



INTERNATIONAL STANDARDS FOR ENSURING THE SAFETY OF PARTICIPANTS IN CRIMINAL PROCEEDINGS

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Article history:	Abstract:
Received: December 14 th 2023 Accepted: January 10 th 2024 Published: February 14 th 2024	This article will focus on international standards for ensuring the safety of participants in criminal proceedings. Issues such as which international documents establish the safety of participants in criminal proceedings and what norms exist are also being investigated.
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The problems of protection and protection of the rights, freedoms and legal interests of those who assist in criminal justice have been reflected in international normative legal documents, for example: "Universal Declaration of Human Rights" (adopted by the UN General Assembly on December 10, 1948)¹; "International Covenant on Civil and Political Rights" (adopted by the UN General Assembly on December 16, 1966)²; Caracas Declaration (adopted by the Sixth Congress of the United Nations on the Prevention of Crime and the Combating of Offenders on December 15, 1980)³ and a number of other international standards in the field of human rights protection.

The Universal Declaration of Human Rights does not contain special norms in the field of ensuring the safety of participants in criminal proceedings, but defines their subjective rights and legal interests: everyone's right to life, liberty, and privacy (Article 3); the right to appropriate recourse (Article 5); the right to equal protection of the law (Article 7); Article 8 Right to housing security (Article 12)⁴, it allows the states to form national legislation in the field of protection of the rights of the participants in the criminal-procedural activity.

The standards for protecting human rights strengthened in the International Covenant on Civil and Political Rights have further developed. According to Article 8 of this Covenant, every person has the right to liberty and privacy, and this Article allows for the first time in international law to conduct closed court sessions, including ensuring the safety of participants in criminal proceedings. The Caracas Declaration calls on States to improve measures to fight and prevent crime and to respond promptly to the emergence of new types of crimes, tools and criminal methods while declaring the need for maximum security and protection of rights and freedoms for all.

In 1985, at the Seventh United Nations Congress on the Prevention of Crime and the Fight against Offenders, the Guidelines on Crime Prevention and Criminal Justice in the Context of Development and the New International Economic Order were adopted in Milan⁵. Clause 12 of the Guidelines states that the necessary legislative and other measures should be taken to provide victims of crime with effective means of protection, including compensation for damages caused by crimes. Thus, for the first time, the guidelines

¹Всеобщая декларация прав человека (принята Генеральной Ассамблеи ООН 10 декабря 1948 года)// Российская газета, 1998, 10 декабря

²Международный пакт о гражданских и политических правах (принят Генеральной Ассамблеи ООН 16 декабря 1966 года)// Ведомости Верховного Совета СССР, 1976. №17. Ст. 291; // Справочная правовая система «Консультант Плюс: Законодательство».

³Birlashgan Millatlar tashkilotining jinoyatchilikning oldini olish va huquqbuzarlarga qarshi kurashish bo'yicha oltinchi Kongressi hisoboti (Karakas Deklaratsiyasi) (BMTning jinoyatchilikning oldini olish va huquqbuzarlarga qarshi kurashish bo'yicha oltinchi Kongressi tomonidan 1980 yil 15

dekabrda qabul qilingan // <http://docs.cntd.ru/document/901747215> (kirish sanasi 15.04.2019)

⁴Всеобщая декларация прав человека (принята Генеральной Ассамблеи ООН 10 декабря 1948 года)// Российская газета, 1998, 10 декабря

⁵Руководящие принципы в области предупреждения преступности и уголовного правосудия в контексте развития и нового международного экономического порядка https://www.un.org/ru/documents/decl_conv/declarations/crime91.shtml (дата обращения 15.04.2019)



strengthen the need for legal protection and financial compensation for victims of crime.

The first special ICT in protecting participants in criminal proceedings is the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" (adopted at the VII UN Congress on Crime Prevention and Treatment of Offenders on November 29, 1985)⁶. This document reinforces the universal principles of justice for victims of crimes and abuses of power developed by the international community. The Declaration provides an expanded interpretation of "victim of crime" to include not only persons who have suffered harm, including physical injury or moral harm, emotional distress, material damage, or as a result of an act or omission that violates the applicable national criminal laws of Member States. serious violation of fundamental rights, but also individuals. damage caused while trying to help the victims". Thus, for the first time, a victim of a crime is recognised as a person who was not harmed during illegal actions but participated in the investigation process of a criminal case and suffered illegal influence.

The Declaration calls for the creation of judicial and administrative mechanisms that are fair, affordable and affordable, enabling victims to seek redress through formal and informal procedures. Victims seeking compensation through such mechanisms are ordered to be informed of their rights (paragraph 5 of the Declaration)⁷.

The declaration provides standards for dealing with crime victims:

"a) to provide information about their role and the scope, terms and process of conducting court hearings and the results of consideration of their cases, especially in cases of serious crimes;

b) in cases where the personal interests of the victims are concerned, without harming the accused and by the relevant national criminal justice system, to ensure the opportunity to state and consider their opinions and wishes at the relevant stages of the trial;

c) provide appropriate assistance to the victims during the court proceedings;

d) take measures to minimize inconvenience to victims, protect their privacy and safety as necessary, as well as their families and witnesses, and protect them from intimidation and retaliation;

f) to prevent unreasonable delays in the consideration of cases and to enforce decisions or orders to compensate victims"⁸.

Thus, the analysis of the provisions of the declaration allows us to come to the following conclusion: even though this international document has an indirect impact on the problems of ensuring the safety of the participants in criminal proceedings, it is the development of international and national legislation on the problem that has been studied for a long time. determined the directions.

Subsequent UN documents on the protection of participants in criminal proceedings were adopted to fulfil the requirements of the declaration and develop its special provisions.

The "Principles of Effective Prevention and Investigation of Illegal, Arbitrary and General Executions" adopted in the UN resolution on May 24, 1989, contain a provision on the need to apply legal and procedural protection measures to the participants of the criminal process. "Claimants, witnesses, investigators and their families are protected from violence, threats of violence or other forms of intimidation. Any control, directly or indirectly, of individuals, plaintiffs, witnesses and their families and investigators, which may be related to illegal, arbitrary or summary executions. or removed from power (paragraph 15)⁹. Article 17 of this international ICT provides for the right not to disclose the identity of the witness and to receive fair and adequate compensation within a reasonable time (Article 20 of the Principles).

Special attention was paid to issues of protection of participants in criminal proceedings at the Eighth UN Congress on Crime Prevention and

⁶Jinoyatlar va hokimiyatni suiiste'mol qilish qurbonlari uchun adolatning asosiy tamoyillari deklaratsiyasi (Bosh Assambleyaning 1985 yil 29 noyabrdagi 40/34-sonli qarori bilan qabul qilingan) //

https://www.un.org/ru/documents/decl_conv/declarations/po wer.shtml (kirish sanasi 15.04.2019)

⁷Jinoyatlar va hokimiyatni suiiste'mol qilish qurbonlari uchun adolatning asosiy tamoyillari deklaratsiyasi (Bosh Assambleyaning 1985 yil 29 noyabrdagi 40/34-sonli qarori bilan qabul qilingan) //

https://www.un.org/ru/documents/decl_conv/declarations/po wer.shtml (kirish sanasi 15.04.2019)

⁸Jinoyat va suiiste'mol qurbonlari uchun adolatning asosiy tamoyillari deklaratsiyasi

(bosh Assambleyaning 1985 yil 29 noyabrdagi 40/34-sonli qarori bilan qabul qilingan) //

https://www.un.org/ru/documents/decl_conv/declarations/po wer.shtml (kirish sanasi 15.04.2019)

⁹Принципы эффективного предупреждения и расследования незаконных, произвольных и суммарных казней//

https://www.un.org/ru/documents/decl_conv/conventions/ex ecut.shtml(дата обращения 15.04.2019)



Combating Offenders held in Havana in August-September 1990.

Thus, among the documents on issues adopted and studied by the eighth UN Congress are recommendations on international cooperation in the field of crime prevention and criminal justice from a development perspective, according to which countries should develop ways and means to help victims of crime need abuse of power crimes and abuse of power, with particular attention to the implementation of the Declaration of Basic Principles of Justice for Victims and ensuring proper witness protection. According to the results of the eighth Congress of the United Nations, measures were taken to combat international terrorism¹⁰, they provide for the need to protect judges and criminal justice officials (paragraph 22); protect victims and witnesses (clauses 23-26) from illegal influences in connection with the performance of public or service duties by these persons.

The "guidelines for preventing and combating organized crime"¹¹ adopted at the eighth Congress of the United Nations recommend the following measures as necessary security measures for participants in criminal proceedings: confidentiality of information about the protected person provision, personal protection, home protection, temporary sheltering of witnesses, relocation and financial assistance (paragraph 11).

The development of the international legal system in the field of protection of private owners of criminal-procedural activities took its place in the "Declaration on the Protection of All Persons from Enforced Disappearance" adopted on December 18, 1992. found that "each State must take measures to ensure that all participants in an investigation, including the complainant, counsel, witnesses and investigators, are protected from any form of ill-treatment, intimidation or retaliation"¹².

The materials of the 9th UN Congress on Crime Prevention and combating offenders, held in Cairo from April 29 to May 8, 1995, are important for

the formation of an institution for the protection of participants in criminal proceedings within the framework of UN guidelines. The main topics of the 9th Congress were international cooperation, fight against transnational and organized crime, improving the work of the police and other law enforcement agencies, courts, the role of lawyers in society, etc¹³. However, in the context of this study, the characteristic feature of the IX UN Congress is that the participating states overcame the traditional approach to the problem of human rights protection, in which the rights of the suspect (accused) of a crime were the focus, and the protection of the crime victim They called it a priority.

The Charter of the International Tribunal for Yugoslavia adopted by the UN Security Council on May 25, 1993, with resolution 827 (1993) and the UN Security Council on November 8, 1994 (1994) includes the Charter of the International Tribunal for Rwanda. These UN documents indicate the obligation of international tribunal judges to take measures aimed at protecting victims and witnesses. Such protective measures may include conducting closed court proceedings, and keeping secret the identity of the relevant participant in the proceedings (Article 14 of the Statute of the International Tribunal for Rwanda, Article 14 of the Statute of the International Tribunal for Yugoslavia Articles 15, 20, 22).

The activities of the international tribunals for Yugoslavia and Rwanda showed the international community the need to establish an independent and permanent court to solve cases related to genocide, war crimes and crimes against humanity. In July 1998, the Rome Statute of the International Criminal Court was adopted as part of the diplomatic conference in Rome, which established the International Criminal Court¹⁴. An analysis of the provisions of the Rome Statute allows us to conclude that this regulatory document pays great attention to the safety of witnesses, victims and other persons appearing before the court, providing them with advice and other assistance. As effective measures to protect the participants in the criminal proceedings,

¹⁰Xalqaroterrorizmga qarshikurashchoralari (Birlashgan Millatlar Tashkilotining jinoyatchilikning oldini olish va huquqbuzarlarga qarshikurash bo'yicha sakkizinchi Kongress tomonidan qabul qilingan, Gavana, 1990 yil 27 avgust - 7 sentyabr) // spsConsultantplus.

¹¹ Uyushgan jinoyatchilikning oldini olish va unga qarshi kurashish bo'yicha ko'rsatmalar (BMTning jinoyatchilikning oldini olish va huquqbuzarlarga qarshi kurash bo'yicha sakkizinchi Kongressi tomonidan qabul qilingan, Gavana, 1990 yil 27 avgust - 7 sentyabr) // sps "Garant"

¹² Barcha shaxslarni zo'rvonlik bilan yo'qolishdan himoya qilish to'g'risidagi deklaratsiya (1992 yil 18 dekabrda BMT

Bosh Assambleyasining 47-sessiyasining 92-yalpi majlisida 47/133-rezolyutsiya bilan qabul qilingan) // https://www.un.org/ru/documents/decl_conv/declarations/en/forced_disappearances.shtml (kirish sanasi 15.04.2019)

¹³Нигматуллин Р.В. Роль конгрессов ООН по предупреждению преступности и обращению с правонарушителями в становлении международных стандартов по борьбе с преступностью // URL: http://www.juristlib.ru/book_5654.html (дата обращения 15.04.2019)

¹⁴Xalqaro jinoyat sudining Rim nizomi / / URL: <http://www.un.org/ru/>(kirish sanasi 15.04.2019)



the Statute of the International Criminal Court provides for the possibility of conducting closed trials, presenting evidence using electronic or other special means (Part 2 of Article 68). If the disclosure of the identity of the witness or his family members could lead to a serious threat, the prosecutor may not disclose such information, but instead may present his conclusion (Part 5 of Article 68)¹⁵.

In 2000, the "Vienna Declaration on Crime and Justice: Answers to the Problems of the 21st Century" was adopted in Vienna at the tenth UN Congress on Crime Prevention and Combating Offenders¹⁶, it examined the problems of combating transnational organized crime and the relationship between its various types. Among such problems, the need to support crime victims was noted. Paragraph 27 of the Vienna Declaration states the decision to draw up national, regional and international action plans to support victims of crime. In addition, he prioritized the task of completing the negotiations on the Vienna Declaration of the United Nations Convention against Transnational Organized Crime and its protocols, taking into account the interests of all countries (paragraph 5), as well as the development of an effective international legal document against corruption. emphasized the necessity (paragraph 16). These recommendations of the Vienna Declaration were positively received by the world community and on November 15, 2000, the UN General Assembly Resolution 55/25 adopted the UN Convention against Transnational Organized Crime, and on October 31, 2003, the UN General Assembly Resolution 58/4 adopted the UN Anti-Corruption Convention. convention was adopted.

The United Nations Convention against Transnational Organized Crime, focusing on the protection of victims and witnesses (Articles 24, 25), actually defines the following measures to ensure such protection: relocation; not to disclose information about the identity and location of the protected person or to impose restrictions on such disclosure; testifying through the use of means of communication (clause 2). Article 24).

At the same time, these measures are equally applied to victims, as victims are witnesses within the meaning of the UN Convention against Transnational Organized Crime.

Articles 32 and 33 of the UN Convention against Corruption deal with the protection of participants in criminal proceedings.

In these provisions of the UN Convention against Corruption, measures to protect participants in criminal proceedings similar to those provided for in the UN Convention against Transnational Organized Crime have been strengthened.

At the same time, unlike the UN Convention against Transnational Organized Crime, the UN Convention against Corruption emphasizes the need to include in the protection program any person who reports crimes to the competent authorities.

The procedure for implementing the instructions of the UN Convention against Corruption on ensuring the protection of participants in criminal proceedings is defined in the technical manual on the implementation of the UN Convention against Corruption issued by the UN Office on Drugs and Crime in 2010¹⁷.

The next 12th UN Congress on Crime Prevention and Combating Offenders was held in December 2010, and the final document was the adoption of El Salvador's Declaration on Comprehensive Strategies to Respond to Global Challenges: Crime and criminal justice prevention systems and their development in a changing world. As the name of the document shows, the Declaration of Salvador reflects the main criminal threats to the world community, as well as ways to fight against these threats. Taking into account that the issues of child protection occupy a central place in the work of the Congress, these issues are also reflected in the Declaration of El Salvador. In particular, recognizing the importance of protecting child victims and witnesses of crimes, the Declaration of El Salvador states the need to prevent their re-victimization (paragraph 26). Also, the Declaration of El Salvador called on States to develop and strengthen legislation, policies and practices to punish all types of crimes against children and youth, as well as to protect victims and witnesses of crime (paragraph 28).

The last XIII UN Congress was held on April 12-19, 2015. Doha (Qatar) and the outcome of its work is to "incorporate crime prevention and criminal justice into the broader United Nations agenda to help address social and economic challenges and ensure the rule of

¹⁵Xalqaro jinoyat sudining Rim nizomi / / URL: <http://www.un.org/ru/> (kirish sanasi 15.04.2019)

¹⁶Венская декларация о преступности и правосудии: ответы на вызовы XXI века (Принята на Десятом Конгрессе Организации Объединенных Наций по предупреждению преступности и обращению с правонарушителями, Вена, 10 – 17 апреля 2000 года)

https://www.un.org/ru/documents/decl_conv/declarations/vedec.shtml (дата обращения 15.04.2019)

¹⁷Техническом руководстве по осуществлению Конвенции ООН против коррупции http://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/10-53208_ebook_r.pdf (дата обращения 15.04.2019)



law at the national and international levels, as well as public participation". "Doha declaration on the introduction of the country"¹⁸, in which the countries must fulfill their obligations. To identify and protect victims and witnesses, and to assist them in the criminal justice system's response to all crimes, including corruption and terrorism, in the development of programs aimed at preventing crime and improving the criminal justice system. Wide use of traditional and new information and communication technologies, including identifying public safety issues and encouraging public participation. 5,000 representatives from 142 countries participated in the congress.

Thus, if since the establishment of the United Nations in 1945, the issues of protection of persons involved in the field of criminal procedural legal relations were considered only from the point of view of the general issues of protection of human rights and freedoms, since the second half of the 20th century, the UN criminal independent international standards in the field of protection of process participants have been formed and safety of process participants is ensured.

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¹⁸ Ijtimoiy va iqtisodiy muammolarni hal qilish hamda milliy va xalqaro miqyosda qonun ustuvorligini ta'minlashga ko'maklashish hamda jamoatchilik ishtirokini ta'minlash

maqsadida jinoyatchilikning oldini olish va jinoiy Odil sudlovni Birlashgan Millatlar tashkilotining kengroq kun tartibiga kiritish to'g'risida Doha deklaratsiyasi "



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