

Combating Legal and Structural Challenges in Trafficking in Human Beings Victims' Redress Seeking in Ukraine: Developing a State Compensation Mechanism

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I, the undersigned, **Oleksandra Mudrak**, candidate for the MA degree in Human Rights declare herewith that the present thesis titled “Combating Legal and Structural Challenges in Trafficking in Human Beings Victims’ Redress Seeking in Ukraine: Developing a State Compensation Mechanism” is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person’s or institution’s copyright.

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Vienna, 16 June 2025

Oleksandra Mudrak

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ABSTRACT

Victims of intentional violent crimes, such as trafficking in human beings, usually appear at risk of redress unavailability due to the offender's non-identification or insolvency. The duty of providing the compensatory relief is therefore transferred to the state, which embodies public sympathy for victims and executes the remedial function through the state compensation mechanisms. Since Ukraine lacks an operating public redress mechanism for trafficking and other violent crimes victims beyond the one-off financial assistance, this work explores the background criteria to be considered for establishing such a mechanism. By previously outlining the necessity of the state's involvement in the matter through the lens of the social solidarity philosophy, this capstone thesis analyses the current Ukrainian legal framework and prior legislative attempts in the light of the European Union's 'fair and appropriate' compensation concept and two practical examples of the state compensation mechanisms in Romania and the Netherlands. Finally, this project provides a list of policy recommendations based on the deliverables of the comparative case study to shape the future development of the Ukrainian state redress scheme.

INTRODUCTION

The crime victims' right to compensation is not a newly formed concept since back in 2270 B.C. the Code of Hammurabi already contained akin provisions.² However, investigatory tendencies have been constantly indicating the rare probability of both the offender's apprehension and the possession of sufficient means to ensure victims' redress,³ shifting the remedial duty towards the state as a public holder of community sympathy.⁴ State compensation mechanisms are endowed with a symbolic lifeline role and thus should not only reimburse the suffered damage but also ensure the future victims' ability to reintegrate and recover.

Trafficking in human beings (THB) as a violent crime⁵ of various exploitation types⁶ stems as one of the direct outcomes of crisis-triggered vulnerabilities originating in times of war.⁷ Since the late 1990s, Ukraine has been categorized as a source, transit and destination country for trafficking,⁸ whereas the 2022 Russian aggression introduced new kinds of trafficking to the country (forced deportations, illegal conscription, child soldiers, kidnapping for sex

² Robert Francis Harper, *The Code of Hammurabi* (University of Chicago Press 1904), paras. 23-24; Pablo J Drobný, 'Compensation to Victims of Crime: An Analysis' (1971) 16 Saint Louis University Law Journal, p. 201.

³ Katharina Buck, 'State Compensation to Crime Victims and the Principle of Social Solidarity: Can Theoretical Analysis Contribute to a Future European Framework?' (2005) 13 European Journal of Crime, Criminal Law and Criminal Justice, p. 149.

⁴ Bulk (n 3), p. 149; John Haldane and Anthony Harvey, 'The Philosophy of State Compensation' (1995) 12 Journal of Applied Philosophy 3, p. 275.

⁵ Heidi Stöckl and others, 'Human Trafficking and Violence: Findings from the Largest Global Dataset of Trafficking Survivors' (2021) 4 Journal of Migration and Health 100073.

⁶ Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted on 15 November 2000) 2237 UNTS 319; Article 4(a) of the Convention on Action Against Trafficking in Human Beings (adopted on 16 May 2005) CETS No. 197; Article 2 of the Directive 2011/36/EU of the European Parliament and the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Official Journal of the European Union, L 101/1.

⁷ Laura A Dean, 'Human Trafficking Dynamics and Prevention Efforts as an Outcome of Russia's War on Ukraine' (2024) Nationalities Papers, p. 3; 'Human Trafficking in Crisis Situations' (*Caritas*, 25 June 2015), para. 7 <<https://www.caritas.org/2015/06/human-trafficking-in-crisis-situations/>> accessed 22 January 2025; Luigi Achilli, 'Smuggling and Trafficking in Human Beings at the Time of the Syrian Conflict' in Belachew Gebrewold and Johanna Kostenzer (eds), *Human Trafficking and Exploitation* (Routledge 2017).

⁸ '2013. Trafficking in Persons (TIP) Report' (*United States Department of State*, 19 June 2013) <<http://www.state.gov/j/tip/rls/tiprpt/2013/>> accessed 26 January 2025.

trafficking, and abductions).⁹ The scale of trafficking investigation and THB victims' identification in Ukraine is noticeably low,¹⁰ being impacted by the prolonged exploitation effect.¹¹ Since the real picture would become visible considerably afterwards, the state's capacity to safeguard THB victims' rights and facilitate sufficient remedies should be secured in advance.

Considering that Ukraine lacks an operating public redress mechanism for trafficking and other violent crime victims beyond the one-off financial assistance and the recent draft laws on the matter being withdrawn from consideration due to certain budgetary and legal inconsistencies, **this capstone thesis** aims to hold a practical view on the core foundations for the state compensation's establishment and operation by previously delineating the philosophical concepts behind it. Since Ukraine is an European Union (EU) candidate and will be obliged to implement the EU *acquis communautaire* in national legislation and guarantee its practical application, the European 'fair and appropriate' compensation framework will be overviewed in light of the EU Court of Justice's (CJEU) jurisprudence. Notably, crime victims' redress has an undoubted potential to be safeguarded through the recovery of confiscated proceeds of crime, however, the detailed regulation of its operationalization remains beyond the scope of this capstone thesis and would be assessed exceptionally through the remedy-related prism.

Subsequently, the Ukrainian compensation legislation will be analysed and its correspondence with the European legal framework will be estimated. The practical inspiration for the state compensation mechanism establishment will be drawn from the comparison of the

⁹ Dean (n 7), p. 13.

¹⁰ '2024 Trafficking in Persons Report: Ukraine' (*United States Department of State*), paras. 4, 9 <<https://www.state.gov/reports/2024-trafficking-in-persons-report/ukraine/>> accessed 22 January 2025.

¹¹ Dean (n 7), p. 13; Sarah Csacsinovits, 'From War-Torn Homeland to Brothels – Ukrainian Women Targeted by Human Traffickers' (*Hope for the Future*, 8 November 2023) <<https://www.hopeforthefuture.at/en/from-war-torn-homeland-to-brothels-ukrainian-women-targeted-by-human-traffickers/>> accessed 27 January 2025.

public redress schemes operating within two EU member states – Romania (constituting the top country with identified THB victims in Central and Eastern Europe,¹² which is continuously reforming the victim compensation schemes) and the Netherlands (standing out by its strong victim-oriented redress approaches¹³ and a complementary compensation model via a separate Violent Offences Compensation Fund beyond any initiated court procedures).¹⁴

The **practical component** of this capstone project will be outlined in **a policy brief**, highlighting the key failures of the Ukrainian legislative process on state compensation and incorporating takeaways from the compared Romanian and Dutch models, with possible ways of eliminating the derivative hurdles.

¹² ‘CEE: Victims of Human Trafficking 2022’ (Statista) <<https://www.statista.com/statistics/1351729/cee-victims-of-human-trafficking/>> accessed 27 January 2025.

¹³ Nieke Elbers and Iris Becx, *Secondary victimization as problem. Restorative justice as solution?: A research into the scope of secondary victimization and restorative justice in a criminal law, civil law and administrative law in the Netherlands* (Boom juridisch 2020), p. 58.

¹⁴ Schadefonds Geweldsmisdrijven <<https://www.schadefonds.nl/en/>> accessed 10 June 2025; Alice Fredriksson, ‘Restoration of Sexually Exploited Human Trafficking Victims: Stakeholders’ Contribution through the Means of Compensation, Rehabilitation and Guarantees of Non-Repetition in the Netherlands’ (Master thesis in Victimology and Criminal Justice, Tilburg University), p. 20.

1. Public Redress Mechanism: From the Idea of Social Solidarity to Practical Implications

1.1. Philosophy of State Compensation for Victims: Origins and Narratives

Since the 1950s, the victimology revolution has shifted the focus from the victim as a ‘forgotten figure’ in criminal justice to becoming a central subject deserving precise state support.¹⁵ David Miers stipulated that the disparities of the previous perpetrator-centered criminal justice model contributed to a rise in secondary victimization,¹⁶ which resulted in authorities’ victim-blaming practices and was no longer justifiable. Although the offender represents the guilty element of crime, with the state constituting the instance of last resort for victims’ redress facilitation, the reality reveals frequent perpetrators’ non-identification or their lack of means to ensure victims’ compensation.¹⁷ Therefore, the state is expected to embrace the burden and properly protect victims’ rights, infringed without the victims’ fault, as Margery Fry suggests.¹⁸

Before the 1983 European Convention on the Compensation of Victims of Violent Crimes (Compensation Convention) adoption, in 1977 the Council of Europe (CoE) Subcommittee for Victim Compensation conducted background research on victim compensation,¹⁹ which highlights the deliverables from the academic developments of Margery Fry, Peter Duff, David

¹⁵ Barbara Lee Willis, ‘State Compensation of Victims of Violent Crimes: The Council of Europe Convention of 1983’ (1984) 25 *Virginia Journal of International Law*, p. 214; Leslie Sebba, ‘The Victim’s Role in the Penal Process: A Theoretical Orientation’ (1982) 30 *The American Journal of Comparative Law*, p. 217; Tyrone Kirchengast, *Victimology and Victim Rights. International Comparative Perspectives* (Routledge 2017), p. 9.

¹⁶ David Miers, ‘State Compensation for Victims of Violent Crime’, *Justice for Victims* (Routledge 2014).

¹⁷ Bulk (n 3), p. 149; Directive 2004/80/EC of the Council of 29 April 2004 relating to compensation to crime victims, Official Journal of the European Union, L 261/15, recital 10; Nieke Elbers and others, *Fair and Appropriate? Compensation of Victims of Sexual Violence in EU Member States: Greece, Italy, Latvia, the Netherlands and Spain Part II: State and Offender Compensation: Survey, Good Practices and Recommendations* (FAIRCOM 2020), pp. 3-4.

¹⁸ Margery Fry, ‘Justice for Victims’ (1959) 8 *Journal of Public Law* in Robyn Holder and Kathleen Daly, ‘Recognition, Reconnection, and Renewal: The Meaning of Money to Sexual Assault Survivors’ (2017) 24 *International Review of Victimology*, p. 5.

¹⁹ Lee (n 15), p. 214; Explanatory Report to the Council of Europe, Convention on the Compensation of Victims of Violent Crimes, ETS No. 116, para. 2.

Miers, Stephen Schafer, Katherine Bulk and others in the respective field. Katherine Bulk divides different approaches to state compensation into those reflecting the historical developments of the criminal law and those presenting criminal and political policy reasons for introducing state remedial funds.²⁰ The former category derives the compensatory role from the state's ability to establish behavioral rules,²¹ its duty to prevent citizens from crime, and the corresponding failure to effectively perform this duty.²² Nevertheless, the CoE Subcommittee determinately rejected the view of the state's retribution for the criminal justice system malfunction since 'the public authorities have only a liability for the means and not for the result.'²³ Therefore, the second category of approaches stipulates that the state bears the duty to 'liberate' victims from injustice,²⁴ emphasizing the more vulnerable and disadvantaged groups.²⁵ The state demonstrates a sense of public sympathy with the victim,²⁶ additionally aligning with its 'social contract' aimed at protecting citizens from crime and preventing the conditions of victimization.²⁷

The core state compensation philosophy refers to the concept of social solidarity.²⁸ It derives from the notion of a collective conscience, which in due course inspired the separation of criminal and civil law, acknowledging criminal offenses as severe social wrongs beyond the mere relations between the offender and the victim's family.²⁹ Emile Durkheim considered 'social solidarity as a wholly moral phenomenon,' reflecting the summary of the societal moral

²⁰ Bulk (n 3), p. 151.

²¹ Lee (n 15), p. 216; Stephen Schafer, 'The Proper Role of a Victim-Compensation System' (1975) 21 *Crime and Delinquency*, p. 48.

²² Bulk (n 3), p. 150; Lee (n 15), p. 216.

²³ Lee (n 15), p. 217.

²⁴ Lee (n 15), pp. 214-215; Bulk (n 3), pp. 150-151.

²⁵ Bulk (n 3), p. 151; Lee (n 15), p. 215.

²⁶ Elbers and Becx (n 13), p. 4.

²⁷ Holder and Daly (n 18), p. 5; Peter Duff, 'The measure of criminal injuries compensation: Political pragmatism or dog's dinner?' (1998) 18 *Oxford Journal of Legal Studies*, p. 106.

²⁸ Bulk (n 3), p. 151.

²⁹ Bulk (n 3), p. 152.

beliefs.³⁰ His view of ‘victimized solidarity’ was further criticized by post-modernist philosophers Hans Boutellier and Richard Rorty, who believed in strong personal experience framing social solidarity, which indicates ‘the awareness of each other’s vulnerability.’³¹ The presented discussion explains the financing idea of most state compensation funds through general taxation, meaning that every society member contributes to the redress of those who suffer.³²

However, Katherine Bulk continuously believes that the social solidarity concept is contextually blurred and needs a more precise meaning to be attached to state compensation. She criticizes that the feeling of solidarity was narrowly limited to nationals within state-divided societies, as appeared from nationality and residence eligibility restrictions to compensation in the 1983 Compensation Convention, being reviewed in detail in Chapter 2.1.³³ Moreover, she notices the spread of public sympathy only to so-called ‘innocent’ victims or victims of intentional crimes, which considerably reduces the scope of the concept’s application.³⁴

Nonetheless, the social solidarity and the state’s duty to protect those suffering from the crime set a solid ground, justifying the necessity for the state compensation fund. Moreover, the redress provision in itself should not constitute a merely symbolic coverage of the incurred losses but should pursue the broader aim of future victims’ re-engagement in the society that treated them with sympathy. This topic will be addressed in the following Chapter.

³⁰ Emile Durkheim, ‘De la division du travail social’ (Paris 1926); Bulk (n 3), p. 153.

³¹ Hans Boutellier, *Crime and Morality: The Significance of Criminal Justice in Post-Modern Culture Preface by Michael Tonry* (Springer Science & Business Media 2000), p. 15.

³² Bulk (n 3), p. 171.

³³ Bulk (n 3), pp. 156-158.

³⁴ Bulk (n 3), pp. 158-164.

1.2. State Compensation Mechanisms' Role in Prevention of Re-victimization and Contribution to Victims' Social Reintegration

The exclusive vulnerability of violent crime victims could be jeopardized by the secondary victimization and re-victimization processes, potentially originating from the fear of repeatedly confronting the perpetrator in court proceedings³⁵ or from the institutional law enforcement malpractices.³⁶ The secondary victimization prevention and the promotion of victims' recovery as an essential element of restorative justice are inherently linked with access to fair compensation.³⁷

The United Nations 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 suggest a full restoration of a crime to operate through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.³⁸ Compensation itself is no longer about 'receiving money' but about elucidating the proper delivery of justice, acknowledgment and recognition.³⁹ Nevertheless, the role of monetary refund targets a practical implication of both the direct and indirect victims' emotional, psychological and resource reintegration, allowing the normal continuance of their daily lives.⁴⁰ Moreover, the successful victims' societal rehabilitation reciprocally impacts the

³⁵ Elbers and Becx (n 13), p. 16; Fredriksson (n 14), p. 13; Julie Barkworth and Kristina Murphy, 'System Contact and Procedural Justice Policing: Improving Quality of Life Outcomes for Victims of Crime' (2016) 22 *International Review of Victimology*, p. 3; Conny Rijken, Leyla Khadraoui, and Marian Tankink, '(Preventing) Secondary Victimization of Trafficking Victims through Law Enforcement Interventions' (2021) 2 *Journal of Human Trafficking, Enslavement and Conflict-related Sexual Violence*, p. 12.

³⁶ Rijken, Khadraoui and Tankink (n 35), pp. 3-4; Barkworth and Murphy (n 35), p. 3.

³⁷ Elbers and Becx (n 13), p. 2.

³⁸ Principles 19-23 of the 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, A/RES/60/147, 21 March 2006.

³⁹ Holder and Daly (n 18), p. 6; Fredriksson (n 14), p. 12; *Data collection on trafficking 2018 in human beings in the EU* (European Commission 2018); Fiona Haines, 'Kathleen Daly, Redressing Institutional Abuse of Children. Book Review' (2015) 48 *Australian and New Zealand Journal of Criminology* 4.

⁴⁰ Holder and Daly (n 18), pp. 6-7.

lower probability of future re-victimisation.⁴¹ Indeed, the success of the rehabilitative practices is directly proportional to the remedial amount provided to victims, ensuring they subjectively feel the adequacy of such compensation.⁴²

The 2019 Report of the Special Advisor Joëlle Milquet for the European Commission, which aimed to assess the victims' rights realization hurdles, has identified a list of structural obstacles with state compensation, such as low redress amounts available, restrictive eligibility criteria, absence of interim payments, and payment delays due to limited budgets.⁴³ Given this, it was suggested to reconsider the national compensation schemes from being merely solidarity-based to a more reparatory concept, emphasizing on victims' return to circumstances existing before the crime occurrence.⁴⁴ Although the Report remained silent on the specific guidance for this shift, the European Commission has launched the 2020 – 2025 Victims' Rights Strategy aimed at monitoring and reviewing the EU legislation on compensation, together with other aspects of victims' rights.⁴⁵ Therefore, the next Chapter is dedicated to delving into European regulatory frameworks on the right to compensation, facilitation of state redress mechanisms and their availability for crime victims, including the THB ones.

⁴¹ Marieke van Doorninck and Alexa Jeremy, *Findings and Results of the European Action for Compensation for Trafficked Persons. Toolkit on Compensation for Trafficked Persons* (COMP.ACT 2012), p. 7.

⁴² Bulk (n 3), p. 166.

⁴³ Liam O'Driscoll, 'Towards a Rights-Based Approach: Victims of Violent Crime, State-Funded Compensation and the European Union' (2023) 14 *New Journal of European Criminal Law* 303, p. 323; Directorate-General for Justice and Consumers and Joëlle Milquet, *Strengthening victims' rights – From compensation to reparation – For a new EU victims' rights strategy 2020-2025* (European Commission 2019), paras. 13-15.

⁴⁴ Joëlle Milquet Report (n 43), paras. 29, 33.

⁴⁵ EU Strategy on victims' rights (2020-2025), adopted on 24 June 2020, European Commission <https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/eu-strategy-victims-rights-2020-2025_en> accessed 27 January 2025.

2. European Compensatory Framework: An Overview

2.1. Right to Compensation in the Light of European Legislative Acts

The European human rights framework is presented by the complex interplay of the CoE and the EU legislative instruments. Both institutions operate as strategic partners, pursuing synergized standards⁴⁶ that generally converge with minor distinctions in scoping and detail. The CoE established the foundational benchmark in human rights regulations,⁴⁷ particularly the victim's right to compensation, which was primarily addressed in the 1983 Compensation Convention.⁴⁸ The THB-related redress realm was later covered in the 2005 Convention on Action Against Trafficking in Human Beings (Anti-Trafficking Convention). Further EU normative harmonization resulted in the Council Directive 2004/80/EC (Compensation Directive), the Directive 2011/36/EU on preventing and combating THB and protecting its victims (THB Directive), and the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (Victims' Rights Directive).⁴⁹

To introduce the peculiarities and potential overlaps of the presented legal frameworks, the comparative focus is curtailed to specific aspects, examining:

- 1) whether the referenced redress scheme envisages states' or perpetrators' involvement,
- 2) the scope of the victim's eligibility for compensation,
- 3) proposed financial sources for compensatory payments, and
- 4) the assessment approaches for the amounts granted.

⁴⁶ Memorandum of Understanding between the Council of Europe and the European Union 2007, CM(2007)74, paras. 9-13.

⁴⁷ Memorandum of Understanding (n 46), para. 10.

⁴⁸ Convention on the Compensation of Victims of Violent Crimes (adopted on 24 November 1983) ETS No. 116.

⁴⁹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Official Journal of the European Union, L 315/57.

The CoE Compensation Convention was an absolute pioneer in establishing victims' redress entitlement, derived from equality and social solidarity principles.⁵⁰ By originally omitting the explicit mention of perpetrator-backed remedies through criminal proceedings, the Convention encouraged the state to lead in covering damages through specifically adopted compensation schemes.⁵¹ However, victims' eligibility for such redress was limited to the nationals of the Convention's state parties and the CoE member states with permanent residency in the state of crime occurrence,⁵² seeming to exclude from the scope nationals of CoE member states not parties to the Convention, CoE member states' nationals without permanent residence and third-country nationals.⁵³ These eligibility restrictions failed to bring equality to all crime victims,⁵⁴ which even the Court of Justice of the EU (CJEU) highlighted in its 1989 judgment *Ian William Cowan v Trésor Public*,⁵⁵ covered in detail in the next section. The Committee of Ministers, acting as the CoE decision-making body ensuring common policies correspond to the CoE's aims of social progress,⁵⁶ further issued recommendations suggesting that the victims' nationality or residence status should not prevent their compensation entitlement.⁵⁷ Moreover, it expanded remedy entitlement to the family of the deceased person with the inclusive interpretation of the 'family members' term in favor of civil and unmarried partners.⁵⁸

⁵⁰ Compensation Convention (n 48), preamble; Committee of Ministers, *Resolution 77 (27) On the Compensation of Victims of Crime*, 28 September 1977, preamble; Carlos Fernández de Casadevante Romani, 'International Law of Victims' (2010) 14 Max Planck Yearbook of United Nations Law, p. 228.

⁵¹ Compensation Convention (n 48), preamble; Committee of Ministers, Recommendation 83(7) On Participation of the Public in Crime Policy 1983, para. 31.

⁵² Article 3 of the Compensation Convention (n 45).

⁵³ Fernández de Casadevante Romani (n 49), p. 231.

⁵⁴ O'Driscoll (n 42), p. 308.

⁵⁵ *Ian William Cowan v Trésor Public* (Judgment), CJEU, 2 February 1989, Case 186/87.

⁵⁶ Articles 1(a) and 15 of the Statute of the Council of Europe, ETS No. 1, 5 May 1949.

⁵⁷ Article 14(6) of the Committee of Ministers, Recommendation (2023)2 On Rights, Services and Support for Victims of Crime, 15 March 2023.

⁵⁸ Article 1(2) of the Recommendation (2023)2 (n 56).

However, neither the Convention text nor the Committee's further recommendations specify the form of the public redress fund. The only point of coherence was reached regarding the defined maximum/minimum thresholds of the compensation amount,⁵⁹ which shall at least cover costs relating to treatment and rehabilitation for physical and psychological injuries, loss of income, funeral expenses, and loss of maintenance for dependents.⁶⁰ Moreover, remedial payments may extend beyond exclusive coverage of physical injuries, allowing for the inclusion of psychological suffering.⁶¹ Interestingly, the Committee of Ministers' Recommendation (2006)8 welcomed compensating damage resulting from property crimes within the scope of the Compensation Convention,⁶² which was further removed from the text of the most recent Recommendation (2023)2, probably due to 'minimum' threshold considerations. Nevertheless, the suggestion to compensate property crime victims was still mentioned in the Explanatory Memorandum to the Recommendation (2023)2.⁶³

Similar to the Compensation Convention, **the 2005 Anti-Trafficking Convention** enshrined the possibility of state-facilitated redress⁶⁴ through the establishment of a national victims' fund or social assistance and social integration programs.⁶⁵ The fund's financing option is suggested through the confiscation of the instrumentalities and proceeds of trafficking.⁶⁶ However, due to the Convention's broader focus on THB prevention, it neither extensively elaborates on the victims' compensation eligibility criteria nor suggests further specificities for the state compensation mechanism operation.

⁵⁹ Article 5 of the Compensation Convention (n 48).

⁶⁰ Article 4 of the Compensation Convention (n 48); Article 14(2) of the Recommendation (2023)2 (n 57).

⁶¹ Explanatory Report (n 19), paras. 18, 28.

⁶² Committee of Ministers, Recommendation (2006)8 On Assistance to Crime Victims, 14 June 2006, para. 8.8.

⁶³ European Committee on Crime Problems, Explanatory Memorandum to CM/Rec(2023)2 On Rights, Services and Support for Victims of Crime, 15 March 2023, paras. 105-106.

⁶⁴ Article 15(4) of the Anti-Trafficking Convention (n 6).

⁶⁵ Article 15(4) of the Anti-Trafficking Convention (n 6).

⁶⁶ Article 23(3) of the Anti-Trafficking Convention (n 6).

The EU Compensation Directive, drafted based on the CoE Compensation Convention, solved its primary troubles with victims' eligibility by encompassing two approaches: 1) victims' entitlement to fair and appropriate compensation regardless of where the crime was committed,⁶⁷ and 2) the principle of territoriality, obliging the member state of the crime's occurrence to safeguard compensatory payments.⁶⁸ The former cornerstone prevented any eligibility restrictions, correcting previous CoE faults, while the latter reflected the enhanced Directive's perspective of social protection and freedom of movement.⁶⁹ Although states' schemes for fair and appropriate compensation were explicitly mentioned in the Compensation Directive,⁷⁰ the text lacked further details on how this adequate redress shall be facilitated.

The THB Directive merely restated the Compensation Directive's approach to state redress schemes, insisting on their existence and victims' easy access.⁷¹ The recent Directive (EU)2024/1712 provided a substantive amendment to Article 17, explicitly stimulating member states to establish national victims' funds.⁷² Moreover, the THB Directive has drawn inspiration from the CoE Anti-Trafficking Convention by encouraging the full use of existing instruments for the seizure and confiscation of the proceeds of crime for the interests of victims' assistance and protection, including compensation purposes.⁷³

The Victims' Rights Directive replaced the Council Framework Decision 2001/220/JHA. Due to its narrow application to victims' standing in criminal proceedings, the latter limited understanding of 'victim' only to persons suffering harm⁷⁴ and placed all compensation burden

⁶⁷ Compensation Directive (n 17), recital 6.

⁶⁸ Article 2 of the Compensation Directive (n 17).

⁶⁹ European Parliament, *Resolution On Compensation for Victims of Acts of Violence*, 13 March 1981, para. 1; Fernández de Casadevante Romani (n 50), p. 235.

⁷⁰ Article 12 of the Compensation Directive (n 17).

⁷¹ Article 17 of the THB Directive (n 6).

⁷² Directive 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Official Journal of the European Union, L 2024/1712.

⁷³ THB Directive (n 6), recital 13.

⁷⁴ Article 1(a) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, L 082.

on the offender,⁷⁵ although recognizing the risks of secondary victimization.⁷⁶ Nonetheless, the new Directive does not go beyond the offender-backed provision of remedies⁷⁷ and demands compensation's adequacy without specifying its necessary elements. Notably, national compensation schemes for criminal injuries are mentioned only once, though in the context of victims' information services.⁷⁸ Moreover, during the ongoing revision of the Victims' Rights Directive, the European Commission proposed that compensation is paid to victims in due time after the decision of its granting was reached, with the state's ability to recover the paid amount from the perpetrator.⁷⁹ This suggestion was initially rejected by the EU Council in its 13th June 2024 position, indicating a lack of political willingness on the victims' rights empowerment.⁸⁰

Overall, the European legislation on compensation captures synergic CoE and EU attempts to develop holistic redress mechanisms for crime victims. Although succeeding in eliminating victims' eligibility problems, these legal instruments lack a unanimous consensus on the possible forms of public compensation funds and the means and amounts of the remedial payments. Therefore, the next section will discuss the specifics of the European view on the desired compensation's 'fairness' and 'appropriateness.'

⁷⁵ Article 9 of Framework Decision (n 74).

⁷⁶ Framework Decision (n 74), recital 5.

⁷⁷ Article 16 of the Victims' Rights Directive (n 49).

⁷⁸ Article 9(1)(a) of the Victims' Rights Directive (n 49).

⁷⁹ 'Questions and Answers: Amending the Victims' Rights Directive' (*European Commission*, 12 July 2023) <https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_3725> accessed 10 June 2025.

⁸⁰ 'Victims' Rights: Council Finalises Position on Strengthened EU Law' (*Consilium*, 13 June 2024) <<https://www.consilium.europa.eu/en/press/press-releases/2024/06/13/victims-rights-council-finalises-position-on-strengthened-eu-law/>> accessed 10 June 2025; 'Joint Statement in Reaction to the Council Position on the Victims' Rights Directive Revision' (*Victim Support Europe*, 4 July 2024) <<https://victim-support.eu/news/joint-statement-in-reaction-to-the-council-position-on-the-victims-rights-directive-revision/>> accessed 10 June 2025.

2.2. *Introducing the Concept of ‘Fair and Appropriate Compensation’*

Given the 1983 Compensation Convention’s aim of harmonizing various provisions of state compensation and the gradual states’ establishment of remedial mechanisms, the active drafting of the Compensation Directive was temporarily suspended to avoid ‘duplication’ of developments.⁸¹ However, the Convention’s primary eligibility restrictions were condemned by the CJEU in the *Cowan* judgment, highlighting the prohibition of discrimination under Article 7 of the EEC Treaty.⁸² The Court proclaimed the equality in protection from harm as a corollary of the freedom of movement, which is a guaranteed fundamental freedom under the Community law. Therefore, the CJEU’s ruling limited member states’ restrictive regulatory powers.⁸³

The European Parliament reacted to the *Cowan* judgment by the 1989 Resolution, calling for the renewal of the EU legislative action in harmonizing eligibility requirements and establishing minimum levels of compensatory relief.⁸⁴ However, the EU lacked the corresponding competence to introduce the necessary legislative change. Indeed, neither the 1987 Single European Act⁸⁵ nor the 1993 Maastricht Treaty provided EU institutions with legislative powers concerning violent crime victims and their entitlement to state compensation,⁸⁶ although the functioning EU Treaties were amended on judicial cooperation in civil and criminal matters as EU common interest areas.⁸⁷ Only the 1997 Amsterdam Treaty made a considerable breakthrough by including criminal justice matters within fundamental components of the EU’s law-making authority.⁸⁸

⁸¹ European Parliament Debates, *1981-1982 Session: Report of Proceedings from 10 to 13 March 1981: Compensation for Victims of Acts of Violence*, OJ C 1-268, p. 244.

⁸² *Cowan* (n 55), paras. 6, 10.

⁸³ *Cowan* (n 55), paras. 17, 19-20.

⁸⁴ European Parliament, *Resolution On Victims of Violence*, OJ C 256, 09 October 1989, paras. 1-2.

⁸⁵ Single European Act, OJ L 169, 29 June 1987, p. 1.

⁸⁶ European Parliament, *Written Questions with Answer*, OJ C 340, 18 December 1995, p. 45.

⁸⁷ Maastricht Treaty, OJ C 191, 29 July 1992, p. 61.

⁸⁸ O’Driscoll (n 43), p. 310.

The 1999 European Council's Tampere Decision called for minimum standards of crime victims' protection.⁸⁹ However, its implementation, as outlined in the 2001 European Commission's Green Paper, faced certain difficulties in setting the compensation levels. Varying living standards across member states precluded compensation calculation through purely pecuniary means, which led to replacing full harmonization with only the minimum standards.⁹⁰ Moreover, those 'budgetary constraints' re-shaped the first draft of the Compensation Directive, which, besides the cross-border situations, also established explicit requirements for national remedial schemes. In the course of negotiations, Section 1 was removed, therefore deleting the following:

- 1) a definition of a 'victim' and the type of crimes entitling to compensation;⁹¹
- 2) compensation amount cannot 'deviate significantly' from what is expected to be awarded in damages from the perpetrator⁹² or shall be granted according to pre-defined tariffs;⁹³
- 3) the maximum for awards payment cannot go below EUR 60,000;⁹⁴
- 4) the compensation payment cannot depend on the successful identification and prosecution of the offender;⁹⁵
- 5) the time limit for compensation application cannot be less than two years from the end of the police investigation or the end of the criminal proceedings or two years from the date the crime was committed if those investigations and proceedings were not initiated,⁹⁶ including exceptions where reasonable grounds prevented victims to apply within the prescribed period.⁹⁷

⁸⁹ European Council, *Conclusions of the Tampere European Council of 15 & 16 October 1999*, para. B(V)(32).

⁹⁰ European Commission, Green Paper on Compensation to Crime Victims COM (2001) 536, paras. 4.2, 5.3.2.; O'Driscoll (n 43), p. 311.

⁹¹ Article 2 of European Commission, *Proposal for a Council Directive on Compensation to Crime Victims*, COM (2002) 562.

⁹² Article 4(2)(a) of the Directive Proposal (n 91).

⁹³ Article 4(2)(b) of the Directive Proposal (n 91).

⁹⁴ Article 4(3) of the Directive Proposal (n 91).

⁹⁵ Article 12(1) of the Directive Proposal (n 91).

⁹⁶ Article 13(1) of the Directive Proposal (n 91).

⁹⁷ Article 13(2) of the Directive Proposal (n 91).

Notably, the final Directive text with guarantees of ‘fair and appropriate compensation’⁹⁸ remained silent about its minimum standards, thus failing to pursue the expected aim of both the 1999 Tampere Decision and the 2001 Green Paper. Moreover, it was limitedly applied to victims of crimes in cross-border situations only, which even the CJEU supported for a while in its judgments of 2007 *Criminal proceedings against Giovanni Dell’Orto*⁹⁹ and 2014 *Paola C v Presidenza del Consiglio dei Ministri*.¹⁰⁰ The Court returned to the issue of violent crimes categorization in 2016 *European Commission v Italy*¹⁰¹ and found restrictions on the type of violent offense impermissible, but did not overrule its attitude towards purely internal situations.¹⁰² It is argued that the CJEU could have ruled alternatively, however, it still would be difficult to determine the concept of ‘fair and appropriate compensation.’¹⁰³

A considerable move forward was made in 2020, when the Court in its judgment *Presidenza del Consiglio dei Ministri v BV* was directly placed to answer two questions: 1) whether the Compensation Directive applied to crime victims outside cross-border situations under the general EU principles of equal treatment and non-discrimination, and 2) whether a fixed compensation amount of EUR 4,800 under the Italian system amounted to ‘fair and appropriate compensation.’¹⁰⁴ The CJEU followed an alternative approach this time, holding that difficulties faced by crime victims in securing compensation from perpetrators are relevant regardless of the cross-border element.¹⁰⁵ Moreover, the Court pointed to the title of the Directive’s chapter where Article 12 is situated, which is ‘National Schemes on Compensation’ and does not include the term ‘cross-border situations.’¹⁰⁶ The answer to the second question

⁹⁸ Article 12(2) of the Compensation Directive (n 17).

⁹⁹ *Criminal proceedings against Giovanni Dell’Orto* (Judgment) CJEU, 28 June 2007, C-467/05, para. 59.

¹⁰⁰ *Paola C v Presidenza del Consiglio dei Ministri* (Judgment) CJEU, 30 January 2014, C-122/13, paras. 12-19.

¹⁰¹ *European Commission v Italy* (Judgment) CJEU, 11 October 2016, C-601/14, para. 20.

¹⁰² *European Commission v Italy* (n 101), para. 49.

¹⁰³ O’Driscoll (n 43), p. 316.

¹⁰⁴ *Presidenza del Consiglio dei Ministri v BV* (Judgment) CJEU, 16 July 2020, C-129/19, para. 24.

¹⁰⁵ *BV* (n 104), para. 51.

¹⁰⁶ *BV* (n 104), paras. 38-40.

revealed that the compensation amount shall not be ‘purely symbolic or manifestly insufficient having regard to the gravity of the [crime] consequences’ and must compensate victim’s suffering to an appropriate extent.¹⁰⁷ Nevertheless, member states were provided with certain discretion to define ‘fair and appropriate.’¹⁰⁸ Furthermore, the Court stated that the remedial amount shall not equal the sums available from offenders (if those could pay),¹⁰⁹ and the fixed compensation rates are permissible but demand sufficient details.¹¹⁰

With the 2009 Lisbon Treaty coming into force, strengthening crime victims’ rights gained priority in the EU political targets.¹¹¹ The Council of the EU suggested the Commission combine the Compensation Directive with the 2001 Council Framework Decision in a new comprehensive legal instrument.¹¹² However, it was postponed since the 2009 Evaluation Report removed the 2004 Directive from the review scope due to states’ limited practical experience on its application within a short time after its adoption.¹¹³ The 2011 Commission’s Proposal viewed only the replacement of the Framework Decision with the Victims’ Rights Directive,¹¹⁴ establishing a horizontal framework applicable to all crime victims.¹¹⁵

Nevertheless, the essential interplay between the Compensation Directive and the new Victims’ Rights Directive, which tend to overlap in fields of application,¹¹⁶ was recently highlighted in the CJEU’s preliminary ruling of 7 November 2024. The Court emphasized the

¹⁰⁷ BV (n 104), para. 63.

¹⁰⁸ BV (n 104), para. 58.

¹⁰⁹ BV (n 104), para. 60.

¹¹⁰ BV (n 104), paras. 65-66.

¹¹¹ O’Driscoll (n 43), p. 321.

¹¹² Council of the European Union, *The Stockholm Programme: An Open and Secure Europe Serving and Protecting Citizens*, 2010/C 115/01, para. 2.3.4.

¹¹³ European Commission, *Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the Application of Council Directive 2004/80/EC Relating to Compensation to Crime Victims*, COM (2009) 170, para. 5.

¹¹⁴ European Commission, *Proposal for a Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime*, COM (2011) 275.

¹¹⁵ Explanatory memorandum concerning the proposal of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, COM/2011/275 final, p. 3.

¹¹⁶ UD, QO, VU, LO, CA v Presidenza del Consiglio dei Ministri (Judgment) CJEU, 7 November 2024, C-126/23, para. 48.

need for uniform interpretation of the victim concept within the EU law, therefore covering indirect victims¹¹⁷ and limiting the state's margin of appreciation in setting the hierarchy in victims' compensation entitlement, which could automatically exclude certain family members.¹¹⁸ Additionally, the CJEU stated that fixed compensation amounts may consider 'the seriousness of the [crime] consequences, ... and therefore represent an appropriate contribution to the reparation of the material and non-material harm suffered.'¹¹⁹ However, the Court avoided answering the question about the justifiability of the significant gap between the remedial amounts awarded by national courts and the upper limits of state compensation in case of the offender's insolvency (reaching 95 percent),¹²⁰ and whether it violates the concept of 'fair and appropriate' compensation.¹²¹ The CJEU relied in its rejection on the question's hypothetical nature and lack of national law details to allow further understanding of the special fund's operation.¹²² Thus, the discussion floor regarding considerable differences between court- and state-calculated redress amounts remains open.

Consequently, 'fair and appropriate' compensation in the context of European law bears its minimum standard either explicitly stated in the Convention's text¹²³ or derived from the CJEU's caselaw interpretations, leaving specificities of its national application for the member states' consideration. However, the Ukrainian legislative landscape in redress matters lacks explicit incorporation of the presented concept by focusing mostly on court-facilitated compensation rather than on the state-provided one. The next Chapter will reveal this problem in detail by analysing the current legal framework and overviewing some practical constraints with the previously introduced draft laws.

¹¹⁷ *UD, QO, VU, LO, CA* (n 116), paras. 48-52.

¹¹⁸ *UD, QO, VU, LO, CA* (n 116), para. 65.

¹¹⁹ *UD, QO, VU, LO, CA* (n 116), para. 62.

¹²⁰ *UD, QO, VU, LO, CA* (n 116), para. 15.

¹²¹ *UD, QO, VU, LO, CA* (n 116), para. 21(2).

¹²² *UD, QO, VU, LO, CA* (n 116), paras. 28-31.

¹²³ Article 4 of the Compensation Convention (n 48).

3. Ukrainian Realities of Ensuring Trafficking Victims' Access to Compensation

Ukrainian legislation appears to favor redress claims more through court-facilitated instruments. The Constitution of Ukraine explicitly proclaims a human-centered approach to any state's activities,¹²⁴ outlining the right to compensation in connotation with state liability for its executive¹²⁵ or judicial¹²⁶ miscarriages and remaining silent about remedial options for crime victims.

The Criminal Procedural Code (CPC) defines a victim as 'a natural person who has sustained moral, physical or material damage as a result of a criminal offense',¹²⁷ including also close relatives or family members of the deceased.¹²⁸ The exceptional vulnerability of victims to secondary victimization and re-victimization prompted the European Union Advisory Mission in Ukraine (EUAM) to suggest introducing a special category of 'vulnerable victims' to the CPC, covering THB victims in line with victims of sexual violence and other violent crimes.¹²⁹ However, those recommendations remain without consideration yet.

Article 56 of CPC further details the victims' rights, including the right to compensation for damage caused by a criminal offense.¹³⁰ The pecuniary and/or non-pecuniary damage can be compensated in a civil action within criminal proceedings filed by the victim¹³¹ or by a prosecutor on behalf of the victim.¹³² If a civil claim for damages was not filed in criminal proceedings or was left without consideration, the victim can file a separate case in civil proceedings.¹³³ Interestingly, the criminal procedure also implies voluntary compensation from

¹²⁴ Article 3 of the Constitution of Ukraine, 28 June 1996.

¹²⁵ Article 56 of the Constitution of Ukraine (n 124).

¹²⁶ Article 62(4) of the Constitution of Ukraine (n 124).

¹²⁷ Article 55(1) of the Criminal Procedural Code, No. 4651-VI, April 2012.

¹²⁸ Article 55(6) of the CPC (n 127).

¹²⁹ EUAM Proposals for the Criminal Procedural Code Amendments, 2017, pp. 101-102 <https://komzakonpr.rada.gov.ua/uploads/documents/31985.pdf>.

¹³⁰ Article 56(1)(10) of the CPC (n 127).

¹³¹ Articles 127(2) and 128(1) of the CPC (n 127).

¹³² Article 128(3) of the CPC (n 127).

¹³³ Article 128(7) of the CPC (n 127).

the perpetrator¹³⁴ and explicitly mentions reparation of damages to the victim from the State Budget of Ukraine as prescribed by law.¹³⁵ Furthermore, the Criminal Code and CPC provisions allow asset forfeiture to safeguard compensation in a civil action.¹³⁶ However, Transparency International stresses that Ukrainian legislation lacks specification on how the proceeds from the management or sale of confiscated assets by the National Asset Recovery and Management Agency (ARMA) will be distributed for further social reuse, since now it is merely mentioned to be transferred to the state budget.¹³⁷

The Civil Code of Ukraine provides a detailed explanation of the damages falling under compensation entitlement. The pecuniary damage includes both actual damages and lost profits,¹³⁸ while the non-pecuniary damage covers physical pain and suffering, mental anguish from the unlawful behavior towards the victim or his/her family and close relatives, mental anguish from the destruction or damage to the property, the humiliation of the honor and dignity of an individual, as well as the business reputation.¹³⁹ Civil plaintiffs in criminal proceedings usually indicate the desired amount of compensation, however, it is perceived as a merely subjective assessment,¹⁴⁰ leaving it for the court to determine the actual remedial sums. Ukrainian courts follow a personalistic approach to awarding compensation,¹⁴¹ depending in determination on ‘the nature of the offense, the depth of physical and mental suffering, deterioration of the victims’ abilities or deprivation of their ability to exercise them,

¹³⁴ Article 127(1) of the CPC (n 127).

¹³⁵ Article 127(3) of the CPC (n 127).

¹³⁶ Article 96-2 of the Criminal Code, No. 2341-III, 5 April 2001; Article 70(2)(4) of the CPC (n 127).

¹³⁷ Article 24 of the Law of Ukraine ‘On the National Asset Recovery and Management Agency’, No. 772-VIII, 10 November 2015; ‘How International Experts Recommend Managing Seized Assets,’ (*Transparency International Ukraine*, 2 July 2024) <<https://ti-ukraine.org/research/yak-mizhnarodni-eksperty-rekomenduyut-upravlyaty-areshtovany-mi-ta-konfiskovanymy-aktyvamy/>> accessed 10 June 2025.

¹³⁸ Article 22 of the Civil Code, No. 435-IV, 16 January 2003.

¹³⁹ Article 23(2) of the Civil Code (n 138).

¹⁴⁰ Chytra A and others, *Ensuring Compensation for Damage in Crimes Related to Human Trafficking at the Pre-Trial Investigation Stage* (Lviv State University of Internal Affairs 2019), p. 62.

¹⁴¹ Chytra (n 140), p. 61.

... as well as other circumstances of material importance,¹⁴² viewed through requirements of reasonableness and fairness.¹⁴³

Ukrainian legislation explicitly provides that damage caused to a natural person by a criminal offense shall be compensated by law specially adopted to regulate the redress at the expense of the State Budget.¹⁴⁴ The same applies to damage caused by mutilation, other health damage, or death as a result of a crime if the offender has not been identified or is insolvent.¹⁴⁵ However, as of the time of writing, such a law has not been adopted by the legislative body of Ukraine – Verkhovna Rada. As stipulated by legal practitioners and analysts, the absence of public-funded compensation in Ukraine stimulates secondary victimization.¹⁴⁶

THB victims, obtaining such status under the relevant law provisions,¹⁴⁷ can claim a remedy of pecuniary and non-pecuniary damage at the expense of the persons who caused it through the Civil Code procedures or be granted one-off financial assistance,¹⁴⁸ amounting to three subsistence minimums for the relevant category of persons.¹⁴⁹ As of 1 January 2025, it would equal UAH 9084 (EUR 203) for able-bodied persons. Considering those costs, the Group of Experts on Action against THB (GRETA) recommended that Ukrainian authorities review the amount of the one-time grant to meet victims' reintegration needs.¹⁵⁰

Previously, several attempts were made to establish sufficient legislation regulating state compensation mechanisms for crime victims. The history of draft laws on the matter consists

¹⁴² Article 23(3) of the Civil Code (n 138).

¹⁴³ Article 23(3) of the Civil Code (n 138).

¹⁴⁴ Article 1117 of the Civil Code (n 138).

¹⁴⁵ Article 1207 of the Civil Code (n 138).

¹⁴⁶ Dmytro Yagunov and others, 'Human Trafficking in Ukraine and Sattelite Crimes: Transformation of Criminological Indicators (January 2006 - April 2023)' (2023) 10 European Political and Law Discourse, pp. 6, 37.

¹⁴⁷ Law of Ukraine 'On Combatting Trafficking in Human Beings', No. 3739-VI, 20 September 2011; Cabinet of Ministers Decree 'On Procedure for Establishing the Status of a Victim of Trafficking', No. 417, 23 May 2012.

¹⁴⁸ Article 16 of the Law (n 147).

¹⁴⁹ Cabinet of Ministers Decree 'On Procedure for Payment of One-Time Financial Assistance to Victims of Human Trafficking', No. 660, 25 July 2012, para. 2.

¹⁵⁰ *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ukraine. Second evaluation round* (GRETA, 13 July 2018), p. 40.

of 6 legislative endeavours in the 2001-2021 period, which present mostly identical views on the Ukrainian redress framework. While the detailed overview of each of the draft laws is a part of **the capstone's practical component**, this thesis examines the narratives of only two of them, conceptually distinctive in the perception of the state compensation facilitation.

The 2010 draft law No. 7303 is distinguished by primarily proposing to remedy pecuniary damage for direct and indirect victims in case of death or disability resulting from a crime.¹⁵¹ The compensation calculation set the maximum eligible payment of 1500 tax-free minimum incomes¹⁵² with the overall state fund's annual budget of not less than EUR 2 million.¹⁵³ Interestingly, remedial payments had to be eliminated if redress was provided to the victim by another person in full or partially (more than 75 percent),¹⁵⁴ which posed the risk of compensation incompleteness.

In 2020, another round of legislative initiatives happened. They merely dealt with technical harmonizations of administrative,¹⁵⁵ budgetary,¹⁵⁶ and terminological provisions,¹⁵⁷ while only the draft law No. 3892 substantively elaborated on the operation of the state compensation scheme.¹⁵⁸ Despite being withdrawn from consideration in February 2021 due to budgetary constraints and terminological inconsistencies,¹⁵⁹ it leaves space for thought and improvement to be addressed in a new draft law recommendations.

¹⁵¹ Article 1(2) of the Draft Law 'On Compensation for Pecuniary Damage to Victims of Crime at the Expense of the State', No. 7303, 27 October 2010.

¹⁵² Article 5(1) of the 7303 Draft Law (n 151).

¹⁵³ Article 13(3) of the 7303 Draft Law (n 151).

¹⁵⁴ Article 4 of the 7303 Draft Law (n 151).

¹⁵⁵ Draft Law 'On Amendments to the Administrative Offenses Code and the Criminal Procedural Code of Ukraine on Providing a Mechanism for Compensation to Victims of Violent Criminal Offenses', No. 3893, 17 July 2020.

¹⁵⁶ Draft Law 'On Amendments to the Budget Code regarding the Mechanism of Financial Support for Compensation for Victims of Violent Criminal Offenses', No. 3894, 17 July 2020.

¹⁵⁷ Draft Law 'On Amendments to Certain Legislative Acts of Ukraine on Compensation for Pain and Suffering', No. 3605, 5 June 2020.

¹⁵⁸ Draft Law 'On Compensation for Victims of Violent Criminal Offenses', No. 3892, 17 July 2020.

¹⁵⁹ Law Enforcement Committee Conclusions, No. 04-27/3-2020/182666, 13 October 2020.

Among considerable innovations, No. 3892 for the first time incorporated the definition of a ‘violent crime.’¹⁶⁰ The victims eligible for compensation are citizens of Ukraine, stateless persons permanently residing in the state, citizens of Contracting States to the 1983 Compensation Convention, citizens of CoE member states who have a permanent residence permit in Ukraine, including remedy entitlement for Ukrainian citizens in case a violent crime was committed in a foreign state with which Ukraine maintains diplomatic relations and which is not a party to the 1983 Convention.¹⁶¹ However, this provision does not fully correspond with the Committee of Ministers’ recommendations and CJEU rulings, excluding third-country nationals and persons without permanent residence from the scope of the law’s application.

Additionally, the draft law established an exhaustive list of compensation grounds, namely loss of earnings, incurring expenses for medical services, and purchase of medicines and medical devices,¹⁶² therefore precluding compensation for the victim’s psychological suffering. The minimum amount of redress shall not be less than 40 percent of the subsistence minimum (approximately EUR 25) without specifying the maximums.¹⁶³ Interestingly, this draft law included a warning breach of the principle of equality by precluding compensation payment if the amount claimed or supported by evidence is less than the established minimum.¹⁶⁴ The powers to facilitate victims’ redress were assigned to the Regional Centers for Free Secondary Legal Aid,¹⁶⁵ which triggered considerable corruption risks due to these centers also being empowered to provide legal aid to perpetrators.¹⁶⁶ Moreover, the draft law entitled victims to seek subsidiary compensation via court proceedings, however, it

¹⁶⁰ Article 1(1)(1) of the 3892 Draft Law (n 158).

¹⁶¹ Article 4 of the 3892 Draft Law (n 158).

¹⁶² Article 5 of the 3892 Draft Law (n 158).

¹⁶³ Article 6(1) of the 3892 Draft Law (n 158).

¹⁶⁴ Article 6(1) of the 3892 Draft Law (n 158); Conclusions of the Central Scientific Experts Office to the Draft Law No. 3892, 29 September 2020, para. 4.

¹⁶⁵ Article 10(2) of the 3892 Draft Law (n 158).

¹⁶⁶ Conclusions of the Central Scientific Experts Office to the Draft Law No. 3892 (n 164), para. 11.

unreasonably shortened claim filing terms to two years¹⁶⁷ compared to the general rule of three years in Ukrainian legislation.¹⁶⁸

The state fund was proposed to be financed through costs received from the execution of fines and correctional labor penalties, fees for damage compensation caused by violent criminal offenses, and funds restored by the state through recourse claims from perpetrators.¹⁶⁹ The introduction of fees for offenders amounting to 0.2-0.6 subsistence minimums,¹⁷⁰ which almost equals the minimum compensation levels, raises concerns about its harmonization with the CPC and Criminal Code provisions and should have been addressed in more detail. Moreover, the fund's financing did not refer to costs obtained from the seizure and sale of the proceeds of crime, precluding one more source of compensation facilitation. Interestingly, the draft law No. 3892 has received controversial conclusions from parliamentary committees. The Committee on Ukraine's Integration into the EU generally accepted the draft,¹⁷¹ while the Law Enforcement Committee and the Committee on Budget rejected it,¹⁷² which indicates the internal inconsistency of legislative analysis conducted by Ukrainian lawmakers.

In conclusion, Ukraine lacks a state-funded compensation scheme for THB victims and crime victims in general. The court-facilitated damages award, together with an insufficient amount of one-off financial assistance, poses victims with a threat of secondary victimization and re-victimization, preventing them from returning to pre-crime levels of life. Considering the identified drawbacks of the previous draft initiatives, the next chapter will compare two established state compensation mechanisms of the CoE and EU member states – Romania and the Netherlands – to seek better practices and tools for combating different constraints in public redress provision.

¹⁶⁷ Article 7(5) of the 3892 Draft Law (n 158).

¹⁶⁸ Article 257 of the Civil Code (n 138).

¹⁶⁹ The 3894 Draft Law (n 156), para. 1.

¹⁷⁰ Article 12 of the 3892 Draft Law (n 158).

¹⁷¹ Conclusions of the Committee on Ukraine's Integration into the European Union, No. 47, 23 September 2020.

¹⁷² Law Enforcement Committee Conclusions (n 159); Committee on Budget Conclusions, 18 November 2020.

4. Building a State Compensation Mechanism for THB Victims: Romanian and Dutch Case Study

4.1. Romanian Perspective: Vouchers and Social Reuse of Confiscated Assets

Before 2004, Romania lacked state-funded support for victims of violent crimes, which was further introduced by Law No. 211/2004, ensuring enhanced protection of crime victims.¹⁷³ The term ‘victim’ included the direct victims of various intentional crimes, listing THB among other offences, and ‘the spouse, children and dependents of the persons deceased as a result of any of these offences.’¹⁷⁴ Notably, the primary eligibility requirements allowed applying the Law only to Romanian citizens or foreigners legally residing in Romania,¹⁷⁵ which was subject to changes after Romania’s accession to the EU and the harmonization of legal standards.¹⁷⁶ The eligibility was expanded to the EU Member States’ citizens and officially residing foreigners, being legally present in Romania on the date of the crime.¹⁷⁷ These provisions seem to exclude third-country nationals without official residence, however, the legal uncertainty was eliminated by Article 21(3), promising compensation for those who do not fall into the mentioned categories according to the international conventions to which Romania is a party.

The application procedure is differentiated for the in-border¹⁷⁸ and cross-border THB, with the latter amended in 2007 by Emergency Order No. 113.¹⁷⁹ While in cross-border situations the compensation provision depends on the collaboration with the foreign decision-making

¹⁷³ Law ‘On Certain Measures to Ensure the Information, Support, and Protection of Victims of Crime,’ No. 211, 27 May 2004.

¹⁷⁴ Article 21(1) of the Law No. 211/2004 (n 173).

¹⁷⁵ Mihaela Laura Pamfil, ‘Compensation to Crime Victims in Cross-Border Situations’ (The 32nd ARA Congress. Proceedings, 27 March 2012), p. 1.

¹⁷⁶ Pamfil (n 175), p. 1.

¹⁷⁷ Article 21(2) of the Law No. 211/2004 (n 173).

¹⁷⁸ Articles 21-34 of the Law No. 211/2004 (n 173).

¹⁷⁹ Articles 34-1 – 34-22 of the Law No. 211/2004 (n 173); Emergency Order amending and supplementing the Law No. 211/2004 ‘On Certain Measures to Ensure the Protection of Victims of Crime’, No. 113, 17 October 2007.

authority,¹⁸⁰ the authorized Romanian decision-making body is the Crime Victim Compensation Commission, established within the Bucharest Court of Law and composed of at least three judges.¹⁸¹ The compensation for crimes committed on Romanian territory is granted by similar commissions, existing at each court's level and composed of at least two judges, appointed for three years by the general assembly of judges of the tribunal.¹⁸² Interestingly, this atypical court-facilitated state compensation scheme goes far beyond the mere redress issues, empowering judges to also grant the final 'victim of trafficking' status, which excludes the executive state authorities from such a process.¹⁸³ Indeed, in 2008, the Ministry of Justice was acknowledged as a mere assisting authority with powers to clarify some practical aspects to victims and hold cooperative communication regarding cross-border crime compensation with its counterpart bodies in foreign states.¹⁸⁴

In respect of the direct victim, state compensation in Romania covers expenses for hospitalization and other medical expenses, material damage resulted from destruction, degradation or rendering to disuse of the victim's goods and income the victim is deprived of because of the crime; and for indirect victims – funeral expenses and livelihood the victim is deprived of because of the crime.¹⁸⁵ The maximum amount of granted compensation is limited to the equivalent of 10 national minimum basic gross salaries established for the year in which the victim applied for financial compensation,¹⁸⁶ which is approximately EUR 8,135. The remedies received within the civil action or as a result of criminal proceedings are not

¹⁸⁰ Articles 34-2, 34-3 of the Law No. 211/2004 (n 173).

¹⁸¹ Article 34-14(2) of the Law No. 211/2004 (n 173).

¹⁸² Art 28(1)(2) of the Law No. 211/2004 (n 173).

¹⁸³ *Legal Analysis of the Rights of Trafficked Persons. Romania* (Netherlands Helsinki Committee 2017), p. 25.

¹⁸⁴ Articles 1, 2 of the Order of the Minister of Justice No. 1319 / C 'On the Implementation of the Provisions on the Procedure for Obtaining Financial Compensation to Victims of Violent Crimes Intentionally Committed in Trans-boundary Situations' under Law 211/2004 'On Certain Measures for the Protection of Victims of Crimes', 13 May 2008.

¹⁸⁵ Art 27(1) of the Law No. 211/2004 (n 173).

¹⁸⁶ Art 27(2) of the Law No. 211/2004 (n 173).

cumulative with the state fund compensation and shall be deducted from the amount of financial compensation provided by the state.¹⁸⁷

The compensation can be obtained only if the victim has notified the criminal investigative bodies within 60 days from the date of the crime or from the date on which the victim became aware of it.¹⁸⁸ If the victim was physically or mentally unable to notify the authorities earlier, the 60-day period is calculated from the date on which the state of impossibility ceased.¹⁸⁹ This ‘reasonable time’ requirement, especially combined with lengthy procedures of establishing the offender’s insolvency,¹⁹⁰ has caused serious financial hurdles for the victims and has increased the upcoming vulnerabilities, which triggered the risks of secondary victimization.¹⁹¹

Nevertheless, Romanian authorities acknowledged this drawback by introducing the Methodology for issuing, distributing and settling vouchers for victims of crime, approved by the Government Decision No. 541/2023.¹⁹² The change entitles crime victims to request advance payment, or a so-called voucher, to cover urgent needs of food, accommodation, transport, medicines and sanitary products, as well as hygiene and personal use products,¹⁹³ which is facilitated through the Ministry of Justice’s budget.¹⁹⁴ The advance may be requested through the application for financial compensation or through a separate application,¹⁹⁵ and shall be resolved within 30 days from the request date.¹⁹⁶ The voucher may be granted up to 5 gross minimum wages (approximately EUR 4000) and within a maximum of 72 hours from

¹⁸⁷ Art 27(3) of the Law No. 211/2004 (n 173).

¹⁸⁸ Art 23(1)(2) of the Law No. 211/2004 (n 173).

¹⁸⁹ Art 23(3) of the Law No. 211/2004 (n 173).

¹⁹⁰ Art 24(1)(c) of the Law No. 211/2004 (n 173).

¹⁹¹ Mihaela Tomiță, Roxana Ungureanu, and Adina Schwartz, ‘A Paradigm Shift within the Romanian Victim Support System’ (2020) 14 *Society and Politics*, p. 24.

¹⁹² Methodology for issuing, distributing, and settling vouchers intended for victims of crime, for establishing their amount, as well as the criteria for selecting public and private entities enrolled in the granting mechanism, 8 June 2023.

¹⁹³ ‘Vouchers for Victims of Crime’ (*Centrul de Resurse Juridice*, 18 October 2023) <<https://www.crj.ro/en/vouchers-for-victims-of-crime/>> accessed 11 June 2025.

¹⁹⁴ Article 33(1) of the Law No. 211/2004 (n 173).

¹⁹⁵ Art 30(2) of the Law No. 211/2004 (n 173).

¹⁹⁶ Art 30(4) of the Law No. 211/2004 (n 173).

the request approval.¹⁹⁷ However, Article 30(1) of the accordingly amended Law no. 211/2004 prescribes the maximum amount of the advanced payment of 10 gross minimal wages, which coincides with the maximum of the overall available state redress, leading to inconsistencies between the Methodology and Law and provoking application problems regarding the advance compensation calculation, the conditions for granting the rest of the available financial aid, etc.¹⁹⁸ Moreover, the victims' eligibility for receiving the voucher is linked to the precarious financial situation,¹⁹⁹ which is not properly defined in the Law and poses an unjustified burden on victims to prove their precariousness.²⁰⁰

Nevertheless, the current Romanian state compensation scheme expands focus beyond mere material damages. Law No. 318/2015 for the establishment, organisation and functioning of the National Agency for the Administration of Confiscated Assets (ANABI) allowed the social re-use of assets confiscated from criminal activity to public institutions, administrative-territorial authorities or non-governmental organisations.²⁰¹ Being initiated by the Ministry of Justice, the 2021-2025 National Strategy on the Recovery of Crime-Related Assets 'Crime is not profitable!' highlighted the interest of asset recovery in facilitating the victim compensation fund.²⁰² The emphasis on the victims' protection has increased since the introduction of the National Crime Support Prevention Mechanism by Law No. 230/2022, which distributed 15

¹⁹⁷ Art 4(1) of the Methodology (n 192).

¹⁹⁸ 'Legislation on the Rights of Victims of Crime: Some Comments and Proposals' (*Centrul de Resurse Juridice*, 15 December 2023) <<https://www.crj.ro/en/legislation-on-the-rights-of-victims-of-crime-some-comments-and-proposals/>> accessed 11 June 2025.

¹⁹⁹ Art 30(3) of the Law No. 211/2004 (n 173).

²⁰⁰ 'Legislation on the Rights of Victims of Crime: Some Comments and Proposals' (n 198).

²⁰¹ Article 3 of the Law 'On the establishment, organization, and operation of the National Agency for the Administration of Unavailable Assets and on the amendment and supplementation of certain normative acts', No. 318, 11 December 2015.

²⁰² 'Social Reuse of Assets Confiscated from Crime' (*Centrul de Resurse Juridice*, 12 February 2024) <<https://www.crj.ro/en/social-reuse-of-assets-confiscated-from-crime/>> accessed 11 June 2025; *Report submitted by the authorities of Romania on measures taken to comply with Committee of the Parties Recommendation CP/Rec(2021)05 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. Third evaluation round* (12 June 2023), pp. 5, 11.

percent of the allocated sums to victim redress purposes,²⁰³ enabling compensation of even non-pecuniary damages through derogating from the provisions of Law No. 211/2004.²⁰⁴ However, the Law no. 230/2022 does not indicate the maximum amount of such non-pecuniary compensation, which provokes practical problems with redress assessment.²⁰⁵

Consequently, the Romanian crime victims' compensation mechanism is subject to criticism due to the lack of victims' awareness of their right to compensation, resulting from incompetent legal aid from the court-appointed lawyers,²⁰⁶ complicated and rarely successful cross-border compensation procedures, mutual inconsistency of legal provisions, and lack of judges' training on financial compensation topics while the whole redress granting procedure lies on the judiciary.²⁰⁷ Nevertheless, the Romanian scheme introduces relevant takeaways such as the voucher system and the ability to compensate non-pecuniary damages, enabled by the social re-use of confiscated assets, which constitutes a model example of contemplating ordinary state redress mechanisms.

²⁰³ Article 37-2 of the Law 'On amending and supplementing Law No. 318/2015 on the establishment, organisation and functioning of the National Agency for the Administration of Seized Assets and amending and supplementing certain legislative acts, as well as amending and supplementing Law No. 135/2010 on the Code of Criminal Procedure', No. 230, 19 July 2022.

²⁰⁴ Article 37-14 of the Law No. 230/2022 (n 203).

²⁰⁵ 'Legislation on the Rights of Victims of Crime: Some Comments and Proposals' (n 198).

²⁰⁶ '2024. Trafficking in Persons (TIP) Report: Romania' (*United States Department of State*), para. 12 <<https://www.state.gov/reports/2024-trafficking-in-persons-report/romania/>> accessed 11 June 2025.

²⁰⁷ Netherlands Helsinki Committee's Report (n 183), pp. 48-49.

4.2. Complementary Model of Dutch State Involvement

In the Netherlands, the state's involvement in crime victims' compensation is safeguarded in two ways: 1) through the 'advance payment system'²⁰⁸ and 2) via the Criminal Injuries Compensation Fund (CICF).²⁰⁹ The first option is directly linked to the criminal proceedings' outcome since it will be invoked 8 months after the final verdict if the perpetrator does not provide the awarded remedy to the victim.²¹⁰ The advance payment is owed to the existence of the special enforcement procedure within Dutch criminal courts, facilitated by the Central Judicial Collection Agency, which collects and transfers money to the victim.²¹¹ This compensation procedure constitutes a considerable breakthrough in Dutch redress mechanisms since 1 January 2011, when the Dutch Act on Strengthening the Victim's Position in Criminal Proceedings entered into force, as previously the victims themselves bore responsibility for collecting compensation if the Agency failed.²¹²

Regardless of the criminal proceedings' initiation, victims of violent crimes committed in the Netherlands are entitled to compensation from the CICF, which belongs to the Ministry of Justice's divisions and is financed by general tax revenues.²¹³ Notably, the Fund's resources do not benefit from the confiscated proceeds of crime since the Dutch system currently allows only the victims' direct court petition to use confiscated assets for their damages compensation in criminal proceedings.²¹⁴ Nevertheless, the assets' social reuse is actively promoted on the

²⁰⁸ Amendment Act to the Code of Criminal Procedure, etc. (strengthening the victim position in criminal proceedings) (versterking positie slachtoffer in strafproces), BWBR0027053, 2011.

²⁰⁹ Schadefonds Geweldsmisdrijven (n 14).

²¹⁰ Amendment Act to the Code of Criminal Procedure (n 208).

²¹¹ 'Centraal Justitieel Incassobureau' <<https://www.cjib.nl/en/how-do-we-work>> accessed 12 June 2025; Helena Soleto and others, 'Ineffectiveness of the Right to Compensation for Victims of Sexual Violence: A Comparison Between Five EU Member States' (2024) 4 International Criminology 93, p. 98.

²¹² Marijn Heemskerk and Eline Willemsen, 'Compensation for Victims of Human Trafficking in the Netherlands' (FairWork 2013), p. 11.

²¹³ Elbers and Becx (n 13), p. 56; Fredriksson (n 14), p. 27.

²¹⁴ Heemskerk and Willemsen (n 212), pp. 24-25.

Dutch policy agenda.²¹⁵ The CICF operates according to the Criminal Injuries Compensation Act and allows the remedy of both material, including all medical costs incurred for victims' treatment or any loss of income as a result of incapacity for work,²¹⁶ and immaterial damages²¹⁷ to the direct crime victim, the relatives in case of the victim's death as a result of the crime, and those who have paid the funeral costs.²¹⁸ The Fund provides no restriction based on the applicants' nationality.²¹⁹ Additionally, those redress beneficiaries are eligible for free legal aid²²⁰ and will not have their compensation amounts reduced if they are on social welfare.²²¹

The application for compensation can be submitted online via the CICF's website and will be decided by the Fund's committee, consisting of single and multiple chambers.²²² The procedure is considered to be victim-friendly, allowing for a long submission period up to 10 years after the crime was committed,²²³ a quick decision-making process not exceeding 26 weeks (6 months) after the application and a possibility of lodging a written objection with the obtained decision on compensation within 6 weeks of its provision.²²⁴ The remedial sums are calculated according to conditions of reasonableness and fairness²²⁵ and range from EUR 1,000 to 35,000 based on 6 injury categories, the detailed description of which is publicly available.²²⁶

²¹⁵ Ministry of Justice and Security, *Asset Recovery Guide. The Netherlands* (Stolen Asset Recovery Initiative, the World Bank, UNODC 2024), p. 15.

²¹⁶ Schadefonds Geweldsmisdrijven (n 14).

²¹⁷ Article 4 of the Violent Crimes Compensation Fund Act (Wet schadefonds geweldsmisdrijven), BWBR0002979, 2012.

²¹⁸ Article 3(1) of the Violent Crimes Compensation Fund Act (n 218).

²¹⁹ 'If My Claim Is to Be Considered in This Country | The Netherlands' (*European e-Justice Portal*) <https://e-justice.europa.eu/topics/your-rights/victims-crime/compensation/if-my-claim-be-considered-country/nl_en> accessed 12 June 2025.

²²⁰ Fredriksson (n 14), p. 21.

²²¹ 'Change in Dutch Law Means Victims of Human Trafficking Receive Full Compensation' (*Justice at Last*, 2020) <<https://www.justiceatlast.eu/news/change-in-dutch-law-means-victims-of-exploitation-receive-full-compensation-amounts/>> accessed 12 June 2025.

²²² Article 8(1)(2) of the Violent Crimes Compensation Fund Act (n 218).

²²³ Article 7 of the Violent Crimes Compensation Fund Act (n 218).

²²⁴ 'If My Claim Is to Be Considered in This Country | The Netherlands' (n 219).

²²⁵ Article 4 of the Violent Crimes Compensation Fund Act (n 218).

²²⁶ Schadefonds Geweldsmisdrijven (n 14); Article 24 of the Violent Crimes Compensation Fund Act (n 218); List of Injuries (Schadefonds Geweldsmisdrijven, 1 July 2024) <<https://www.schadefonds.nl/wp-content/uploads/2024/07/List-of-Injuries-Schadefonds-Geweldsmisdrijven-1-July-2024.pdf>>.

Nevertheless, the plausibility of crime and injury is determined based on the police reports or medical information from family doctors, hospitals or psychologists.²²⁷ Furthermore, the Fund allows for the advance on the compensation through the provisional payment, for which the victim should apply in writing and explain the condition for urgency, which cannot be a difficult financial situation in itself.²²⁸ Additionally, the victim preserves the ability of additional application if the injury treatment, following the receipt of the compensation decision, appears to be more costly, or the relative needs more money for funeral expenses and the loss of maintenance.²²⁹

The CICF enables the victims' retrieval of the rest of the needed remedies after the partial compensation was already provided by the perpetrator, which increases the victims' chances of obtaining the full redress available.²³⁰ In its 2018 Report, GRETA admitted that 90 percent of the THB victims received compensation from the Fund,²³¹ which has dropped to 65 percent for the last reporting cycle of 2018-2022.²³² This considerable redress decrease may be connected with the significant increase in the number of applications, rising to 1210 applications in 2018.²³³

Overall, the Dutch state compensation scheme presents a complementary model of redress provision both through the advance payment system after the closure of the criminal proceedings and via the application to the CICF, which ensures victims' access to full available remedy in different scenarios. Nevertheless, the Fund's resources face a recent applications overload, which leads to gradual exhaustion of financial possibilities, being deepened by the lack of an adopted asset recovery policy, which demands a swift response.

²²⁷ List of Injuries (n 226); Elbers and Becx (n 13), p. 58.

²²⁸ 'If My Claim Is to Be Considered in This Country | The Netherlands' (n 219).

²²⁹ 'If My Claim Is to Be Considered in This Country | The Netherlands' (n 219).

²³⁰ Schadefonds Geweldsmisdrijven (n 14); Fredriksson (n 14), p. 20.

²³¹ *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands* (GRETA, 17 July 2018), para. 173.

²³² *Evaluation Report. The Netherlands. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings* (GRETA 2023), para. 74.

²³³ Helena Soletto and others (n 211), p. 100; Elbers and Becx (n 13), p. 58.

Concluding on the conducted case study analysis, Romanian and Dutch state compensation mechanisms allow drawing several takeaways to be incorporated in a Ukrainian scheme. Romanian voucher provision in situations of precariousness and the asset recovery strategy have the potential to strengthen the normal fund's operation while reducing victims' vulnerability, while the Dutch administrative decision to have a separate authoritative body deciding on compensation amounts within clearly identified ranges could sufficiently ease the redress granting procedure.

5. Ukrainian Perspective: Incorporating Takeaways and Tackling Constraints for Compensation Policy Change

The findings of the Romanian and Dutch case studies allow Ukrainian policymakers to move forward from the last draft law proposals and incorporate the successful state practices of compensation operation, while considering the Ukrainian budgetary and institutional hurdles. The policy brief, as **the practical component of this capstone project**, embodies the highlighted takeaways within four corresponding blocks:

- 1) compensation eligibility;
- 2) compensation criteria;
- 3) compensation application procedure;
- 4) operation of the Compensation Fund for Victims of Violent Criminal Offenses (CFVVCO).

The detailed list of policy recommendations to develop and operationalize the Ukrainian state compensation mechanism will focus on the following approaches:

- 1) eliminating any discriminatory restrictions in compensation eligibility (e.g., nationality restrictions, refusal to provide a lower remedial amount than the established minimum, victim's conscious acceptance of crime injury, etc.);
- 2) establishing clear criteria for compensatory amounts to be granted, desirably calculated on a basis of previously defined ranges;
- 3) adding non-pecuniary damages to compensation grounds;
- 4) increasing the minimum amount of compensation and tackling sequential budgetary restrictions by developing consistent and operational legislation on the social reuse of confiscated assets, opting for perpetrator fees to form a separate Victim Redress Fund and safeguard the paid sums' recourse to the state budget;
- 5) setting a victim-friendly statute of limitations for compensation applications;

- 6) introducing a voucher system with clearly defined victims' precariousness criteria;
- 7) creating an independent state agency responsible for crime victim compensation and particularizing its powers in the redress-granting procedure.

CONCLUSION

Closely intersecting with the philosophy of social solidarity, state compensation to violent crime victims, including THB victims, remains the instance of last resort and hope in case of the offender's non-identification or insolvency, which additionally demands precise emphasis on rehabilitative and reintegrative approaches to prevent re-victimization risks. Ukrainian war-triggered escalation in THB cases faces the absence of a public redress fund beyond the one-off financial assistance of EUR 203, which, in light of Ukraine's EU candidate status, should be put in correspondence with the European legislative provisions. This **capstone thesis** provided a detailed overview of the EU legal framework on crime victims' compensation and the evolution of the 'fair and appropriate compensation' concept through the CJEU jurisprudence, and highlighted the established standards on eligibility criteria, minimum amounts, and grounds for redress. It further analysed the Ukrainian legislation on the matter and described the main failures of the previous law-drafting process stemming from terminological inconsistencies, unjustified redress restrictions, and state budget limitations. The Romanian and Dutch systems of crime victims' public redress were taken as case study examples to draw inspiration from certain successful practices and introduce them in Ukrainian realities. The policy recommendations on developing the Ukrainian state compensation mechanism, originating from the case study takeaways, form **a practical component** that complements **this capstone thesis**.

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