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Problems of Victim Identification in Violation of Traffic Safety Rules or Vehicle Operation by People Steering Dransportation Devices

Key problems arising in the course of identification of victim as party to the criminal process are analyzed along with separation of the definition of victim as crime (traffic violation) classifying element.

It is identified that victim's presence is obligatory to classify the crime under Art. 286 of the Criminal Code of Ukraine. Taking into account that the only legitimate definition of crime victim is contained in the Art. 55 (1) of the Criminal Procedure Code of Ukraine, it can be equally applied either to criminal or to criminal procedure legislation.

Key difference between criminal and criminal procedural definitions of victim is in the following: 1) victim of a crime may sometimes not be inflicted with damage by commission of socially

dangerous act but threatened with it. Criminal Procedure Code of Ukraine clearly focuses on physical, moral or property damage; 2) domestic criminal legislation defined person as a victim since the moment of crime commission regardless of whether it was registered or not. In the course of criminal proceeding person is defined as a victim since the commission of relevant crime led to physical, moral or property damage, but certain rights and obligations arise only after the victim submitted an application on commission of a crime against this person with inclusion as a party of a criminal proceeding and written approval of its status of victim submitted to investigator, prosecutor or judge; 3) other individuals and legal entities can be defined as victims in the course of criminal proceeding.

If a crime under Art. 286 of the Criminal Code of Ukraine leads to physical damage – moderate bodily injury, grave bodily injury or death – person is identified as a victim according to both definitions. It means that the very fact of damage itself is a substantial ground to identify this person as a victim even if this status is rejected by him/her. Still, Criminal Procedure Code of Ukraine requires the abovementioned fact to be supported by the application on commission of a crime against this person with inclusion as a party of a criminal proceeding and written approval of its status of victim submitted to investigator, prosecutor or judge.

Keywords: violation of traffic safety rules, vehicle operation, victim as a participant of criminal proceeding, victim as constituent element of crime, private charge, reconciliation under agreements.