

UKRAINIAN MIGRANTS AS VICTIMS (TRENDS IN EUROPEAN VICTIMIZATION)

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Summary: New aggressive war in Europe need to understand how preventing activity should be in a dissonance with developing public and social relations. Therefore, the problem of interrelationships of consequences of war, crime, modern victimology, human rights, and criminal justice highlights the idea to protect victims of crime and abuse of power on individual and collective level. To properly organize it one could show the main trends in Ukrainian primary, secondary and tertiary victimization of Ukrainian people during war in UA. Additionally we should defy social control schemes through victimization tendencies` analysis. Special attention is devoted to war and crime interrelationships in context of fragmentation of international criminal law, victims` reparations, and criminal policy development.

Key words: victimization, security, penal law, victim, human rights, war.

February 24, 2023 – a calendar year of Russian aggressive war against Ukraine (UA). A huge number of changes in life, social values, interactions, legal solutions notwithstanding from what side you are. The ideas on sanctioning and declaring Russia as the state-terrorist that have been spread in the beginning of 2022 by academia and realized in political statements, joint declarations, sanctions packages, etc. Ukrainian news are at the top of the list, and victims` treatment became a trend in the whole world, causing unexpected reactions from survivors of military conflicts in other parts of the planet. As Henry Kissinger said: „Ukraine has become a major state in Central Europe for the first time in modern history. Aided by its allies and inspired by its President, Volodymyr Zelensky, Ukraine has stymied the Russian conventional forces which have been overhanging Europe since the Second World War” [1].

Predictably, criminologists recognize that this European war requires an understanding of how new global and regional imbalances and conflicts affect the Rule of Law. The goal is to identify functions of stable criminal legal systems in situations of social chaos. New narratives, attitudes, political decisions, and fears can overwhelm the collective consciousness and foster a growing fear of war, crime, starvation, leading to victimization of people and society. As such, criminologists must challenge new social control schemes from the perspectives of international actors, state, perpetrator, victim, and civil society attitudes, including victimizing tendencies towards crime and abuse of power.

New era needs to clarify new emergent criminal policies as part of international and state`s public policy in preventing deviance and treatment of victims.

These emergent criminal policies concepts development is based on victims` fair treatment landscape through protection of human rights.

But there are huge contradictions in the way of how we could do it.

„More than 13 million people are displaced, about 8 million of them abroad. The war is taking place on Ukrainian soil, with its cities being bombarded to rubble, its factories razed, its people turned destitute. If the war grinds on like this for years, it will be worth asking – are we letting Ukraine get destroyed in order to save it?” – asked Fareed Zakaria from CNN [2].

Despite these fearful notices, to Ukrainians the only way is victory. Victory to protect their European choice, their Motherland, their urge to Freedom, to decolonization from the Past. With approximate war

casualties since February 24, 2022, around 120,000 and average UA family size in 2.59, at least 310,000 Ukrainian citizens have lost direct family members dead or wounded [3]. If we include more distant relatives, the number rises to millions. Almost every Ukrainian citizen has now felt the direct consequences of the war on their ordinary lives – economic, political, and cultural. With every day that the war is progressing, the questions as to what are they suffering for, have been generated in numbers. Unfortunately, this way is accomplished with thousands of victims not in my own country, but in our neighborhood, beyond Ukraine. Due to UNCHR data, as of March 7, 2023, 8108448 Ukrainian refugees recorded across Europe, 4890 639 Refugees from Ukraine registered for Temporary Protection or similar national protection schemes in Europe. Approximately 3000000 people have fled to RF and Belarus. Border crossings from Ukraine (since 24 February 2022) rise to 19, 293, 161, accordingly border crossings to Ukraine consist of 10823841. An additional 105,000 people moved to the Russian Federation from the Donetsk and Luhansk regions between 18 and 23 February. 5,914,000 is an estimated number of internally displaced persons (IDPs) in Ukraine. Therefore, a probable number of UA refugees and IDPs exceeds 24000000 persons since February 24, 2022 [4]. Half population of the country became forced nomads.

While there is no doubt that many Ukrainian refugees in Europe have experienced hardship and challenges, including discrimination and xenophobia, the level of victimization can vary greatly depending on the individual's circumstances and the host country's policies and attitudes towards refugees. Despite their primary victimization due to the war and their need to flee their homes, Ukrainian refugees in Europe are at great risk of falling victim to organized crime, sexual exploitation, human trafficking, illegal supply chains, as well as classical crimes such as theft, burglary, and fraud, etc. [5]. While Ukrainian refugees can be targeted at different stages of their journey, Europol said the highest risks concern the targeting of victims under the presence of promising transportation, free accommodation, employment or other sorts of support [6].

Spanish police has informed a couple of days ago that they had arrested a group of Slavic thieves whose specialization was robbing their fellow rich citizens. They are believed to have broken into seven homes of Ukrainian refugees in the eastern provinces of Alicante and Murcia on Spain's Mediterranean coast. Police said they had recovered stolen goods and cash worth €1.25 million (\$1.32 million), including a stamp collection valued at around half a million euros, jewelry and computers [7].

Another example. Spanish police have broken up a network they say operated three illegal tobacco factories where Ukrainian refugees worked extremely long hours in poor conditions. To avoid getting caught, the refugees were not allowed to leave the factory premises. Police seized 10 tons of tobacco leaves and 3.5 million packs of cigarettes worth €37.5 million, as well as luxury vehicles, jewelry and large quantities of cash during their raid. More than 20 homes, industrial buildings and shops were also searched. Migrants lived 'crammed together' in factories [8].

These numbers of UA reach and poor people stressing from war and being victimized before and in the process of their travel, need some extra explanations. Approximately 3,000,000 of them are so called pendulum migrants who came to UK and Europe every year to season work after liberating Schengen Regime to UA citizens. Nearly 5 000 000 refugees from Ukraine registered for Temporary Protection or similar national protection schemes in Europe. Among the 11 000 000 who have returned to Ukraine, we find a huge amount of season workers who has returned for three months to UA and then will arrive again to Europe in order not to violate Temporary Protection Directive conditions, and moms with children fleeing from hostilities of war for a couple of spring months and then returning. Those who are not familiar with language and professions are staying for a couple of months in the border countries of UA Crisis Response (Romania, Poland, Hungary, etc.). Those who have previous arrangements or specialties are finding success in the West ongoing to work in European neighborhood, formatting their cultural alliances and assimilating in European ones [9; 10]. Surely, that should relate to secondary victimization

that depends on lack of services, implication of different kinds of state bureaucracy, negative attitudes, fear of migrants and hate speech. Different countries have different levels of help. While Germany and Ireland are compensating housing and costs of living to UA migrants, some countries provide only access to right to education, social services, freedom of movement, etc. That is also connected with some marginal tendencies when some UA citizens, fleeing from war and registering for temporary protection in EU misuse their rights for the reason of obtaining additional money*. Thus, in some EU neighboring countries system of obligatory periodical registration of UA migrants who received material help from the State, was created...

There is a gap, influenced on victims' marginalization from one side, and states' interests to use migrants' resources. In a country with high demand of migration: „The war is only a trigger that continues to force Ukrainians to go abroad, and they would return to their homeland, but some host countries have been preparing for their arrival for years... In nominal terms, each Ukrainian in Poland additionally created almost 5.8 thousand dollars of GDP, while a Pole – only about 1.9 thousand dollars of GDP. When the Polish government announced in March 2022 the allocation of \$1.7 billion to support 1.2 million Ukrainian refugees, it deliberately went to such costs to ‘hook’ them in Poland, because they understand the additional income each Ukrainian will bring to the Polish economy... 30% of those who left after February 24 are already working in Poland”, – notes one of the leading Ukrainian economists in local media interview [11]. According to the UNCHR surveys, Ukrainian refugees highlighted accessing employment, language courses, childcare, education, housing and other forms of support, particularly for those with specialized needs, as important factors influencing their ability to stay in host countries, and many expressed difficulties planning for the future given the uncertainties surrounding the conflict [12]. Some polls show that nearly half of UA migrants will stay in EU after war, because of family's assimilation, and husbands and dads who were forbidden to cross the borders due to martial law, will join their families in Europe, adding great privileges to EU inner market.

In any case, victims of war in UA are ready to spend huge sums of money in the European neighborhood. In 2022, according to the National Bank of Ukraine, the total spending of Ukrainians abroad tripled to \$2 billion per month compared to the previous year. Consumption of goods and services has increased, as well as public consumption, in particular in the field of housing infrastructure, healthcare and education systems. Thus, despite the initial challenges for the recipient countries from the inflow of Ukrainian migrants, the benefits for the economies of these countries are greater in the medium and long term due to the active integration of Ukrainians both in the labour market and in society. After the outbreak of war, Ukrainians transferred abroad 7 times more money from their bank accounts than in peacetime. According to the results of May-December 2022 there was a sharp increase in the outflow of money abroad from the accounts of Ukrainians. National Bank stated that during this time, individuals increased the number of card transactions abroad by 4 times and the volume of funds spent abroad by 7.3 times: the number of foreign payments of Ukrainian citizens increased from 59.3 mln. to 256.3 mln; the volume of payments of Ukrainian citizens abroad increased from UAH 49.7 billion to UAH 361.4 billion. Money from the accounts of Ukrainian banks flowed out in different ways. Most of the operations (by volume) are withdrawals of cash abroad, the total volume of which amounted to UAH 189.7 billion. Another 171.7 billion UAH our people spent, paying by cards in foreign stores and service networks. What the authorities explained by the large flow of refugees after February 24, 2022. According to the NBU, cumulatively in Ukraine and abroad people spent in May-December 2022 5.2 billion card transactions totaling 3.4 trillion UAH – this is 4.1% more by number of payments and 56.9% more by amount compared to the same period of 2021 [13].

* There are some cases when UA citizens fled for material help to EU countries, renting out their estates to UA IDPs who came from East, primarily influenced by armed aggression, and then return to UA living for rent and EU help. We know also that some borderline ethnic groups with double passports, living legally in one country, moved to another asking for material help from neighboring government and social services as UA refugees.

The European Central Bank expects that the participation rate of Ukrainian refugees of working age in the labor force of the Eurozone countries will be between 25% and 55% in the medium term. Estimates of the potential growth of the labor force in the EU are 0.2-0.8%, or 0.3-1.3 million people [14].

Surely, migration has its positive economy background. However, migrants and IDPs have to deal with a huge psychological trauma. Stress, fear, anger, hate, anxiety, nostalgia and frustration are everyday companions of UA forced migrants. I remember myself noticing Russian rockets flying over my home in Odesa, standing 21 hours in a row waiting for UA border-crossing, sleeping in Chisinau hotels' sauna because of late arrival and cancelling of my booking, leaving relatives and friends at home, trying to find a new life in a new country, watching the news on the ongoing war... Before the full-scale war, 4% of UA people had nightmares all the time. And now it's a third of population. Surely peoples' minds are flexible but in a constant stress there is a tremendous amount of negative impact.

Therefore the primary and secondary victimization of victims of aggression against Ukraine, is to be considered as direct victimization of genocide, war crimes, crimes against humanity and the limitation of the rights to compensate and redress in national criminal and civil law as well as in International Humanitarian Law.

Due to the UN soft law and IHL there existed different forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, I remain. „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” [15]. Right to redress, rehabilitate and to compensate goes close to violations of arts 2, 3, 5, 8, art. 1 of 1 Protocol of European Convention on protecting of Human rights and fundamental freedoms. More then 58 billions of USD that belong to RF and their oligarchs were frozen. But usage of this money to compensate and repair UA victims and damaged economy is restricted, because compensation needs confiscation. Complex holistic approach based on mutual recognition of all parties' rights and obligations should give positive effort in combatting war crime and new law constructing as the result of new security paradigms based on the internationalization of domestic laws. The shift for criminalizing non-obeying with sanctions on the EU level is a strict argument for the abovenamed proposal [16].

Tertiary victimization in Ukrainian society is influencing not only on families of victims, or even witnesses of Russian terror. It is also connected with promotion of Russian oriented ideology and narratives, and certain treatment of victims. Since Odesa Massacre in 2014, hate and fear, misuse of narratives of Nazi ideology and the promotion of stereotypes of immortal the international Slavonic role in bipolar world leads to „evil empire thinking”. While the potential diffuse victims may not be the intended victims or primary target, they have still been victimized because of the crimes and violations of international law committed in contradiction with art 8-13 of ECHR (hate crimes and narratives of dehumanization through the idea of the denazification of Ukrainians).

Finally, the EU initial intelligence analysis of different criminal threats identified crime patterns in a number of areas including human trafficking, online fraud, cybercrime and firearms trafficking. Thus, according to some experts' opinion, the evolution of the situation in Ukraine may potentially lead to an increase of criminal activities (and primary, secondary and tertiary victimization) in all 10 EMPACT priority crime areas [17].

To resist this trend it is important to use human rights law as the basis for the development of criminal law and the scientific foundations of criminalization, taking into account victimological knowledge. The security of the state depends on the vector of development, ideology of victimizing society (victim-lamb, victim-hero), absolutization of human rights and harmonious (proportional and legal) responsibility for their violation. Therefore, the security of the individual cannot be secondary to the security of society or the state. Equality, legal certainty, proportionality, predictability, subsidiarity, legality as principles of criminal law and socio-legal grounds for criminalization should be considered exclusively in the vector of

the primacy of the rights and safety of all victims of a criminal offense, complementarity of coercion and decent treatment, compensation, restitution and rehabilitation, satisfaction, and guarantees of non-repetition of harm to the victim.

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