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EVOLUTION OF REPARATIONS FOR VICTIMS OF INTERNATIONAL CRIMES PROVISIONS AND THEIR GRADUAL IMPLEMENTATION IN THE REPUBLIC OF MOLDOVA

Olga DORUL,
PhD, Associate professor,
Cross-Border Faculty,
Dunarea de Jos University
of Galați (Romania)
olga.dorul@ugal.ro
https://orcid.org/0000-0001-8613-4066

Andrei NASTAS,
PhD, Associate professor,
Cross-Border Faculty,
Dunarea de Jos University
of Galați (Romania)
andrei.nastas@ugal.ro
https://orcid.org/0000-0003-2715-6577

SUMMARY

The evolution of the international criminal justice system demonstrates that the issue of reparations for victims of international crimes only began to concern the international community in the early 1990s, with the establishment of the first international criminal tribunal. From this moment, the authors of international texts regulating the activities of these jurisdictions have developed numerous standards aimed at the de facto rehabilitation of victims of international crimes. These provisions have been developed both through the jurisprudence of the tribunals and in the practice of the International Criminal Court. The Republic of Moldova, during the process of association, and now in the process of negotiating accession to the European Union, has ratified all international instruments aimed at eliminating impunity for war crimes, crimes against humanity, and crimes against peace. However, the documents on which the European Commission evaluates the national legal system during the negotiation process demonstrate that the national legislation presents certain shortcomings in terms of sufficient guarantees for victims of crimes. This article presents the most recent provisions regarding reparations for victims of international crimes and evaluates the compatibility of the Republic of Moldova's legislation with international standards in the field, identifying solutions to overcome the inconsistencies.

Key-words: *international crime, international criminal justice, reparation, Republic of Moldova, victims of international crimes.*

EVOLUȚIA REGLEMENTĂRILOR PRIVIND REPARAȚIILE PENTRU VICTIMELE INFRACȚIUNILOR INTERNAȚIONALE ȘI IMPLEMENTAREA LOR GRADUALĂ ÎN REPUBLICA MOLDOVA

SUMAR

Evoluția sistemului de justiție penală internațională demonstrează că problema despăgubirilor pentru victimele infracțiunilor internaționale a început să preocupe comunitatea internațională abia la începutul anilor 1990, odată cu înființarea primului tribunal penal internațional. De la acest moment, autorii textelor internaționale care reglementau activitatea acestor instanțe jurisdicționale au dezvoltat numeroase norme destinate reabilitării de facto a victimelor crimelor internaționale. Prevederile au fost dezvoltate atât prin jurisprudența tribunalelor, cât și în practica Curții Penale Internaționale. Republica Moldova, atât la etapa asocierii, cât și acum, în procesul de negociere a aderării la Uniunea Europeană, a ratificat instrumentele internaționale destinate eliminării impunității pentru crimele de război, crimele împotriva umanității și crimele de agresiune. Totuși, datele la care face referire Comisia Europeană pentru evaluarea sistemului național de drept în timpul procesului de negociere demonstrează că legislația națională prezintă anumite deficiențe în partea ce se referă la garanțiile pentru victimele acestor infracțiuni. Prezentul articol conține o analiză a celor mai recente prevederi referitoare la despăgubirile pentru victimele crimelor internaționale și evaluează compatibilitatea legislației Republicii Moldova cu standardele internaționale în domeniu, identificând soluții pentru depășirea neconformităților.

Cuvinte-cheie: *crimă internațională, justiție internațională penală, despăgubire, Republica Moldova, victime ale infracțiunilorr internaționale.*

Introduction

The contemporary system of international criminal justice is centered on the personality of the offender, his legal status and aspects of the individualization of responsibility and punishment. The rationale for such an approach results from the exceptional character of the danger that international crimes present today for the international order, but also for the fate of future generations. Likewise, following the examination of international treaties in the field of international criminal law, we notice that they devote increased attention to the rights of participants before *ad hoc* or permanent international jurisdictional courts. Additionally, the pronouncement of the judgment on cases related to international crimes is widely publicized, being followed by a series of complex political-legal consequences that are of great interest to states and other subjects of international law. At the same time, in the process of achieving international criminal justice, the numerous victims of international crimes are often forgotten, their names often appearing only in the materials of criminal cases, the victims themselves being hundreds, sometimes thousands of km away from the place where justice is carried out.

We will outline the content of this study starting from the hypothesis that reparations to victims of international crimes represent the purpose of contemporary justice act. Therefore, any contemporary international or national criminal justice system will be mandatory based on the principles of reparations for crime victims. In this scientific approach, we aim to identify the content and extent of the right to reparation for the victims of international crimes in international and national courts after the Second World War. Or, those guarantees of non-repetition offered by the contemporary international system, up to the test of time, must be effectively felt and capitalized in the victim's perception.

The knowledge and understanding of legal reasoning in the development of effective measures for the rehabilitation of victims of international crimes in a post-conflict context are essential for achieving the objectives of transitional justice. This thesis is extremely relevant to the situation in which the Republic of Moldova has found itself since 1992. In circumstances where state authorities do not effectively control part of the national territory, where an international armed conflict is ongoing in the neighboring state, and where the Republic of Moldova has committed to and is taking concrete steps toward joining the European Union, it is absolutely necessary to anticipate negative scenarios regarding the declaration of incompatibility between national legislation and the EU acquis in the area of human rights protection. These arguments underlign the relevance and originality of the conducted study.

1. The evolution and codification of provisions regarding reparations for victims of international crimes

With the establishment of the idea of territorial supremacy of states, there arises, for the first time, the understanding that within the boundaries of each state, a unique and independent punitive power should prevail, and that all individuals on its territory, both local subjects and foreigners, should submit to it. Therefore, the rule is established that exclusively the court where the crime is committed is competent to prosecute and punish the offenders - forum *delicti commissi*. As relationships evolve and international communication channels improve, there is a gradual conviction of the need to expand the criminal jurisdiction of states. In the 16th and 17th centuries, governments considered themselves entitled to punish not only crimes committed within their territory but also those committed abroad, as long as the offender was under their power. Thus, the principle of the court's jurisdiction where the offender was apprehended was established (*forum deprehensionis*). However, it remained unclear for which crimes committed on foreign territory the local subjects and foreigners could be punished at the place of capture [26, p. 245]. We see that in 1904 when F. Martens, the renowned thinker, put his own visions on paper regarding the „criminal jurisdiction" of states, he reasoned within the bounds of common law, and in relation to the contemporary international system. This reasoning related to international legal assistance in criminal matters rather than international criminal law.

Analyzing the international normative field and the doctrine framework developed after 1938, we observe that the authors of those times were particularly interested in conceptualizing the mechanism of international criminal responsibility by balancing the criminal jurisdiction of states and the interests of safeguarding international values such as peace, security, and human rights. At the same time, one of the aspects of this exercise has long been neglected, namely, the international regulation of reparations provided to victims of international crimes.

We must acknowledge that the haste with which the processes of institutionalizing international criminal jurisdiction unfolded in the aftermath of the world devastated by the horrors of the Second World War was the reason why several crucial aspects of achieving justice were neglected. Thus, the authors of the Agreement for

the prosecution and punishment of the major war criminals of the European Axis, signed at London, on August 8, 1945, of which the Charter of the International Military Tribunal is an integral part in article 1, stated that the purpose of the Tribunal is *„ ... for the just and prompt trial and punishment of the major war criminals of the European Axis*". We do not find any reference to the reparations due to the victims even in the part of the Statute that refers to „Jurisdiction and general principles." The same approach was taken by the authors of the Charter of the International Military Tribunal for the Far East on January 19, 1946.

Unfortunately, provisions regarding reparation were not enshrined as a principle of international criminal jurisdiction immediately after the emergence of the United Nations, when at the request of the UN General Assembly at the Fifty-fifth plenary meeting, 11 December 1946, the International Law Commission was invited to consider to treat as a matter of primary importance plans for drafting (in the context of a general codification of offenses against the peace and security of mankind, or of an International Criminal Code) the principles recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal [11].

Thus, 4 years later, at the second session, in 1950, the International Law Commission adopted the Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal [18]. Within the indicated legal framework, we find no reference to the intentions of rehabilitating the victims of international crimes. In the same context, we observe particular concerns regarding individuals who have committed international crimes: *"Any person charged with a crime under international law has the right to a fair trial on the facts and law*" (Principle V).

Therefore, we cannot assert that during those times there was a gap in the system of international law regarding the rights of victims of international crimes to claim reparations, as well as regarding the obligations of subjects of international law to compensate victims of international crimes. These could be inferred from the „hard core" of fundamental rights and freedoms.

For almost half a century since the establishment of the two international military tribunals, several international acts have emerged codifying the universal protection of human rights. These acts contain provisions under which individuals have been endowed with rights to claim reparations when they have become victims of crimes. Thus, the Universal Declaration of Human Rights contains in Article 8 the general provision: *„Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law*". Later, this provision of the Declaration was strengthened by the provisions of the International Covenant on Civil and Political Rights, which at Article 2(3) provides the obligation towards State Parties: *„Each State Party to the present Covenant undertakes:*

(a) To ensure thet any person whose rights or freedoms as herein recognized are violated sholl have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of Judicial remedy;

(c) To ensure that the competent authoritiee shall enforce such remedies when granted".

Additional to the above-mentioned treaties, in order to avoid impunity, in those that followed, the states took care to adopt a universal normative framework in the field, and as reference the following acts can be indicated: Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted and opened for signature, ratification and accession by General Assembly resolution 2391 (XXIII) of 26 November 1968, entry into force: 11 November 1970, in accordance with article VIII.

Since the field of human rights does not tolerate legal uncertainty, recognizing the importance of normative guarantees for the protection of the interests of victims of armed conflicts, in 1993 the Security Council at its 3217th meeting adopted Resolution 827 (1993) and decides also that the work of the International Tribunal for Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 shall be carried out without prejudice to the right of the victims to seek, through appropriate means, compensation for damages incurred as a result of violations of international humanitarian law. In this spirit, the provisions of article article 15 establish: *"The judges of the International Tribunal shall adopt rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters*" [23]. And Article 22, dedicated to the protection of victims and witnesses *provides: "The International Tribunal shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection*

measures shall include, but shall not be limited to, the conduct of in camera proceedings and the protection of the victim's identity". At the same time, in art. 24 para. (3) we find the provision: „*In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners*". Taken together, these overall demonstrate a paradigm shift in the international criminal justice system. Since May 25, 1993, when Resolution 827 was adopted, we see how subsequently established courts have adopted this retributive justice approach.

We have been convinced on multiple occasions that general provisions of the Statute of the International Criminal Tribunal for Rwanda are similar regarding the principles and organization of the International Criminal Tribunal for the former Yugoslavia. In the chapter on the protection of victims and the assurance of their rights, we do not find essential differences. Thus, article 14 of the Statute of the International Criminal Tribunal for Rwanda [22] contains practically identical provisions to those of the Statute of the Tribunal for the Former Yugoslavia in the provisions on "Rules of procedure and evidence" (art. 14), "Protection of victims and witnesses" (art. 21), "Penalties" (art. 23 para. 3).

Essential changes in the principles and organization of international criminal justice come with the establishment in 1998 of the first permanent international criminal justice body - the International Criminal Court. The Rome Statute additionally introduced provisions for the general protection of victims, much more extensive in volume and content compared to those mentioned earlier, and provisions regarding reparations to victims. According to the provisions of Article 75 of the Statute of the International Criminal Court:

1. The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.

The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.

Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in article 79.

3. Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.

4. In exercising its power under this article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under article 93, paragraph 1.

5. A State Party shall give effect to a decision under this article as if the provisions of article 109 were applicable to this article.

6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law".

Also, in accordance with the provisions of par. 1 art. 93 of the Statute of the International Criminal Court States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: […] j) the protection of victims and witnesses and the preservation of evidence […].

For the implementation of these provisions under the auspices of the International Criminal Court, there has been developed a guide for the participation of victims in the proceedings of the ICC "Victims before the International Criminal Court" [12] which is intended to help victims and those assisting them when applying to participate in proceedings and/or to request reparations before the International Criminal Court.

The ICC was the first such court to introduce a reparation system under which victims of war crimes and other atrocities committed during armed conflict can claim and receive reparation from those convicted. Most hybrid criminal courts have followed this model [21, p. 1337].

In the situation where universal treaties contain only general provisions regarding the reparation of the damage caused to the victims of international crimes, international organizations have developed *soft law* documents with the aim of guiding the subjects of international law in understanding the extent of the right to reparations. In this sense, it is appropriate to mention the Resolution adopted by the General Assembly on 16 December 2005, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law [20] which reaffirms that in adopting a victim-oriented perspective, the international community affirms its human solidarity with victims of violations of international law, including violations of international human rights

law and international humanitarian law, as well as with humanity at large.

Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her retraumatization in the course of legal and administrative procedures designed to provide justice and reparation [20].

To understand the nature of principles relating to reparations for international crimes, we will turn to the reasoning of scholars in the field of criminal sciences when they assess the victim's status in proceedings in national courts. Contemporary authors consider that essentially, criminal punishment should prevent recidivism; criminal punishment should reflect the forms of guilt for the committed crime, so that the judge can choose and individualize the punishment to prevent the same person from committing the crime again. In light of these considerations, it is eminently necessary to address the issue of the individualization of punishment from the perspective of the interests of the victim of the crime. The doctrine of criminal law, especially the Russian one, referring to the principle of individualization of criminal punishment, mentions the process by which courts take into account, in determining a specific criminal punishment for the convicted individual, the degree of social danger posed by the act, the personality of the convicted individual, as well as any mitigating and aggravating circumstances of the committed act. From this observation, there appears to be a „neglect" of the interests of the victim, particularly regarding the restitution of damages or restoration of rights, at a doctrinal level [2].

With regard to the status and fate of victims of international crimes, contemporary authors, quite justifiably, consider that the damage caused by mass violations is considerable. An entire population is affected, whether as a direct or collateral victim of incidents. Considering the large number of victims, during collective violations of human rights, international judicial bodies cannot simply judge without evaluating the impact of legal procedures on the victims. The indictment of offenders must have a denunciatory value so that the punishment has a real effect on the lives of the victims. Consequently, the attribution of a wrongdoer must take into account the right of victims to receive reparation for the violations committed against them. Furthermore, in an international context, it turns out to be particularly complex to provide appropriate reparation to each of the victims [24, p. 87-88].

Certainly, the idea of precisely counting at least the number of victims of crimes committed in the context of international crimes, especially victims of non-international armed conflicts, seems utopian. Historians, legal experts, sociologists operate with approximate figures, which have a strong impact on the perception of the consequences of these atrocities. Therefore, we believe that the efforts of the international community in codifying the matter of reparations for victims of armed conflicts will continue, and contemporary actors will increase their level of responsibility in this regard. We cannot speak of fair justice until the last victim feels that they have been treated with dignity by a court that has examined their case.

Summarizing the practice of national and international courts regarding individualized responsibility for international crimes, author Gerhard Werle identifies five essential ways to address past violations of legal norms: Criminal prosecution for unlawful conduct; Waiver of criminal prosecution (e.g., amnesty); Examination of past events by truth commissions; Compensation for victims; Application of sanctions beyond the scope of criminal law (e.g., dismissal of public officials, police officers, military personnel, etc.). These measures for responding to systematic violations of legal norms are not mutually exclusive but can be applied in parallel [25, p. 101-104].

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law establish that the full and effective reparation for the victims include the following forms: restitution, compensation, rehabilitation, satisfaction and garantees of non-repetition.

In this context, Article 75 of the Rome Statute lists restitution, compensation and rehabilitation as forms of reparations, this list is not exclusive. Other types of reparations, for instance those with a symbolic, preventative or transformative value, may also be appropriate [14, par. 222].

Although reparation is undeniably essential in the administration of international justice, it appears crucial to take into consideration various other factors present in contexts of serious violations, as the effect of reparation on an individual is relative and not absolute. Inevitably, the environment in which the victim lives must be taken into account in determining reparation. To this end, the author Louis Joinet precise that it is important to emphasize that „the 'remedies' to be applied must be adapted to each region, each country,

each political situation, and choices made will affect the future stability of the country". Thus, we can assess the variety of needs to be addressed, but a significant hurdle remains: predicting the actual effects of these measures on the targeted victims and population. Although we can commend the implementation of international bodies in their efforts to deliver justice to victims, we must not underestimate the impact that reparation will have on the psychological restructuring of each individual and on the reconciliation of the population: „A process that does not appease victims' sense of justice will have a negative impact on their well-being as well as their faith in social institutions" [24, p. 83].

2. The development of provisions on reparations for victims of international crimes through the case law of international criminal courts

Analyzing the practice of the International Criminal Court and especially the acts adopted in the matter of reparation for the victims of international crimes, we find that the practice developed by the first international court of permanent criminal jurisdiction is clearly advanced compared to the jurisdictional courts that preceded it. With the title for example, from the content of the Reparations Order on Situation in the Democratic Republic of the Congo in The Case of the Prosecutor V. Bosco Ntaganda 8 March 2021 Trial Chamber VI [13] in light of its relevant prior case law, the court makes a number of generalizations about reparations. Thus, the Court distinguishes between individual reparations and collective reparations. These types are not mutually exclusive and be awarded concurrently. Individual reparations are those where the ensuing benefit is afforded directly to an individual to repair the harm the person suffered as a consequence of the crimes for which the defendant was convicted, conferring upon a victim a benefit to which they are exclusively entitled.

In the Lubanga case, the International Criminal Court established that furthermore, individual reparations should be awarded in a way that avoids creating tensions and divisions within the relevant communities [14].

Collective reparations refer to their nature (type of goods or services distributed or mode of their distribution) or their recipients (communities or groups). They differ from individual reparations in that they benefit a group or category of persons who have suffered a shared harm. The group need not be vested with prior legal personality or a collective right and the shared harm does not necessarily pre-supposes the violation of a collective right [13].

Also, in the Lubanga case, the International Criminal Court established that when collective reparations are awarded, these should address the harm the victims suffered on an individual and collective basis. The Court should consider providing medical services (including psychiatric and psychological care) along with assistance as regards general rehabilitation, housing, education and training [14].

In turn, collective reparations, in the view of the International Criminal Court, know two forms: *community reparations*, are intended to benefit the community as a whole and does not specifically address individual members thereof; *collective reparations with individualised components* focused on the individual members of the group. Although they are collective in nature, they result in individual benefits, to respond to the needs and current situation of the individual victims in the group [13].

Given the uncertainty as to the number of victims of the crimes in this case - save that a considerable number of people were affected - and the limited number of individuals who have applied for reparations, the Court should ensure there is a collective approach that ensures reparations reach those victims who are currently unidentified [14].

In the Ntaganda case, the Trial Chamber awarded the second category – collective reparations with individualised components – and the part of the Impugned Decision that dealt with the "Cost to repair the victims' harms" contains many instances of the cost of reparations being priced per victim [13].

3. The implementation of provisions on reparations for international victims in the legal order of the Republic of Moldova

The Republic of Moldova, a relatively young state on the map of Europe, expresses its commitment to the values of peace, security, and human rights shared by the world's nations, including through its adherence to international instruments that aim to achieve these ideals. In this regard, the state, in order to assert its international legal personality and achieve its foreign policy objectives-association with the European Union until 2014 and, starting in 2023, accession to the European Union has undertaken a series of actions to ensure security and well-being within its own territory. Under these circumstances, the Republic of Moldova must demonstrate to the entire international community, as well as the European community, its commitment to ensuring respect for the principle of universality, identified primarily as a normative ideal, in the sense of the

obligation of states to promote the universal and effective respect for human rights and freedoms. In the context of this scientific investigation, we refer specifically to the right to reparations for victims of international crimes.

On September 8, 2000, the Republic of Moldova signed the Rome Statute of the International Criminal Court (hereinafter referred to as the ICC Statute), which was adopted on July 17, 1998, during the Diplomatic Conference of the United Nations. Prior to the ratification of the ICC Statute by the Republic of Moldova, on July 16, 2007, the Government of the Republic of Moldova requested a constitutional review of Article 1, art.4 para. (2), art.27 and art.89 para. (1) of the ICC Statute. On October 2, 2007, the Constitutional Court of the Republic of Moldova ruled that all provisions of the ICC Statute invoked by the Government are compatible with the provisions of the Constitution of the Republic of Moldova [6]. Finally, on September 9, 2010, through Law No. 212 [7], the Parliament of the Republic of Moldova ratified the Rome Statute of the International Criminal Court. Subsequently, the state fully assumed the obligations arising from its status as a party to this international treaty. In this context, the national legal framework was aligned with the provisions of the Rome Statute of the International Criminal Court, particularly in matters of investigation, judicial review, and the enforcement of the Court's decisions. As a result, under the provisions of Article 558, paragraph 3 of the Criminal Procedure Code of the Republic of Moldova [3], decisions of the International Criminal Court are executed on the territory of the Republic of Moldova without requiring recognition by the national judicial authority. Additionally, the Law on Legal Assistance in Criminal Matters [8] dedicates a separate chapter to the cooperation between the Republic of Moldova and the International Criminal Court (Chapter VI/1), establishing the legal framework, institutional framework, and procedures related to the implementation of this cooperation.

In these circumstances, the question remains open as to whether the national legal system provides sufficient guarantees for the prompt and adequate examination of reparations claims by victims of international crimes when, under the principle of universal jurisdiction over international crimes, the courts of the Republic of Moldova become competent to adjudicate such crimes. Thus, based on the provisions of universal international treaties that underpin interstate cooperation for the prevention and punishment of international crimes, the competence of national courts to examine these crimes is recognized. The treaties in question include: Convention on the Prevention and Punishment of the Crime of Genocide [16], Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [15], International Convention for the Protection of All Persons from Enforced Disappearance [17], International Convention on the Suppression and Punishment of the Crime of Apartheid, The Geneva Conventions of August 12, 1949, on the protection of victims of armed conflicts, among others. Considering that war crimes and crimes against humanity are not subject to any statute of limitation, and in light of past events (the Transnistrian armed conflict) and the current context (the armed conflict in Ukraine), there is a high likelihood that such cases will come before the courts in the Republic of Moldova. Given that this prospect risks becoming a reality, it is crucial to ensure that the judicial rulings of national courts, which are competent under international treaties to adjudicate international crimes, meet the high standards of international law regarding reparations for victims of international crimes, as highlighted in this study.

Moldovan scholars, such as S. Cernomoret [1; 2], O.A. Pasat [9], and V. Cusnir [4], emphasize the need to strengthen the legal and institutional frameworks that ensure state cooperation in the prosecution and punishment of individuals who have committed international crimes or crimes of an international nature that threaten the values of the international community, as well as the need to enhance the guarantees offered to victims of international crimes. National regulations do not meet the standards developed under the auspices of the United Nations and, based on the findings of this scientific investigation, we can deduce that they also do not align with international jurisprudential standards in this area.

More than that, under the conditions of the beginning of the accession negotiations to the European Union, having assessed the state's ability to comply with the European Union standards and, respectively, the observance of the accession criteria, system problems were identified in the chapter of reparations for crime victims. Thus, from the content of the Report that guides the European Commission in the negotiations with the Republic of Moldova, it follows that Moldova has not harmonised its legislation with EU directives on criminal proceedings. Nevertheless, the Constitution and secondary legislation appear to broadly cover the main procedural rights. The Moldovan legal framework is not directly aligned with the Victims' Rights Directive and the Directive on compensation to crime victims. The rights of victims of crime are ensured, both within and outside the criminal proceedings, through the

provisions of the Criminal Procedure Code and the Law on the rehabilitation of victims of crime. In addition to victim's initial procedural rights, an individual may request to be recognised as an injured party by the prosecuting body. This gives them additional rights related to the criminal side of the proceedings and/or be recognised as a civil party. The victim with the procedural status of an injured party/civil party has the right to request and collect full compensation for the damage caused by the crime. Another guarantee to support the rights of victims of torture was provided through the criminalisation of torture in Moldovan legislation with the introduction of a specific article in the Criminal Code [19].

In the national regulations at the time, the right to reparations can be realized by constituting the victim as a civil party in the criminal process according to the provisions of art. 61 of the Criminal Procedure Code and the filing of civil action in the criminal process according to the provisions of art. 219, para. (1) Criminal Procedure Code or separately in the civil process, art. 221, para. (5).

In the sense of art. 61 of the Criminal Procedure Code, a civil party is recognized as a natural or legal person in respect of which there are sufficient grounds to consider that as a result of the crime, material or moral damage was caused to him, who has submitted a summons request to the criminal investigation body or the court in the trial of the suspect, the accused, the defendant or the persons who bear patrimonial responsibility for his acts [5]. The civil action is tried by the court within the criminal process if the volume of the damage is indisputable.

In accordance with art. 219 Criminal Procedure Code, the civil action in the criminal process is initiated by submitting a request, addressed to the prosecutor or the court, by the natural or legal persons to whom material or moral damages were caused directly by the deed (action or inaction) prohibited by the criminal law or in connection with its execution [5].

In order to exercise the civil action in the criminal process, it is necessary to fulfill certain eligibility conditions, which include [10, p. 334]:

- it has been established that the crime has caused damage;
- the damage must be material, moral or physical;
- there must be a causal link between the crime committed and the claimed damage;
- the damage must be certain, the one that means "that this is a certain damage, it occurred in reality, it can be assessed";
- the damage must not have been repaired, either by the accused or by other persons, until the settlement of the civil action, for example the victim was compensated by an insurance company or the damage was covered by a third party, etc.;
- to be constituted as a civil party under the conditions of art. 61 CPP.

We would like to mention with reference to the object of the present investigation the fact that the Republic of Moldova will also have other instruments that will constitute *per se* the legal basis for the reparations granted to the victims of international crimes, when it enters into force Ljubljana-the Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes adopted on 26 May 2023 by MLA Diplomatic Conference in Ljubljana, Slovenia, 15-26 May 2023, signed by Republic of Moldova on 14 february 2024. The objective of the Ljubljana-the Hague Convention Convention is to facilitate international cooperation in criminal matters between States Parties with a view to strengthening the fight against impunity for the crime of genocide, crimes against humanity, war crimes, and, where applicable, other international crimes.

The Convention, after its entry into force, promises to be an extremely effective legal instrument in achieving international cooperation in criminal matters for the repression of international crimes between the party states. Therefore, when the Convention enters into force, the Republic of Moldova will be obliged to apply it directly in its own territory. In the context of this investigation, it is important to mention that the Ljubljana-the Hague Convention is the first international treaty on legal cooperation for the investigation of international crimes that provides additional guarantees regarding reparations for victims of international crimes. Thus, under article 83. Rights of victims:

1. Each State Party shall, subject to its domestic law, ensure that the victims of a crime to which the State Party applies this Convention, have the right to reparation for harm consisting of but not limited to, as appropriate, restitution, compensation or rehabilitation […].

2. Each State Party shall, subject to its domestic law, establish procedures, as appropriate, to permit victims to participate in and enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against alleged offenders in a manner not prejudicial to the rights of the defendant.

3. Each State Party shall, to the extent provided for in its domestic law, and, if so requested, give effect to a judgment or order in criminal pro-

ceedings, issued in accordance with the domestic law of the requesting State Party, to provide restitution, compensation or rehabilitation to victims of crimes to which the former State Party applies this Convention.

Conclusions

The purpose of this study was to identify the evolution and codification of the principles relating to reparations for victims of international crimes to understand what are the standards in the field to be implemented in the legal order of the Republic of Moldova. Subsequently, the investigation focused on the legal analysis of the content of the provisions relating to reparations. In order to reveal the rights and obligations of states on this ground, we analyzed from an evolutionary perspective the content of international acts: international treaties, *soft law*, as well as the practice of international military and criminal jurisdictional courts.

The detailed analysis of the provisions of the Agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis, signed in London on 8 August 1945, of the Charter annexed thereto, and of the Charter of the International Military Tribunal for the trial of the major war criminals in the Far East, proclaimed at Tokyo on 19 January 1946, shows that in the efforts to hastily regulate in a world affected by the consequences of the global war, the issue of reparations for victims of international crimes was neglected in the pursuit of international criminal justice.

From the findings of the present study, we deduce that the subject of reparations for victims of international crimes in the activity of international criminal jurisdiction courts has evolved over 80 years from „unintentional neglect“ to explicit acknowledgment and solemn homage by all actors of contemporary international society.

The jurisprudential development of reparations for victims of international crimes has led to the generation of the text of decisions of international criminal courts today, which are true monumental works, establishing immutable standards in the field of legal sciences, worthy of being perceived as absolute truth by practitioners and even the academic community from different corners of the world.

For the progressive development of the science of International Criminal Law, it is necessary to mention, develop, and consolidate the reparations for victims of international crimes as a *conditio sine qua non* of the entire process of international criminal justice.

It is important for the matter of reparation of victims of international crimes to be regulated at a supranational level so that states, already faithful to the tradition of fully incorporating international standards in the field of criminal law and criminal procedure, have clear models of inspiration. In this way, the objective of universal suppression of international crimes will be achieved through the fulfillment of the commitments undertaken by states, both in terms of purpose and means.

As we have established in this article, when the doctrinaires from the Republic of Moldova, the representatives of the European Union mandated to negotiate with the Moldovan authorities the accession of the state to the European Union find that the provisions on reparations for the victims of crimes regulated in the national criminal legislation do not satisfy the rigors of international treaties, the imperatives of human rights protection, it is necessary for the national legislator, and as the case may be, the competent court by virtue of the principle of universal jurisdiction to ensure that the reparations for the damages suffered by victims of international crimes will be appropriate, adequate, prompt, and provided on a non-discriminatory basis. The mechanisms established within national or international legal systems will fully realize the rigor of access to justice, treating victims of international crimes with dignity. The well-being of not only the victims and survivors of atrocities, but also of future generations, depends on these cumulative measures.

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