

# Protection of Crime Victims in Poland: An Analysis of Key Stages of Its Evolution

**JULIA STARYBRAT<sup>1</sup>**

PhD Student, Deák Ferenc Doctoral School of Law, University of Miskolc; Junior Researcher, Central European Academy, Budapest  
E-mail: julia.starybrat@centraleuropeanacademy.hu

## **ABSTRACT**

The article presents the development of crime victims' rights in Poland over the past decades, focusing on the key stages of this process. After the political transformation in 1989, the protection of victims gained importance, leading to the gradual introduction of new support mechanisms. Some of the most important changes included mediation, restitution, and the expansion of victims' procedural rights, allowing them greater participation in criminal proceedings and better opportunities to pursue their claims. International law, particularly regulations from the European Union and other international organisations, played a crucial role in this development by requiring Poland to adapt its system to global standards of victim protection. Despite progress, challenges remain in the practical implementation of these rights. The main difficulties include the effectiveness of the compensation system, protection against secondary victimisation, and access to professional support. The article examines these changes in the context of the growing importance of victims' rights and emphasises the need for further improvements to the protection system, especially in response to emerging threats such as cybercrime and online violence.

## **KEYWORDS**

Victims, rights, protection, justice, mediation.

## **Protecția victimelor infracțiunilor în Polonia: o analiză a etapelor-cheie ale evoluției sale**

## **REZUMAT**

Articolul prezintă evoluția drepturilor victimelor infracțiunilor în Polonia în ultimele decenii, concentrându-se asupra etapelor-cheie ale acestui proces. După transformarea politică din 1989, protecția victimelor a căpătat o importanță deosebită, ceea ce a condus la introducerea treptată a unor noi mecanisme de sprijin. Unele dintre cele mai importante schimbări au inclus medierea, restituirea prejudiciului și extinderea drepturilor procedurale ale victimelor, oferindu-le o participare mai activă în procedurile penale și oportunități >>

1 ORCID iD: 0009-0009-4837-8460.

>> mai bune de a-și valorifica revendicările. Dreptul internațional, în special reglementările Uniunii Europene și ale altor organizații internaționale, a jucat un rol crucial în acest proces, cerând Poloniei să-și adapteze sistemul la standardele internaționale privind protecția victimelor. În ciuda progreselor realizate, persistă provocări în aplicarea practică a acestor drepturi. Principalele dificultăți includ eficiența sistemului de compensare, protecția împotriva victimizării secundare și accesul la sprijin profesional. Articolul examinează aceste schimbări în contextul creșterii importanței drepturilor victimelor și subliniază necesitatea unor îmbunătățiri suplimentare ale sistemului de protecție, în special ca răspuns la amenințări emergente precum criminalitatea cibernetică și violența online.

**CUVINTE CHEIE**

Victime, drepturi, protecție, justiție, mediere.

## I. INTRODUCTION

The political transformation that began in Poland in 1989 was a turning point for the system of individual rights protection. The democratisation process required not only a reorganisation of the fundamental principles of the state but also a modernisation of institutions and legal mechanisms to align them with the needs of a civic society. One of the key areas of these changes was the protection of crime victims' rights—a group whose position in the Polish legal system had long been marginalised. Legislative and institutional reforms introduced after 1989 established new standards for safeguarding victims, making their rights an essential part of criminal and social policy. The implementation of these reforms was driven not only by internal needs but also by the necessity to comply with international and European human rights standards. In particular, international legal instruments played a major role in shaping the development of Polish laws concerning crime victims.

The United Nations (UN) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power from 1985<sup>2</sup> was one of the first comprehensive international approaches to protecting victims' rights. It emphasised the need for redress, security, and both psychological and material support for victims. Similarly, the Council of Europe Recommendations No. R(85)11 on the position of victims in criminal law and procedure,<sup>3</sup> as well as Recommendation No. R(87)21 on preventing victimisation and assisting victims<sup>4</sup> set standards that influenced legislative changes in many countries, including Poland. Poland's political transformation created conditions for introducing legal and institutional mechanisms that incorporated these international protection

2 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 29 November 1985. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse> (accessed on 9.12.2024).

3 Recommendation No. R (85) 11 of the Committee of Ministers to Member States on the Position of the Victim in the Framework of Criminal Law and Procedure, adopted on 28 June 1985. Available at: <https://rm.coe.int/16804dcae> (accessed on 9.12.2024).

4 Recommendation No. R (87) 21 of the Committee of Ministers to Member States on Assistance to Victims and the Prevention of Victimisation, adopted on 17 September 1987. Available at: <https://rm.coe.int/16805afa5c> (accessed on 9.12.2024).

standards. The United Nations Convention against Transnational Organised Crime, adopted in 2000,<sup>5</sup> highlighted the need to protect victims in the context of cross-border organised crime by introducing, among other measures, witness protection programmes and compensation mechanisms. At the same time, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention of 2011,<sup>6</sup> set out detailed victim protection standards, significantly impacting the development of Polish law in this area. At the European Union level, the 2012/29/EU Directive of the European Parliament and the Council,<sup>7</sup> which established minimum standards for the rights, support, and protection of crime victims, played a key role in harmonising legislation across Member States, including Poland. It also strengthened the victims' position in criminal proceedings.

Changes in Polish legislation included reforms to both the Penal Code of 6 June 1997<sup>8</sup> and the Code of Criminal Procedure of 6 June 1997.<sup>9</sup> Measures were introduced to prevent secondary victimisation, ensure compensation for damages, and promote mediation between victims and offenders. Additionally, the role of victims in criminal proceedings was strengthened by allowing them to act as auxiliary prosecutors. The importance of institutions supporting victims also grew, including the Ombudsman and specialised victim assistance centres. However, a breakthrough in promoting victims' rights came with the adoption of the Polish Charter of Crime Victims' Rights in 1999, which consolidated the rights of victims into a single document, based on both national regulations and international standards. Although the Polish Charter of Crime Victims' Rights is not a legally binding act, it plays an important role as an educational and informational document, raising awareness of victims' rights among both the public and professionals within the justice system. Its creation reflected a growing recognition of crime victims' needs and the necessity of ensuring proper support within a democratic rule of law system.

The study of the evolution of crime victims' rights protection is an important aspect of academic reflection on the development of the legal system. Historical analysis not only helps to understand the origins and directions of legal changes but also provides

5 United Nations Convention against Transnational Organised Crime and the Protocols Thereto, 2000. Available at: [https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED\\_NATIONS\\_CONVENTION\\_AGAINST\\_TRANSNATIONAL\\_ORGANIZED\\_CRIME\\_AND\\_THE\\_PROTOCOLS\\_THEREFO.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREFO.pdf) (accessed on December 9, 2024).

6 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2011. Available at: <https://www.coe.int/en/web/gender-matters/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence> (accessed on 9.12.2024).

7 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. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029> (accessed on December 9, 2024).

8 Act of 6 June 1997, Penal Code, Journal of Laws 2024, item 17 (consolidated text). Available at: <https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/kodeks-karny-16798683> (accessed on 16.12.2024).

9 Act of 6 June 1997, Code of Criminal Procedure, Journal of Laws 2024, item 37. Available at: <https://lexlege.pl/kodeks-postepowania-karnego/> (accessed on 16.12.2024).

valuable insights for those involved in assessing and improving existing regulations. This approach allows us to avoid repeating past mistakes and respond more effectively to contemporary challenges, which is the fundamental goal of the historical-legal perspective.

## II. RIGHTS OF VICTIMS AFTER THE SYSTEMIC TRANSFORMATION

The political transformation that began in 1989 in Central and Eastern Europe was a turning point in the region's history. These changes affected all aspects of political, economic, and social life, marking the end of the bipolar world order, the dissolution of the USSR, and the restoration of sovereignty for over 20 countries. In each country, the transformation involved a fundamental restructuring of the political system and socio-economic framework, shaping the foundations of modern governance and market economies.<sup>10</sup>

In Poland, the decisive stage of the transformation was the Round Table Talks, which symbolised the peaceful nature of the political transition. As a result of these negotiations, "Solidarity" was legalised and partially free elections were held, paving the way for the formation of the first democratic government in Poland's post-war history. The collapse of the Polish United Workers' Party, driven by a prolonged economic crisis, workers' strikes, and growing social resistance against Soviet-type dictatorship, became a symbol of the end of the Polish People's Republic era. With the Act of 29 December 1989, the country's name was officially changed to the Republic of Poland, and it was defined as a democratic state governed by the rule of law, committed to social justice principles.<sup>11</sup>

No less important in shaping the new legal order was the adoption of the Constitution of the Republic of Poland in the referendum on 25 May 1997.<sup>12</sup> This document became the foundation of a democratic state governed by the rule of law, introducing a catalogue of human rights along with mechanisms for their protection. This was particularly significant for the rights of victims of various abuses during the Polish People's Republic era and throughout the transformation process.<sup>13</sup> For those who had suffered human rights violations under the Soviet-type dictatorship, the adoption of the Constitution was a major milestone, as it opened the door to seeking justice within a new, democratic legal system.

10 Leszek Moczulski (1999): *Geopolityczne uwarunkowania rewolucji 1989 r.*, in Andrzej Kojder (ed.): *Rok 1989. Nowa Polska. Odmieniona Europa*, Instytut Lecha Wałęsy, Warszawa, p. 195.

11 Laura Koba (2020): *Prawa człowieka w polskiej transformacji systemowej*, Kraków. Available at: <https://isp.uj.edu.pl/documents/2103800/139368467/Prawa+cz%C5%82owieka+w+polskiej+transformacji+systemowej/b5064bf6-0283-434c-9767-2118ed5bb5a9> (accessed on 9.12.2024).

12 Constitution of the Republic of Poland of 2 April 1997. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970780483/O/D19970483.pdf> (accessed on 9.12.2024).

13 Jerzy Kuciński, Waldemar Jan Wołpiuk (2012): *Zasady ustroju politycznego państwa w Konstytucji Rzeczypospolitej Polskiej z 1997 roku*, Wolters Kluwer, Warszawa.

The fundamental principle established in the Constitution was the inviolable dignity of the individual, which became the foundation of civil rights and freedoms, detailed in Chapter II.<sup>14</sup> This catalogue of rights was based on international legal instruments such as the UN Universal Declaration of Human Rights,<sup>15</sup> the International Covenants on Human Rights,<sup>16</sup> and the European Convention on Human Rights.<sup>17</sup> The adoption of the Constitution also created the legal framework for the establishment of institutions responsible for protecting citizens' rights. In the context of victims' rights, it is important to highlight the adaptation of Polish law to international standards, which included ensuring the right to a fair trial, compensation for harm suffered, and protection against discrimination. The political transformation not only introduced a new legal order but also enabled victims to seek justice more effectively.<sup>18</sup>

The principle of a democratic state governed by the rule of law, defined in Article 2 of the Constitution, serves as the foundation of the state's functioning, requiring authorities to act in accordance with the law and principles of justice. For victims of violations, this principle is particularly important, as it protects against government arbitrariness and ensures equal access to legal remedies, allowing them to pursue justice effectively.<sup>19</sup>

The principle of legality, outlined in Article 7 of the Constitution, requires that every decision made by public authorities must have a legal basis, preventing abuses of power and protecting victims. This principle enhances transparency in public administration, ensuring that citizens clearly understand the legal grounds for decisions and have the ability to effectively challenge violations, safeguarding them from government arbitrariness.<sup>20</sup>

Article 10 of the Constitution, which establishes the principle of separation and balance of powers, guarantees the independence of the judiciary, ensuring impartial adjudication in cases involving rights violations. This principle reduces the risk of arbitrary decisions by the executive and legislative authorities, effectively protecting victims from abuses. It ensures that those affected have access to independent courts and the ability to effectively pursue their rights, forming the foundation of justice and

14 Dorota Fleszer: *Godność i prywatność osoby w świetle Konstytucji Rzeczypospolitej Polskiej*, *Roczniki Administracji i Prawa*, 1/2015, pp. 19–30.

15 The Universal Declaration of Human Rights, 1948. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (accessed on 9.12.2024).

16 International Covenant on Civil and Political Rights, 1966. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (accessed on 9.12.2024).

17 European Convention on Human Rights, 4 November 1950. Available at: [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG) (accessed on December 9, 2024).

18 Maciej Pach (2017): *Specyfika wykładni konstytucji w konstytucyjnym państwie prawa na przykładzie Konstytucji RP z 2 kwietnia 1997 r.*, in *Prawo i polityka w sferze publicznej. Perspektywa wewnętrzna*, Wrocław. Available at: [https://www.repozytorium.uni.wroc.pl/Content/89891/PDF/01\\_01\\_M\\_Pach\\_Specyfika\\_wykladni\\_konstytucji.pdf](https://www.repozytorium.uni.wroc.pl/Content/89891/PDF/01_01_M_Pach_Specyfika_wykladni_konstytucji.pdf) (accessed on 9.12.2024).

19 Jarosław Sozański: *Zasada demokratycznego państwa prawnego w polskiej praktyce prawnej*, *Kwartalnik Naukowy Uczelni Vistula*, 4/2014, pp. 28–40.

20 Przemysław Krzykowski: *Znaczenie zasady praworządności przy wydawaniu decyzji administracyjnych przez organy administracji publicznej*, *Studia Prawnoustrojowe*, 2009, pp. 215–230.

preventing the concentration of power, which is often a source of systemic human rights violations.<sup>21</sup>

The inviolability and inherent dignity of the individual, defined in Article 30 of the Constitution along with personal freedom, regulated in Article 31, are recognised as the foundation of all rights and freedoms. Human dignity is the source of these rights, emphasising that every person, regardless of their experiences, remains a subject of law, deserving respect and protection by the state. The protection of personal freedom ensures that any restriction can only be introduced by law and solely in justified cases in accordance with the principles of a democratic state governed by the rule of law. These regulations protect citizens from abuses of power while ensuring that any state intervention is proportional and necessary, maintaining a balance between public interest and individual rights.<sup>22</sup>

Article 45 of the Constitution safeguards individual interests in cases of legal disputes or violations of civil rights. For crime victims, this provision is particularly important, as it ensures that they can pursue their rights in a transparent and lawful manner. The requirement for cases to be resolved within a reasonable timeframe prevents excessive delays in proceedings, which could hinder the pursuit of justice and exacerbate the suffering of victims. This regulation strengthens the effectiveness of legal protection and helps restore public trust in the justice system.<sup>23</sup>

Article 79 of the Constitution of the Republic of Poland introduces a mechanism for reviewing the conformity of laws with the Constitution, which is a key element of human rights protection in the Polish legal system. This provision allows crime victims to seek constitutional-level legal protection when their rights are violated due to legal provisions that formed the basis for decisions made by public authorities. By eliminating unconstitutional laws, the Constitutional Tribunal helps prevent similar violations in the future. Through the constitutional complaint mechanism, victims can effectively challenge laws that have caused them harm, providing an additional safeguard against abuses by state authorities.<sup>24</sup>

An integral element of human rights protection is the work of the Ombudsman, an institution that ensures equal treatment of all citizens, regardless of their social, political, or economic status. Established on 15 July 1987,<sup>25</sup> the Ombudsman became the second institution of its kind in the socialist bloc. It was granted the status of a constitutional body through the 1997 Constitution of Poland. Articles 208–212 of the Constitution guarantee its independence and impartiality, enabling it to effectively protect civil rights. The combination of the constitutional complaint mechanism with the Ombudsman's activities creates a coherent system of human rights protection, which

21 Grzegorz Kuca (2014): *Zasada podziału władzy w Konstytucji RP z 1997 roku*, Wydawnictwo Sejmowe, Warszawa.

22 Marek Chmaj (2019): *Komentarz do Konstytucji RP: Art. 30, 31, 32, 33*, Difin, Warszawa.

23 Mariusz Śladkowski: *Zasada prawa do sądu w Konstytucji RP, Roczniki Administracji i Prawa*, 1/2024, pp. 15–31.

24 Marcin Dąbrowski: *Zakres podmiotowy skargi konstytucyjnej, Studia Prawnicze*, 4/2004, pp. 21–32.

25 The Act on the Ombudsman was adopted on 15 July 1987. Available at: <https://bip.brpo.gov.pl/pl/content/ustawa-o-rzeczniku-praw-obywatelskich> (accessed on 9.12. 2024).

is a cornerstone of a democratic state governed by the rule of law.<sup>26</sup> It is worth emphasising that the Ombudsman operates as a non-political institution, ensuring equal protection of rights for all citizens.<sup>27</sup>

Particular attention in this system should be given to the protection of children's rights, as they are the most vulnerable social group and often fall victim to crimes. Established under the Act of 6 January 2000,<sup>28</sup> the Office of the Ombudsman for Children supports children in crisis situations, represents their interests, and works to prevent violence, neglect, and abuse. Acting independently and impartially, the Ombudsman has the authority to intervene in cases of children's rights violations, initiate court proceedings, and submit applications to the Constitutional Tribunal in cases where legal provisions fail to comply with children's rights. Collaboration with institutions such as the Ombudsman for Civil Rights and non-governmental organisations strengthens the support and protection system for the youngest members of society.<sup>29</sup>

The introduction of the new Penal Code in 1997 significantly improved the situation of victims, particularly through the obligation to compensate for damages (Article 46 of the Penal Code).<sup>30</sup> This provision allows victims to obtain compensation or redress without the need to file a civil lawsuit. Regulations concerning conditional discontinuation of proceedings (Article 67 § 3 of the Penal Code) further strengthen the protection of victims' interests. These mechanisms not only help victims recover financial losses but also support conflict resolution and foster offender accountability within society.<sup>31</sup>

The Code of Criminal Procedure, amended in 1997,<sup>32</sup> introduced measures strengthening the position of victims in criminal proceedings. According to Article 49 of the Code of Criminal Procedure, a victim may be a natural person, a legal entity, or an institution without legal personality whose rights have been violated or threatened by a crime. During the pre-trial proceedings, the victim holds the status of a party, which allows them to actively participate in clarifying the case. After the indictment is filed, the victim may act as an auxiliary prosecutor (articles 53–55 of the Code of Criminal Procedure), increasing their involvement in the trial. The institution of mediation (Article 23a of the

26 Kazimierz Działocha (1998): *Zasada bezpośredniego stosowania Konstytucji w dziedzinie wolności i praw człowieka*, in Barbara Oliwa-Radzikowska (ed.): *Zbiór studiów przygotowanych z okazji 10-lecia Urzędu Rzecznika Praw Obywatelskich, Biuro Rzecznika Praw Obywatelskich, Biuro RPO*, Warszawa.

27 Andrzej Jackiewicz (2014): *Rzecznik Praw Obywatelskich i Rzecznik Praw Dziecka*, Rozbudowa otwartych zasobów naukowych Repozytorium Uniwersytetu w Białymstoku. Available at: [https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/12848/1/A\\_Jackiewicz\\_Rzecznik\\_Praw\\_Obywatelskich\\_Rzecznik\\_Praw\\_Dziecka.pdf](https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/12848/1/A_Jackiewicz_Rzecznik_Praw_Obywatelskich_Rzecznik_Praw_Dziecka.pdf) (accessed on 9.12.2024).

28 Act of 6 January 2000 on the Ombudsman for Children. Available at: <https://brpd.gov.pl/ustawa/> (accessed on 9.12.2024).

29 Agnieszka Krawczak-Chmielecka: O rozwoju praw dziecka w Polsce i na świecie, *Dziecko krzywdzone. Teoria, badania, praktyka*, 2/2017, pp. 11–23.

30 Act of 6 June 1997, Penal Code. Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970880553> (accessed on 9.12.2024).

31 Tadeusz Bojarski (ed.) (2006): *Zmiany w polskim prawie karnym: po wejściu w życie kodeksu karnego z 1997 roku*, Uniwersytetu Marii Curie-Skłodowskiej.

32 Act of 6 June 1997, Code of Criminal Procedure. Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555> (accessed on 9.12.2024).

Code of Criminal Procedure) enables reaching a settlement or seeking compensation within the criminal process. Additionally, regulations on the protection of victims and witnesses (articles 184–189 of the Code of Criminal Procedure), such as data confidentiality, remote hearings, or physical protection, ensure safety and trust in the justice system. Modern procedural solutions support victims in asserting their rights while implementing the principles of restorative justice.<sup>33</sup>

The political transformation in Poland was a turning point that brought significant changes to the political and legal system. The principles of a democratic state governed by the rule of law, enshrined in the Constitution of the Republic of Poland, established a legal framework ensuring the protection of individual rights and strengthened the position of victims in criminal proceedings. Amendments to the Penal Code and the Code of Criminal Procedure created new opportunities for effectively asserting one's rights, including obtaining compensation for harm suffered. Institutions such as the auxiliary prosecutor and mediation have significantly reinforced the procedural standing of victims. The introduced regulations not only restored public trust in the justice system but also emphasised the fundamental importance of human rights protection.

### III. THE IMPACT OF INTERNATIONAL LAW ON THE RIGHTS OF VICTIMS

The evolution of the protection of victims' rights in Poland has been significantly shaped by recommendations and standards developed on the international stage. These frameworks have contributed to the development of the Polish legal system, strengthening the recognition and enforcement of victims' rights while introducing comprehensive support mechanisms and ensuring their participation in legal proceedings. One of the first groundbreaking documents in this field was the European Convention on the Compensation of Victims of Violent Crimes, adopted in 1983 (although Poland has not ratified it).<sup>34</sup> This Convention influenced the recognition of state responsibility for supporting victims of violent crimes. It imposes an obligation to provide compensation not only to victims but also to dependents who have suffered losses due to the victim's death. It places particular emphasis on situations where the perpetrator is unable to remedy the harm, ensuring that victims are not left to bear the financial consequences of the crime alone. Based on the principles of solidarity and social responsibility, the Convention highlights that the consequences of crimes affect not only individuals but also the entire community. The document requires the widespread dissemination of information about available compensation mechanisms and the provision of compensation covering, among other things, loss of livelihood and medical expenses. At the same time, it excludes the possibility of double compensation to ensure fairness and

33 Kazimierz Zgryzek: *Pozycja procesowa podejrzanego i pokrzywdzonego w postępowaniu w przedmiocie zastosowania środków zabezpieczających w kodyfikacji postępowania karnego z 1928, 1969 i 1997 r.*, *Problemy Prawa Karnego*, 3/2019, pp. 67–87.

34 European Convention on the Compensation of Victims of Violent Crimes, adopted in 1983. Available at: <https://rm.coe.int/1680079751> (accessed on 9.12.2024).

the efficiency of the system. The European Convention became not only a milestone in victim protection but also a foundation for the idea of society's shared responsibility for the consequences of crimes.<sup>35</sup>

The shift in the traditional approach of criminal law, which had primarily focused on the relationship between the state and the offender, began in 1985 with the adoption of Recommendation No. R(85)11 of the Council of Europe on the Position of the Victim in the Framework of Criminal Law and Procedure. This document highlights the stages of criminal proceedings that are particularly significant for the victim from the moment law enforcement authorities receive information about a suspected crime, through the victim's interrogation, to the court proceedings. Each of these stages can be a source of secondary victimisation, emphasising the need for effective protection mechanisms. The recommendation stresses the importance of ensuring adequate protection and safeguarding the interests of the victim at every stage of the process, including compensation, privacy protection, and the minimisation of unnecessary psychological burdens associated with participation in criminal procedures. Particular attention is given to cases where the victim is a minor. In such situations, the recommendation underscores the necessity of providing specialised support from both parents or guardians and qualified professionals capable of offering the child professional psychological and legal assistance.<sup>36</sup>

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted in 1985, introduced an innovative approach to the protection of victims' rights. It provided a broad definition of a victim, encompassing individuals who suffer physical, psychological, emotional, or material harm, as well as violations of their rights. The definition also extended to their relatives and those who support victims. The Declaration emphasised the importance of social solidarity, recognising that the consequences of crimes affect entire communities. A key focus of the document is on respect, compassion, and ensuring victims' access to justice, as well as the protection of their interests at every stage of legal proceedings. It underscores the importance of informing victims about their rights and role in the criminal process, enabling them to actively participate in legal procedures. The Declaration also places particular emphasis on privacy protection, victim safety, and minimising emotional burdens arising from involvement in judicial proceedings. In terms of financial support, the document calls for fair restitution, primarily by offenders, and, if that is not possible, by the state through, for example, victim support funds. Restitution includes the return of property, coverage of medical and rehabilitation costs, and other forms of compensation. A fundamental principle of the Declaration is the provision of comprehensive support, including material, medical, psychological, and social assistance. It also calls for training public officials, such as law enforcement and judicial authorities, to sensitise them

35 Nicholas Katsoris: The European Convention on the Compensation of Victims of Violent Crimes: A Decade of Frustration, *Fordham International Law Journal*, 1/1990, pp. 186–215, Available at: <https://heinonline.org/HOL/P?h=hein.journals/frdint14&i=204> (accessed on 9.12.2024).

36 Matti Joutsen: Listening to the Victim: The Victim's Role in European Criminal Justice Systems, *Wayne Law Review*, 1987, p. 95.

to victims' needs. The UN Declaration became a cornerstone of international standards for victim protection, though its full implementation required adaptation to local conditions and the specific legal frameworks of individual countries.<sup>37</sup>

In response to the challenges related to victim protection, the Council of Europe adopted Recommendation No. R(87)21 in 1987, introducing a more individualised approach to victim support and tools aimed at helping them regain social and emotional stability. The document emphasised that crimes such as domestic violence and sexual abuse require long-term and multidimensional assistance, often extending beyond the traditional criminal justice system. One of the key proposals was the integration of support efforts at the local level to better respond to victims' needs, as well as the active involvement of local communities in providing psychological, social, and material assistance. The Recommendation not only stressed the importance of protecting victims' rights but also focused on helping them return to normal life. The document highlighted the need for public education to combat stereotypes and reduce the risk of violence. It also recommended training for law enforcement officers and healthcare professionals to improve their ability to identify and respond to cases of victimisation. Another significant aspect was the promotion of cooperation between the public and private sectors, aiming to create a more effective victim support system. The Recommendation established standards for coordinated actions, emphasising that their effectiveness depended on regular monitoring and adaptation to emerging needs. It provided a framework for Member States to develop empathetic and comprehensive victim protection systems, addressing the challenges of modern societies.<sup>38</sup>

Similar to Recommendation No. R(87)21, the United Nations Convention against Transnational Organised Crime (2000) focuses on victim protection, adapting its measures to the specifics of transnational crime. Article 25 of the Convention establishes assistance standards, obligating states to provide support to victims, particularly in cases where they face threats of retaliation or intimidation from organised criminal groups. The document mandates the implementation of measures to ensure the physical and psychological safety of victims and their families. Additionally, the Convention requires states to introduce procedures that grant victims access to compensation and restitution, which play a crucial role in addressing both material and non-material damages and in helping victims rebuild their lives. Victims should also have the right to express their views and concerns during criminal proceedings, while ensuring fair trial principles and the right of the accused to defence are respected.<sup>39</sup>

37 Ezzat Fattah (1992): The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: A Constructive Critique, in Ezzat Fattah (ed.): *Towards a Critical Victimology*, Palgrave Macmillan UK, London, pp. 401–424.

38 Council of Europe. Committee of Ministers, & Council of Europe. Directorate of Legal Affairs, Assistance to Victims and Prevention of Victimisation: Recommendation No. R (87) 21 Adopted by the Committee of Ministers of the Council of Europe on 17 September 1987 and Explanatory Memorandum (Vol. 21), Council of Europe, 1988.

39 Cecily Rose: The Creation of a Review Mechanism for the UN Convention against Transnational Organized Crime and Its Protocols, *American Journal of International Law*, 1/2020, pp. 51–67.

While the United Nations Convention focuses on the challenges of organised crime, the Council of Europe Convention addresses violence against women and domestic violence, developing an integrated approach to victim protection and support in this area. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, adopted in 2011 in Istanbul, sets legal and operational standards aimed at ensuring comprehensive protection for victims and effectively combating all forms of violence. The Convention introduces a systemic approach, requiring cooperation between various institutions, including the judiciary, law enforcement, healthcare services, and non-governmental organisations, to create a coherent support system for victims (Article 18). It mandates the provision of a wide range of services such as legal, psychological, financial, and housing assistance (Article 20), as well as the operation of shelters (Article 23), which offer a safe space and support for victims to rebuild their lives. Special attention is given to children who are either victims or witnesses of violence. Article 26 obliges states to implement protective mechanisms and tailored support based on the child's age and best interests. Poland's ratification of the Istanbul Convention led to legislative changes, including an expanded definition of domestic violence, the introduction of restraining orders for perpetrators, and the development of specialised support centres.<sup>40</sup>

The 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, serves as a key complement to international victim protection standards, including the provisions of the Istanbul Convention. This document underscores the need for harmonising victim treatment principles across the European Union, ensuring that every victim is treated with respect, professionalism, and without discrimination, regardless of their personal situation or legal status. The Directive clearly defines victims' rights, covering aspects such as access to information, support, and protection against secondary victimisation. A novel element introduced by the Directive is the obligation to conduct an individual assessment of each victim's needs, allowing for tailored protection measures, including privacy safeguards, avoiding contact with the perpetrator, and psychological support. Special attention is given to children and particularly vulnerable individuals, who require additional protective mechanisms. The implementation of Directive 2012/29/EU in Poland has significantly strengthened victims' positions in criminal proceedings. Victims' rights have been expanded, including access to legal assistance and translation services, and procedures have been introduced to minimise the risk of re-victimisation, such as training for justice system personnel. Like the Istanbul Convention, the Directive emphasises the importance of comprehensive victim support and cross-sectoral cooperation to ensure effective protection and assistance.<sup>41</sup>

40 Lourdes Peroni (2016): Violence against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens, in *Feminist Legal Studies*, Springer, United Kingdom, pp. 49–67.

41 Sławomir Buczman: An Overview of the Law Concerning Protection of Victims of Crime in the View of the Adoption of the Directive 2012/29/EU Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime in the European Union, *ERA Forum*, 2/2013, pp. 235–250.

An essential component of these efforts is the Justice Fund, which operates under Article 43 § 19 of the Executive Penal Code<sup>42</sup> and the Regulation of the Minister of Justice of 13 September 2017.<sup>43</sup> The key priorities of the Fund include assisting victims of crime and their relatives, supporting witnesses, and developing the institutional system of victim protection. The Fund's activities also contribute to the implementation of Directive 2012/29/EU, ensuring comprehensive support for victims and their families while reinforcing a systemic approach to safeguarding their rights.<sup>44</sup>

#### IV. THE POLISH CHARTER OF CRIME VICTIMS' RIGHTS

The protection of crime victims in Poland has evolved over the decades in response to changing social needs and the requirements set by the development of international legal standards. As early as 1976, the Supreme Court, in its guidelines on judicial proceedings, highlighted the need to improve the situation of victims, emphasising the importance of restitution and the active participation of victims in criminal proceedings. These guidelines set a foundation for future reforms, aimed at ensuring more effective protection of victims' interests and strengthening their role within the justice system.<sup>45</sup>

Victimological research indicated that, despite having formal rights, victims rarely exercised them. The main reasons were a lack of sufficient information about their rights and limited access to support mechanisms. These challenges made it necessary to introduce more integrated and systemic solutions. A response to these needs was the development of the Polish Victims' Rights Charter in 1999.<sup>46</sup> Although this document did not introduce new legal norms, its primary goal was to compile all victims' rights in one place and promote their awareness. The Charter aligns with international protection standards such as the 1985 UN Declaration, the 1983 European Convention on the Compensation of Victims of Crime, and various Council of Europe Recommendations. The development of the Polish Victims' Rights Charter was accompanied by broad initiatives, including the establishment of the National Forum for Crime Victims. This forum

42 Act of 6 June 1997, Executive Penal Code. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970900557/U/D19970557Lj.pdf> (accessed on 9.12.2024).

43 Regulation of the Minister of Justice of 13 September 2017 on the Fund for Victim Assistance and Post-Penitentiary Assistance – Justice Fund. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20170001760/O/D20171760.pdf> (accessed on 9.12.2024).

44 Programme I for the implementation of Justice Fund tasks. Available at: [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.gov.pl/attachment/0622a2aa-9307-4f0d-ab53-385829f987d0&ved=2ahUKEwiw3ZSS3OWKAXXq8LsIHb4\\_N3YQFnoECBwQAw&usg=AOvVaw39OZVRu1dwcVNFkCtBndAO](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.gov.pl/attachment/0622a2aa-9307-4f0d-ab53-385829f987d0&ved=2ahUKEwiw3ZSS3OWKAXXq8LsIHb4_N3YQFnoECBwQAw&usg=AOvVaw39OZVRu1dwcVNFkCtBndAO) (accessed 9.12.2024).

45 Ewa Bienkowska (2000): *Wiktymologia w Polsce – dzisiaj i jutro*, in *Ofiary przestępstw: Materiały z I Międzynarodowej Konferencji na rzecz Ofiar Przestępstw*, Ministerstwo Sprawiedliwości, Warszawa.

46 Polish Victims' Rights Charter. Available at: <https://www.gov.pl/attachment/ed6621df-be74-4963-9370-8d5c786093f2> (accessed on 9.12.2024).

played a key role in proposing legislative projects, launching educational programmes, and supporting the development of institutional forms of assistance for victims.

The Victims' Rights Charter refers to constitutional principles such as the protection of private and family life (Article 47) and equality in access to legal protection (articles 31 and 32). It emphasises the need to prevent secondary victimisation by limiting repeated interrogations, protecting personal data, and providing psychological support. The Charter highlights the obligation of public institutions to inform victims about their rights and provide assistance, while also recognising the role of non-governmental organisations. NGOs often fill gaps where state institutions fall short, offering legal, psychological, and material support. The primary goal of the Charter is to ensure effective access to procedures that allow victims to exercise their rights, including compensation, privacy protection, and the ability to pursue claims in both civil and criminal cases.<sup>47</sup>

The right to dignity, respect, and compassion is a natural extension of the guarantees provided by the broadly defined concept of a victim in the Polish Victims' Rights Charter. This right is deeply rooted in the constitutional principle of human dignity protection (Article 30 of the Polish Constitution). Its implementation is the responsibility of public institutions, including the police, the judiciary, healthcare services, and public administration, which are obliged not only to comply with the law but also to foster an atmosphere of trust and respect in their interactions with victims. Examples of these legal standards include Article 14(3) of the Police Act,<sup>48</sup> which requires officers to respect human dignity, as well as provisions in the Law on the Medical Profession and the Code of Medical Ethics,<sup>49</sup> which impose a duty to protect patient privacy and respect their decisions. Similar principles apply to public administration: Article 8 of the Administrative Procedure Code<sup>50</sup> highlights the obligation to build public trust in administrative authorities and to promote legal awareness within society. International standards, such as the Code of Conduct for Law Enforcement Officials<sup>51</sup> and the Council of Europe Declaration on the Police,<sup>52</sup> also emphasise the duty to protect the dignity of crime victims. The Polish Victims' Rights Charter additionally underscores the need to counteract stereotypes that may lead to shifting blame onto the victim, thereby minimising the offender's responsibility. It highlights the importance of educational

47 Monika Sajkowska, Jolanta Szymańczak: Międzynarodowe standardy ochrony ofiar przestępstw, *Dziecko Krzywdzone. Teoria, badania, praktyka*, 1/2004, pp. 6–13.

48 Act of 6 April 1990 on the Police. Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19900300179> (accessed on 9.12.2024).

49 Code of Medical Ethics, adopted on 14 December 1991. Available at: [https://nil.org.pl/uploaded\\_images/1576053297\\_kodeks-etyki-lekarskiej.pdf](https://nil.org.pl/uploaded_images/1576053297_kodeks-etyki-lekarskiej.pdf) (accessed on 9.12.2024).

50 Code of Administrative Procedure, adopted on 14 June 1960. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19600300168/U/D19600168Lj.pdf> (accessed on 9.12.2024).

51 Resolution 34/169 of the United Nations General Assembly: Code of Conduct for Law Enforcement Officials. Available at: <https://opolska.policja.gov.pl/download/81/18112/kodeks-spoustapowaniafunkcjonariuszyporz9dkuprawnego.pdf> (accessed on 9.12.2024).

52 Declaration on the Police: Resolution 690 of the Parliamentary Assembly of the Council of Europe. Available at: <https://opolska.policja.gov.pl/download/81/18110/deklaracjaopolicji.pdf> (accessed on 9.12.2024).

initiatives and cultural shifts to remove barriers that may prevent victims from accessing justice. In cases where the right to dignity is violated—whether by police officers or other institutions—victims have the right to seek compensation and redress under Article 448 of the Civil Code<sup>53</sup> and the Act on Healthcare Institutions.<sup>54</sup>

The right to security and privacy protection for victims complements the principles of dignity and compassion. The Polish Victims' Rights Charter emphasises the importance of minimising the risk of secondary victimisation and ensuring that victims can navigate legal procedures with the least possible burden. Legal provisions such as Article 184 of the Code of Criminal Procedure allow for the concealment of a victim's personal data if there is a concern for their safety, while Article 191 § 3 of the Code of Criminal Procedure restricts disclosure of the victim's residence to investigative authorities only. The Charter also stresses the need to limit contact between the victim and the accused, for example, by providing separate waiting rooms in courts to prevent additional emotional distress. Additionally, the right to anonymity in the media is safeguarded: Article 13(2) of the Press Law<sup>55</sup> prohibits the disclosure of a victim's personal details or image without their consent, which is especially crucial in cases of sexual offences, helping to prevent stigmatisation. The Charter also highlights the responsibility of public authorities, including the police, prosecution, and courts, in ensuring victim safety. Article 15(1)(3) of the Police Act grants law enforcement the power to immediately detain a perpetrator in situations where a victim's life or health is at risk, serving as a protective measure against escalating violence.<sup>56</sup>

The right of victims to unrestricted access to the justice system is an essential element of protecting their security and privacy. The Polish Victims' Rights Charter emphasises their ability to assert their rights, actively participate in criminal proceedings, and access legal assistance on an equal footing with defendants, including the right to a free legal representative in specific cases. These principles stem from Article 6 of the Convention for the Protection of Human Rights and Article 16 of the Code of Criminal Procedure, which obliges authorities to inform victims of their rights.<sup>57</sup> One of the most important rights of victims is the ability to act as an auxiliary prosecutor in public cases, which allows them to influence the course of the trial and independently uphold the charges if the public prosecutor withdraws (articles 53–55 of the Code of Criminal Procedure). The Charter also addresses victims' right to reliable information at every stage of the proceedings, aiming to prevent negative procedural consequences resulting from lack of knowledge.<sup>58</sup> Victims can pursue financial claims in criminal proceedings

53 Act of 23 April 1964, Civil Code. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19640160093/U/D19640093Lj.pdf> (accessed on 9.12.2024).

54 Act of 30 August 1991 on Healthcare Institutions. Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19910910408> (accessed on 9.12.2024).

55 Act of 26 January 1984, Press Law. Available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19840050024/U/D19840024Lj.pdf> (accessed on 9.12.2024).

56 Małgorzata Filip: Media a ofiara przestępstwa, *Biuletyn Kryminologiczny*, 2011, pp. 5–29.

57 Piotr Gensikowski (2020): Art. 16 [Zasada informacji], in Dariusz Drajewicz (ed.): *Kodeks postępowania karnego. Komentarz*, Legalis, Warszawa.

58 Arkadiusz Habiera: Oskarżyciel posiłkowy jako instrument ochrony praw pokrzywdzonego, *Zeszyt Studencki Kół Naukowych Wydziału Prawa i Administracji UAM*, 2017 (special issue), pp.

by filing a civil lawsuit or requesting asset security (articles 62 and 69 of the Code of Criminal Procedure). The Charter highlights their right to actively participate in procedural actions, such as submitting evidence requests, filing complaints, or accessing case files, which strengthens their legal and procedural position.<sup>59</sup>

The Polish Charter of Victims' Rights emphasises the importance of alternative dispute resolution methods such as mediation and reconciliation between the victim and the offender. These approaches not only complement traditional legal mechanisms but also allow for a more flexible and individualised way of addressing the harm caused by a crime. Mediation, which facilitates conflict resolution and restitution, can be initiated at both the pre-trial and trial stages with the approval of the prosecutor or the court. The outcomes of mediation, such as a settlement or actions taken by the offender, may influence the sentencing process, as stipulated in Article 53 § 3 of the Penal Code. Equally significant is the role of reconciliation in the context of conditional discontinuance of criminal proceedings, as outlined in Article 66 § 3 of the Penal Code.<sup>60</sup> Mediation holds particular significance in cases where the parties seek an agreement regarding damages or compensation. In private prosecution cases, reconciliation proceedings, as mandated by Article 489 of the Code of Criminal Procedure, are a compulsory stage before the main trial. At the request of the parties, mediation may also take place before the case is referred to court, and reaching a settlement results in the discontinuation of proceedings. It is also important to mention the possibility of agreements between the parties without the involvement of a mediator, as regulated in Article 341 § 3 and 4 of the Code of Criminal Procedure. Such negotiations can influence the court's decision on the conditional discontinuance of proceedings, highlighting the flexibility of this mechanism as an alternative to traditional judicial procedures.<sup>61</sup>

In addition to alternative methods such as mediation, the right to restitution remains a crucial element of victim protection, particularly in cases where the offender is unable to compensate for the harm caused. The Justice Fund plays a vital role in providing financial compensation and support to crime victims and their families, offering legal, psychological, and material assistance. The Fund's initiatives align with international standards, such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,<sup>62</sup> strengthening the victim protection system and enabling them to effectively assert their rights and obtain compensation for their losses.

37–48.

59 Matylda Gwoździcka-Piotrowska: Uprawnienia jednostki w procesie karnym – ochrona oskarżonego i pokrzywdzonego, *Przegląd Naukowo-Metodyczny. Edukacja dla Bezpieczeństwa*, 2/2009, pp. 92–97.

60 Agnieszka Rękas (2011): *Mediacja w polskim prawie karnym*, Ministerstwo Sprawiedliwości, Warszawa.

61 Janina Waluk: Mediacja jako forma sprawiedliwości naprawczej – korzyści dla stron, *Archiwum Kryminologii*, 2008, pp. 871–883.

62 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Available at: [https://arch-bip.ms.gov.pl/Data/Files/\\_public/bip/prawa\\_czl\\_onz/prawa\\_czlow\\_26\\_7.doc](https://arch-bip.ms.gov.pl/Data/Files/_public/bip/prawa_czl_onz/prawa_czlow_26_7.doc) (accessed on 9.12.2024).

## V. CONCLUSIONS AND PROSPECTS FOR FURTHER DEVELOPMENT OF VICTIMS' RIGHTS

The political transformation of 1989 was a turning point that initiated an evolution in the perception of victims' roles within the Polish legal system. As a result of this process, not only were national regulations aligned with international standards for the protection of crime victims, but new legal mechanisms were also introduced, such as mediation between the victim and the offender, the obligation to compensate for damages, and the strengthening of victims' positions in criminal proceedings. These changes aimed to enhance access to justice and make the legal system more responsive to the needs of victims, including their right to security, dignity, and support.

The Justice Fund plays a crucial role in implementing these objectives by providing support to crime victims and their families. Its activities include legal, psychological, and material assistance, as well as supporting the development of institutions dedicated to victim protection. The Fund serves as a tool for implementing international standards, such as Directive 2012/29/EU, enabling victims to effectively assert their rights and mitigating the consequences of crimes.

Nevertheless, the accessibility of mechanisms such as mediation and compensation still leaves much to be desired in terms of their practical implementation. From an international perspective, the discussed regulations highlight the need for the systematic strengthening of victims' rights. Fundamental areas of protection, including the right to dignity, privacy, a fair trial, and the effective pursuit of financial claims, form the basis of both national and international standards for crime victim protection. Documents such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Directive 2012/29/EU emphasise the necessity of a comprehensive and sensitive approach to victims' needs. To translate these standards into reality, it is essential not only to introduce further legislative changes but also to eliminate procedural barriers that hinder victims from effectively enforcing their rights. The development of support institutions, such as the Justice Fund, is particularly important, as they provide access to legal, psychological, and material assistance. Achieving these goals requires the engagement of all entities working for victims, which would help create a more effective, accessible, and internationally compliant protection system. A key role in the recovery process is played by legal and psychological assistance, which should be easily accessible and tailored to the individual needs of victims. Additionally, promoting alternative dispute resolution methods, such as mediation, can not only facilitate restitution but also enhance victims' sense of justice and active participation in proceedings. By enabling direct dialogue between the victim and the offender, mediation creates a space for developing satisfactory solutions that support the process of rebuilding victims' lives after the harm they have suffered.

The future development of victims' rights should focus on implementing comprehensive solutions that not only align with international standards but also address the specific needs of groups particularly vulnerable to victimisation. In this context, legislative changes alone are not enough—greater involvement of public institutions and non-governmental organisations is crucial in building an integrated support system

for victims. This system should provide a wide range of services, including legal and psychological assistance, as well as access to swift and effective procedures for pursuing claims and obtaining financial support. It is also essential to recognise the crucial role of education in raising awareness of victims' rights both among law enforcement representatives and within society. Such initiatives can significantly reduce secondary victimisation, which often results from the inappropriate treatment of victims by those involved in criminal proceedings.

Improving the competence and sensitivity of law enforcement officers and other professionals plays a key role in creating a legal system better suited to the needs of victims. Effective changes in this area can only be achieved through an integrated approach that combines legislative reforms, public education, and the development of institutional support mechanisms. These efforts can contribute to building a more inclusive and victim-sensitive protection system, one that not only meets international standards but also proves effective in practice, genuinely improving the situation of victims.

It is important to emphasise that emerging challenges, such as cybercrime, necessitate the introduction of additional protection and support mechanisms for victims. Given the rapid advancement of technology, it is crucial to adapt the legal system to effectively counter new forms of crime, which can lead to large-scale victimisation. The development of online support tools, specialised protection programmes, and international cooperation in combating cybercrime should become a priority to effectively address these challenges and enhance victim protection in the 21<sup>st</sup> century.