

Artículo de investigación

Physiological and psychological condition of victim of criminal offense in Ukraine

Фізіологічний та психологічний стан жертви кримінального правопорушення в Україні
Condición fisiológica y psicológica de la víctima de un delito en Ucrania

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Abstract

The article is elaborated at the turn of medical psychology and jurisprudence and is devoted to the problems of implementing the right of the victim to procedural communication during criminal proceedings in connection with the physiological and psychological condition of the victim of a criminal offense. The authors conclude that the victim must be recognized as the proper subject of the right to free legal assistance (at the expense of the state), taking into account the psycho-emotional condition of the victim, and in some cases also the physiological condition (amenia, akinetic mutism, apalicsyndrome, sopor, coma, lethargy), indicating the inability to protect the rights and legitimate interests of the victim. As a result of the study, there is a need to ensure the rights and freedoms of victims in criminal proceedings and existence, which will not be life-threatening for health. The implementation of measures to restore the mental health of victims of a criminal offense is underlined, given that fear and negative emotional experiences can cause not only mental and moral suffering, but also physical (somatic) disease.

Resumen

El artículo se elabora al final de la psicología médica y la jurisprudencia y se dedica a los problemas de implementación del derecho de la víctima a la comunicación procesal durante los procedimientos penales relacionados con la condición fisiológica y psicológica de la víctima de un delito. Los autores concluyen que la víctima debe ser reconocida como el sujeto apropiado del derecho a la asistencia legal gratuita (a expensas del estado), teniendo en cuenta la condición psicoemocional de la víctima y, en algunos casos, también la condición fisiológica (amenia, mutismo acinético, síndrome apalico, sopor, coma, letargo), lo que indica la incapacidad de proteger los derechos e intereses legítimos de la víctima. Como resultado del estudio, existe la necesidad de garantizar los derechos y libertades de las víctimas en los procesos penales y la existencia, que no serán potencialmente mortales para la salud. Se subraya la implementación de medidas para restaurar la salud mental de las víctimas de un delito penal, dado que el miedo y las experiencias emocionales negativas pueden causar no solo sufrimiento mental y moral, sino también enfermedades físicas (somáticas)

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Keywords: psychological condition, physiological condition, criminal proceedings, free legal assistance, psychological expertise.

Palabras claves: Víctima, condición psicológica, condición fisiológica, procedimientos penales, asistencia legal gratuita, pericia psicológica.

Анотація

Стаття опрацьована на рубежі медичної психології та юриспруденції та присвячена проблематиці реалізації права потерпілого на процесуальну комунікацію під час кримінального провадження у взаємозв'язку з фізіологічним та психологічним станом жертви кримінального правопорушення. Автори приходять до висновку, що потерпілий має бути визнаний належним суб'єктом права на безоплатну правничу допомогу (за рахунок держави) з огляду на психоемоційний стан потерпілого, а в деяких випадках і фізіологічний стан (аменція, акінетичний мутизм, апалічний синдром, сопор, кома, летаргія), що вказує на неможливість захищати свої права та законні інтереси. В результаті дослідження наголошується на необхідності забезпечення прав і свобод потерпілого під час кримінального провадження, незагрозливого для здоров'я існування. Здійснення заходів щодо відновлення психічного здоров'я жертв кримінального правопорушення з огляду на те, що страх і негативні емоційні переживання здатні заподіяти не тільки психічні й моральні страждання, але і фізичні (соматичні) захворювання.

Ключові слова: потерпілий, психологічний стан, фізіологічний стан, кримінальне провадження, безоплатна правнича допомога, психологічна експертиза.

Introduction

In 2013/2014/2015/2016 according to statistical data, 827,1 / 813,2 / 815,1 / 943.3 thousand materials of criminal proceedings and criminal cases were considered at first instance by local general courts. Respectively 108.2/ 83 / 74.2 / 64.6 thousand individuals were recognized as victims of crimes. (Judicial statistics, 2017). Does the number of victims in the criminal proceedings really decrease? Or maybe there are more victims, and statistics only indicates the problems of a legal mechanism of ensuring the rights of victims of criminal offenses, because the criminal procedural activity of the victim determines the possibility of his participation in the proceedings and significantly influences the course of the proceedings and the final procedural decision? Taking into account the complex of political, economic and social processes in the country, the scale of the problem lies not only in the number of registered victims, but also on the probable consequences of destructive influence on the psyche and consciousness of this category of citizens. Therefore, in today's conditions, analyzing the provisions of the current Criminal Procedure Code of Ukraine (hereinafter – the CPC of Ukraine), which undoubtedly expanded the list of victim's rights in criminal proceedings, the study of the legal mechanism of ensuring the rights of victim, the recognition of its proper subject of the right to free legal assistance becomes of great importance. In addition, the

problem of establishing a national institution (fund) for protecting the rights of victims of criminal offenses is actualized. In the context of this issue, we should specially consider the psychological condition of victims in criminal proceedings. It seems that the use of special psychological knowledge, methodology of legal psychology in criminal proceedings has a significant theoretical and practical importance.

Issues related to the implementation of the rights of victims in criminal proceedings, the prospect of consolidation in the CPC of Ukraine of the right of victims to free legal assistance at the expense of the state, using special psychological knowledge during the criminal proceedings are extremely relevant. In its turn, the question of "zero" criminal-procedural activity of victims in criminal proceedings is connected, first of all, with the physical and psychological conditions of victims who, in the period after the occurrence of a criminal offenses, are undergoing abrupt change in the conditions of life, in which its overall deterioration of physical condition, well-being, increasing of mental stress according to the severity of the newly created situation of permanent or prolonged danger. In addition, in the course of proceedings, the victim does not see the potential probability of observing his interests in restoring justice not only in law, but also in matters of compensation for losses, including health. A person who has suffered a

crime, practically independently tries to cope with the problems that have arisen, and to overcome a critical life situation (Hailova, 2009). Part 3 of Article 20 of the CPC of Ukraine refers to the provision of free legal assistance at the expense of the state only to suspect, accused, but the lawmaker does not mention victims. In addition, Article 52 of the CPC of Ukraine provides the cases of mandatory participation of defense counsel of suspect or accused in criminal proceedings. Article 49 of the CPC of Ukraine also regulates the issue of the involvement of a defense counsel of suspect or accused for the purpose of protection. Thus, neither provisions of the CPC of Ukraine nor the Law of Ukraine "On Free Legal Aid" does not solve the problem of the recognition of victim as a proper subject of the right to free secondary legal assistance. In addition, the actual problem is the need to provide compensation for damage caused to victims by criminal offenses, including those, where conducting of a psychological expertise of the emotional condition of the victim is necessary.

Consequently, passivity due to the psychological conditions of victims of criminal offenses deprives victims of the right to procedural communication, since such a right cannot be implemented in accordance with the CPC of Ukraine. For example, often victims because of their legal ignorance become passive participants in concluding of an agreement on reconciliation, while their rights are not renewed as a result of the court's approval of such an agreement; the content of the agreement on the recognition of guilt does not protect the interests of the victims, in particular, in respect of compensation for damage caused by a criminal offense. That is why the problem of ensuring the rights and freedoms of the victim in the course of criminal proceedings is actual, as well as taking measures to restore the mental health of victims of criminal offenses, given that fear and negative emotional experiences can cause not only mental and moral suffering but also physical (somatic) diseases.

METHODOLOGY

The method of questionnaire was used to find out the issues of the studied subjects. The poll was addressed to scientists (50 people) and practitioners (31 persons). Among the latter, the overwhelming majority are investigators of the Investigative Department of the Ministry of Internal Affairs of Ukraine in the Odessa region. The results of the poll showed that the current situation of ensuring the victim's rights in criminal proceedings is assessed as: 1) critical,

rights are insufficient (58%); 2) rights are provided partly, the mechanism of realization of some rights of victims is not provided for by the CPC of Ukraine (36%); 3) excellent, rights are fully provided (6%). In addition, 100% of the respondents clearly agreed on the need to recognize victims as subjects of the right to free legal assistance in criminal proceedings. To the question "Does the psychological condition of victims of criminal offenses affect the criminal-procedural activity of the latter in the process?" 82% answered that the victim often needs assistance not only by the lawyer, but also by the psychologist; only 4% indicated that "no, it does not affect". It is also believed that, on a case-by-case basis, there should be an individual approach depending on the severity of the criminal offense and the psychological condition of the victim. To the question: "Do you consider it necessary to involve a victim's representative in a criminal proceeding from the moment when the conciliation agreement was initiated?" 78% of the respondents indicated "yes, his participation should be obligatory", 22% – "no, it is not necessary". 64% of respondents supported the granting of the status of compulsory to psychological expertise of victim's emotional condition in order to prove the moral harm to the victim of a criminal offense and stated "yes, I support, because the burden of proving moral hazard lies precisely on the victim" and 36% did not support such an opinion. There is also a separate point of view on this issue that deserves attention – in particular, the respondent indicated "yes, I support it if there is a written desire from the victim".

In addition, according to the results of the study, the present state of the implementation of forensic psychological expertise as a form of use of special psychological knowledge in the criminal process was established. In particular, the questioned investigators believe that the appointment of forensic psychological expertise should be preceded by a significant preparatory work of the investigator, the judge. In the course of its conduct oral consultations of specialists-psychologists or other specialists or results of expert's conclusions can be used. The contents of the consultations can cover the possibilities of psychological expertise for establishing the truth within the framework of criminal proceedings: always (61,4%), sometimes (30,4%), very rarely (4,7%), depending on the occurrence of a criminal offense (0,6 %), never (2,9%). It is also envisaged to consult with specialists-psychologists on the feasibility of appointment of forensic psychological expertise in general (83%). In other circumstances, the subject of

psychological counseling covers a number of aspects: 1) on the formulation of questions to be set out in the decision on the appointment of an expertise (75.4%); 2) selection the kind of expertise taking into account the issues necessary for solving the tasks of pre-trial investigation (42.7%); 3) opportunities of the chosen type of expertise (28.6%); 4) the competence of an expert in this field of knowledge (18.1%), etc. In contrast, respondents express a position, which explicitly indicates the lack of practice of counseling with psychologists before the appointment of such expertise (2.3%).

RESULTS

Psychic reactions of victims

It should be noted that in the international legal acts the concept of "victim of crime" is quite widespread. In particular, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power provides the definition of "victims of crime", which refers to persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization. The provisions contained in the Declaration have to be applicable to all, without distinction of any kind, such as race, color, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability (UNGA, 1985).

It is quite obvious that the psychological condition and behavior of people involved in the criminal process - whether victim, witness, other participants of the proceedings, changes under the influence of the offense and is different from everyday. Long-term experience of psychologists allows to state that the psychogenic consequences, that is, changes in the mental condition and behavior of victims, are one of the most common consequences of the occurrence of the offense. Moreover, these

changes are subjected not only to those victims who have suffered physically, but also those who did not receive physical injuries. (Belyh-Silaev, 2012).

Studies of scientists also show that with the same nature and strength of mental effects on a person, the corresponding reactions of the body are different. In some cases, they are within the limits of physiologically permissible (natural) experiences, in other cases they reach painful changes and even bear the features of undoubted psychosis. V.Kozlov notes that the psychological impact on a person is capable of causing him bodily harm, more precisely, the action of psychic factors can be equated to causing harm to health (Kozlov, 1976). Mental damage is in the form of stress, which has a detrimental effect on the emerging "reaction of anxiety". In this case, the adrenal cortex cells throw in the bloodstream the contents of secret granules and completely deprive of spare materials. As a result of this process, there is a thickening of blood, a decrease in the content of chlorine ions in the blood and general tissue depletion (catabolism). Prolonged action of a traumatic situation with a sufficiently strong stress and the inability of the body to withstand it can lead to irreversible consequences (Aristova, 2003).

Scientists state that fear is an emotion of great power, which has a significant impact on the perception, thinking and behavior of the individual. It seems that in comparison with other emotions, fear, being associated with danger and anxiety, makes the most powerful influence on victims in the criminal proceedings. At the same time, according to the conclusion of the American psychologist K. Izard, fear limits the perception and even may slow down thinking. Fear makes thinking narrower in scope, and more rigorous in form. The cause of fear may be either the presence of something horrible, or the lack of something that provides security. Fear, depending on its intensity, is experienced as anxiety, uncertainty and total insecurity. There is a feeling of insecurity, feeling of danger and approaching disaster. The person feels threatened of his existence (Izard, 2008). The literature also notes that emotional stress can cause myocardial infarction even in a person who does not suffer from any vascular disorder. Especially dangerous in this respect are emotions such as sadness, anxiety, anger, fear, rage, when they are acting for a long time, become like features of individual's personality.

It should be noted that in general there can be distinguished three main groups of psychic

reactions of victims: 1) normal adaptive reactions; 2) neurotic reactions and disorders; 3) reactions and disorders of psychotic level, accompanied by dizziness of consciousness, hallucinations. The severity of mental reactions and disorders depends on different groups of factors, but most commonly there are normal reactions to severe stressful effects, and less frequent reactions of the psychotic level. In the literature it is indicated that severe disorders and reactions characterized by dizziness of consciousness and accompanied by hallucinations, can occur in 1-3% of victims (Belyh-Silaev, 2012).

In the judgment of the European Court of Human Rights in *T. and V. v. The United Kingdom*, adopted on December 16, 1999, there is a reference to the data of psychiatric expertise, which testified to the experiences of both victims of post-traumatic stress syndrome (ECHR, 1999). However, regardless of the severity of the reactions and disorders in most victims are observed: 1) partial or total loss of ability to purposeful activity; 2) partial or total loss of ability for critical assessment of surrounding and own behavior; 3) partial or total loss of ability to come into contact with others (Belyh-Silaev, 2012).

In practice, among the victims there is a violation of the ability to plan their own actions, significantly shortens the temporal perspective, high probability of emotional contamination with panic, aggressive, hysterical reactions. In the course of conducting a series of investigative (search) actions, such as, for example, an overview of the place of the event, interviewing, examination of an individual, obtaining samples for expertise, victims may have severe reactions to stress. For example, in a hysteroid reaction consciousness remains, but communication is almost impossible. While interviewing victims, investigators should listen to them carefully, patiently. In the case of "forcing" memories, there is a great danger of suggestion from the investigator and subjection to the memory of the victim of the desire of the investigator. It seems that this partly can be avoided with the participation of a professional representative of a victim in a criminal proceeding – a lawyer.

Otherwise, the negative emotions that arose in victims in connection with the damage caused to them may result in a misleading misconception of victims or deliberate distortion of their truth. All this often complicates the establishment and maintenance of communicative contact, getting full and reliable evidences. In addition, the

emotional factor affects the quality of evidences in such a way that if the life and health of the victim (or his family members) are under threat, he will feel a severe traumatic effect, which can also affect the accuracy and reliability of the evidences. For example, according to the Article 177 of the CPC of Ukraine the possibility of a suspect or an accused to unlawfully influence a victim is one of the risks in criminal proceedings, which makes it possible to apply measures of restraint to him. Accordingly, it is necessary to talk about feelings of stress not only by victims, but also by members of their families due to the fact that, together with material and other damage, the destructive influence of the circumstances and consequences of the offense on their behavior and the psyche should be recognized. The "ricochet" victims often experience the same suffering and show the same symptoms of psychological distress as the primary victims. Members of the families of victims of assassinations, partners raped, relatives of victims of thefts and other crimes describe similar psychological symptoms, as well as primary victims of crimes. We must agree with the idea that excluding "ricochet" victims from a set of objects covered by the concept of "victim of a crime" is not only unscientific, but is simply immoral (Tulyakov, 2001).

As it is known, quite severe anxiety includes two components: 1) awareness of physiological sensations (palpitation, sweating, nausea, etc.); 2) psychological awareness of the fact of anxiety - unpleasant feelings are more often in the form of peculiar attacks, during which a person feels unprotected and "naked" in front of a person of an unknown enemy. Such fear is called diffuse. It occurs when a person is waiting for danger every second (for example, in the courtroom, during a statement by the defendant of the accused, when the victim is aware that there is no one, who can professionally protect his rights and legitimate interests). Such a fear is especially dangerous for the human psyche (Scherbatyh, 2007). In addition, legal science knows the mechanism of action on a person of another fear (so-called "delayed fear"), which manages a person some time after a dangerous situation and continues to persecute him then in similar situations (Olshanskiy, 2002).

Rights of victims

It should be noted that in order to protect victims from intimidation, preventing further influence on their psyche by both suspects and accused and the negative impact of official criminal procedures, it is proposed to provide in the CPC

of Ukraine Article 11-1 "Ensuring the victim's right to protection from secondary victimization". In this article, it should be noted that during the criminal proceedings victims should be provided with access for protection from secondary victimization, intimidation and retaliation, including the risk of emotional, psychological and physical harm. In addition, the introduction of the category "vulnerable victim" is proposed. The latter is understood as an individual who: 1) is juvenile or minor; 2) has physical, psychological or sensory impairments which do not allow him to participate fully in society; 3) is a victim of human trafficking; 4) is a victim of a crime against sexual freedom and sexual integrity of a person; 5) is a victim of crime committed with violence or threats of violence if there is an increased risk of secondary victimization due to age, gender, race, ethnicity, sexual orientation, religion, health, mental immaturity, inability to express or current life circumstances or relationship and dependence on a person suspected of committing a crime; 6) is a close relative or a family member of a person, whose death occurred as a result of a crime.

We also consider it necessary to point out the appropriateness of a special procedural approach to the application of the institute of compensation for moral damage. It should be based on the study of the emotional condition and psychological characteristics of the victim, the psychological consequences of a criminal offense, the psychological condition of the helpless state of the victim (Okhrimenko et al., 2016). For example: in a criminal case, the psychological expertise of the victim G. was assigned in connection with the rape attempt. The questions, which were asked to the expert, were not related to the study of her emotional and psychological condition after the crime, although a civil claim for compensation for moral damage has already been filed in the proceedings. Nevertheless, the expert stated in conclusion that the victim's attention was focused on the deteriorating state of health, which was the source of negative emotions (Archive, 1999).

Such a situation with proof of moral damage can be eliminated by introducing amendments to Part 2 of Art. 242 of the CPC of Ukraine and granting the status of compulsory psychological expertise of the emotional condition of the victim, if the latter states that he has suffered moral suffering by the criminal offense. A psychologist, analyzing the person of the victim, may, on the basis of special knowledge, correctly assess the nature and extent of mental suffering (Krykunov, 2001). With the help of forensic psychological

expertise, it is possible to obtain data that enables to understand and correctly assess the peculiarities of psychic activity and behavioral manifestations of a person that are relevant to the findings of legal content. After all, well-organized psychological examination of the victim will perform not only epistemological, but also a therapeutic function (Safaunov, 1998).

In this regard, it should be noted that Article 243 of the CPC of Ukraine does not call the victim as a subject that has the right to involve an expert, and Article 244 of the CPC of Ukraine does not provide for his right to apply to an investigating judge with a petition for the involvement of an expert. However, at the same time Part 4 of Article 15 of the Law of Ukraine "On Forensic expertise" provides the possibility of conducting an expertise in a criminal proceeding not only from the side of suspect, but also from the victim and his representative. In turn, the expert's findings can only be provided by the parties (Article 101 of the CPC of Ukraine), and the victim is a party of criminal proceedings only in cases stipulated by the CPC of Ukraine. Apparently, these norms considerably complicate the possibility of using by victim and his representative of special knowledge to defend the interests of victim in a criminal proceeding. In this regard, it is expedient to propose an amendment to Article 243 of the CPC of Ukraine: the victim has the right to independently involve experts on contractual basis for conducting an examination, including the compulsory one (Hloviuk, 2014). Involving of an expert by a victim on a contractual basis for conducting a psychological expertise of his emotional condition will effectively ensure the right to procedural communications in criminal proceedings. Especially considering that the burden of proving moral damage lies precisely on the victim. In addition, the Law does not provide for the specific status of minors who must have the same complex of rights as juvenile defendants, including those relating to the expertise.

It also appears that in order to establish the emotional suffering of the victim of a criminal offense, it is possible to use the experience gained in psychology, in particular, the application of integrated psychological counseling methods developed and implemented in practice in the form of psychodiagnosis and the provision of various psychological assistance.

Problems of physiological conditions of victims

Sometimes, as a result of a criminal offense, a person may be in a certain physiological state that lasts for quite some time and through which the person loses consciousness, reaction to external stimuli and the ability to express any will. These physiological conditions should include amnesia, akinesia, apathetic syndrome, sopor, coma and lethargy. It is believed that medical staff of at least three people, one of which must be a medical doctor of the victim. This medical staff should establish that such person is in one of the physiological conditions and has no prospect of rapid recovery. They make a written medical, which is certified in accordance with the procedure established by law. On the basis of this report, the investigator, the prosecutor, the court on their own initiative must recognize the person as a victim if such a person does not have close relatives or members of the family (Osinska, 2016).

The next question that arises in relation to the victim, who receives such status on the basis and in accordance with the proposed norm, concerns the victim's ability to exercise his rights and obligations, which form the basis of his procedural status. It is clear that a person who is in one of these physiological conditions cannot independently use his procedural rights and perform procedural obligations, therefore it would be logical to give her a representative. So in this case, the victim will be in such a situation when although he got the status of the victim, but in fact cannot realize the complex of his procedural rights and obligations. That is why the only opportunity to guarantee the victim the provision of his rights and legitimate interests through the actions of the representative will be providing him with free legal aid. However, Article 14 of the Law of Ukraine "On Free Legal Aid" does not provide for the provision of free secondary legal aid to this category of victims. Therefore, given the above, it is necessary to supplement Part 7 of Article 55 of the CPC of Ukraine and put it in the following wording: "If a person who is in a condition that makes it impossible to submit a corresponding application, there are no close relatives or family members, and in the result of a criminal offense, such person is in the physiological condition of amnesia, akinesia, apathetic syndrome, sopor, coma and lethargy and has no prospect of rapid recovery, a medical staff of not less than three employees issues a written medical report on the basis of which the investigator, the

prosecutor, the court on their own initiative recognize the person as a victim".

DISCUSSIONS

A victim in a criminal proceeding should not act as an "evidence base" for the purpose of prosecuting an offender, and the lawful interests and rights of the victim should not remain outside the administration of justice. According to the results of the poll conducted in 2012, 94% of prosecutors and investigators criticized the situation of ensuring the rights of victims. 41% were sure that the victim's rights were insufficient, 53% believed that they were partially provided and that some changes were needed, and only 6% indicated that victim's rights were fully provided (Lapkin, 2012). Although the poll was conducted six years ago, the situation has not changed at all, which is confirmed by the results of our poll, which was mentioned earlier.

During the scientific discussion, scholars expressed different views on the problem of providing the victim the right to professional legal assistance free of charge at the expense of the state, which is guaranteed by Article 59 of the Constitution of Ukraine. For example, O. Solonyova proposes to supplement Part 1 of Article 56 of the CPC of Ukraine with one of the rights of the victim: "to receive help from a lawyer at the expense of the state" (Solonyova, 2015). V. Tulyakov drafted a Law of Ukraine "On the Protection of the rights of victims of crime", Article 10 of which provided for the guarantee of equal access to free legal assistance necessary for the protection of their rights to all victims of crimes (Tulyakov, 2001). D. Kavun points out that the CPC of Ukraine should be provided with a separate article. 58¹ «Mandatory participation of the representative – the victim's lawyer (individual)» and indicate the cases of compulsory participation of the latter in the criminal proceedings (Kavun, 2017). In particular, the participation of a representative of the victim (an individual) is proposed to be recognized as mandatory in criminal proceedings against persons who cannot independently involve a representative due to lack of funds or other objective reasons and have applied for the involvement of a representative in a criminal proceeding (Mudrak, 2018).

Interviewing the victim in a court session should take into account his physical and mental condition, trying not to cause him extra psychological trauma, to find out if he is convinced of the correctness of his testimony.

The study of the psychophysiological features of the victim, the strength, mobility of the nervous processes, the type of higher nervous activity, temperament helps to determine the possibility of wounding those or other actions, and in general - to create the correct picture of the event. These qualities must be taken into account when establishing psychological contact with the victim during his interviewing in court. In addition, when interviewing victims and assessing the evidence received from them, it should be borne in mind that their mental conditions may be defined as the "accusatory dominant", the negative-emotional condition that arose as a result of the crime and its consequences (Chernovskyy, 2013).

The necessity of providing the victim with legal, medical, social and psychological assistance is indicated in the criminal-procedural literature. For example, Y. Tsymbal points out that understanding the concept of "psychological help" covers: 1) unprofessional self-help and mutual assistance of victims, which is the most accessible, operational and quite effective in the conditions of sufficient general level of psychological culture of the population; 2) professional direct assistance to victims, carried out by psychologists working in health care institutions, etc .; 3) professional mediated assistance, carried out at the level of the country, region, district and involves the participation of psychologists (Tsymbal, 2010).

The doctrine states that as a result of the timely and justified application of special psychological knowledge, it is possible to find out many facts which are necessary for establishing the truth in certain categories of criminal proceedings (including those concerning the sexual and violent behavior of delinquents), since the use of this knowledge in legal work has, above all, a significant application value (Okhrimenko et al., 2016).

CONCLUSION

Taking into account the vulnerable psychological conditions of victims of criminal offenses is very important for ensuring the rights of victims to procedural communication during the pre-trial investigation and judicial proceedings and it is also a relevant issue of the study because of:

- the need to ensure the rights and freedoms of the victim during the criminal proceedings, as well as the implementation of measures to restore the mental health of victims of criminal

offenses, given that fear and negative emotional experiences can cause not only mental and moral suffering, but also physical (somatic) disease;

- the need to ensure the rights and freedoms of the victim during the criminal proceedings in view of the possibility of his stay in a certain physiological condition, which lasts for quite some time and through which the person loses consciousness (amention, akinetic mutism, apalic syndrome, sopor, coma and lethargy);
- the need to strengthen the protection of the rights of the victim by providing him with qualified legal assistance, including free of charge, at all stages of criminal proceedings - as the basis of the concept of ensuring the right to procedural communication of victims of a criminal offense and the mechanism for ensuring the rights and legitimate interests of the victim in a compelling criminal process;
- the need to provide compensation for damage caused to the victim of a criminal offense, including through psychological expertise of the emotional condition of the victim;
- the need for safety (including psychological) of the victim during the criminal proceedings;
- the need to study the psychology of the victim of a criminal offense, the study of factors shaping the personality of the victim, his behavior before, at the time of commission and after the commission of a criminal offense, the development of practical recommendations relating to interviewing of the victim and education in people of moral-volitional qualities that would be sufficient protection from the criminal encroachment.

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