 1, 2 of art. 68). In addition, disclosure of information by mediation participants that became known to them during mediation is subject to administrative liability (Article 85 of the Code of Administrative Offences of the Republic of Kazakhstan dated July 5, 2014 No. 235 – V ZRK) and abuse of authority by mediators is criminal (Article 285 of the Criminal Code of Kazakhstan).

Article 344¹ of the Criminal Procedure Code²² of Moldova regulates an exhaustive list of cases of resolving a case through the application of mediation procedures, including:

¹⁷ The Law of the Republic of Belarus of July 12, 2013 No. 58 – "On Mediation" // https://online.zakon.kz/Document/?doc_id=31459972

¹⁸ Law of the Republic of Moldova dated July 3, 2015 No. 137 "On Mediation" // https://continent-online.com/Document/?doc_id=34814182

¹⁹ The Law of the Republic of Kazakhstan dated January 28, 2011 No. 401– IV "On Mediation" (with amendments and additions as of 05/01/2024// https://online.zakon.kz/Document/?doc_id=30927376

²⁰ 24 of the Civil Procedure Code of the Republic of Kazakhstan dated October 31, 2015 No. 377– V

²¹ The Criminal Code of the Republic of Kazakhstan dated July 3, 2014 No. 226-V ZRK <https://adilet.zan.kz/rus/docs/K1400000226>

²² Chapters II-VI of the Criminal Code of the Republic of Moldova dated April 18, 2002 No. 985 –XV// https://continent-online.com/Document/?doc_id=30394923

- 1) criminal prosecution on charges of a person committing a minor or minor crime;
- 2) criminal prosecution on charges of a minor committing serious crimes against life, health, freedom, honor and dignity of the individual, political, labor and other constitutional rights, property ;
- 3) criminal prosecution initiated upon the victim's complaint about the commission of the following crimes: intentional infliction of moderate bodily injury or other moderate harm to health that is not life-threatening (Part 1 of Article 152 of the Criminal Code of Moldova); threat of murder or infliction of grievous bodily harm or other serious harm to health (Article 155 of the Criminal Code of Moldova); causing serious or moderate bodily injury or other serious or moderate harm to health due to negligence (art. 157 of the Criminal Code of Moldova); performing artificial insemination or implantation of an embryo by a doctor without the consent of the patient (art. 161 of the Criminal Code of Moldova); sexual harassment (art. 173 of the Criminal Code of Moldova); violation of privacy (art. 177 of the Criminal Code of Moldova); violation of the inviolability of the home (Part 1,2 of Article 179 of the Criminal Code of Moldova); violation of possession (Article 193 of the Criminal Code of Moldova); theft or illegal use of energy and gas (Article 194 of the Criminal Code of Moldova); intentional destruction or damage of property (part 1 of Article 197 of the Criminal Code of Moldova); acquisition or sale of property knowingly obtained by criminal means (part 1 of Article 198 of the Criminal Code of Moldova); disclosure of the secret of adoption (part 1 art. 204 of the Criminal Code of Moldova); unfair competition (Articles 246-1 of the Criminal Code of Moldova); 4) criminal prosecution in cases of theft of the owner's property committed by a minor, spouse, relatives, to the detriment of the guardian or a person living with the victim or adopted by him. For the listed categories of criminal cases, the court, before appointing the case for consideration, shall, at the request of the parties, issue a ruling on the appointment of a mediation procedure within no more than three days from the date of receipt of the case by jurisdiction. The mediator is obliged to immediately begin the mediation procedure, which is aimed at reconciliation of the parties. In the case of conflict settlement through reconciliation of the parties, the mediator draws up a mediation agreement and submits it to the court considering the relevant criminal case, and if it is impossible for the parties to achieve reconciliation, a reasoned conclusion. In Belarus, the issue of the expediency of introducing mediation procedures into the criminal process is still under discussion. As the Deputy Chairman of the Supreme Court of the Republic of Belarus noted, from a practical point of view

mediation is not a "panacea" in resolving material conflicts between the victim (private prosecutor) and the suspect (accused, defendant).; mediation is not mandatory for the parties, cannot be considered as the only means of providing compensation by the offender, its introduction is possible only for a relatively small range of crimes (crimes against property; minor crimes against the person; crimes committed in the family and household sphere)²³

Some specifics regarding the issues of mandatory compensation for damage caused by criminal offenses are provided for in the legislation of Azerbaijan and Kyrgyzstan. Thus, paragraph 18 of Part 6 of Article 87 of the CPC of Azerbaijan and paragraph 20 of Part 1 of Article 50 of the CPC of Kyrgyzstan include the rights of the victim to receive compensation at the state expense for damage suffered by him from an act provided for by criminal law, and paragraph 22 of part 1 of Article 50 of the CPC of Kyrgyzstan include the rights of the victim to receive compensation for damage at the state expense. suffered by him from an act provided for by criminal law, and paragraph 22 of Part 1 of art. 50 of the Criminal Procedure Code of Kyrgyzstan also establishes the requirement to compensate convicted persons for moral damage caused by a crime. The Criminal Procedure Code of Kazakhstan in Part 4 of Article 71, the Criminal Procedure Code of Moldova in paragraph 15 of Part 1 of Article 59 of the Criminal Procedure Code of Tajikistan in Part 8 of Article 42 guarantee compensation for damage caused by an offense prohibited by criminal law, and in Part 7 of Article 71 of the Criminal Procedure Code of Kazakhstan additionally establishes the right of the victim (in the event of the death of such a person, his legal successor), upon his application, on the basis of an act of the court that issued the verdict, receive full monetary compensation from budgetary funds for property damage from a particularly serious crime of no more than 150 monthly calculation indices, provided that the convicted person does not have property sufficient to compensate for the damage caused by this a crime of damage. On January 1, 2019, the Law of the Kyrgyz Republic dated January 20, 2017 No. 7 «On the basics of Amnesty and the procedure for its application»²⁴, in Part 2 of art. 7 which prohibits judges (courts) from granting amnesty to defendants and convicts who have not reimbursed at least the amount of damage they have caused.

²³ Valery Kalinkovich: "Judicial system reform in Belarus will continue" Source: <https://pravo.by/novosti/obshchestvenno-politicheskie-i-v-oblasti-prava/2024/may/5628> / – National Legal Internet Portal of the Republic of Belarus https://court.gov.by/ru/justice/press_office/d08e73eeb12e425d.html

²⁴ The Law of the Kyrgyz Republic dated January 20, 2017 No. 7 "On the basics of amnesty and the procedure for its application" // <https://cbd.minjust.gov.kg/111514/edition/1194157/ru>