MINISTRY OF INTERNAL AFFAIRS OF UKRAINE
NATIONAL ACADEMY OF INTERNAL AFFAIRS

LAW JOURNAL
OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS

Scientific Journal

Volume 14, No. 2
2024

Kyiv
2024

ISSN 2519-4216
E-ISSN 2519-4313
DOI: 10.56215/naia-chasopis/2.2024

Founder:
National Academy of Internal Affairs
Year of foundation: 2011

*Recommended for printing and distribution
via the Internet by the Academic Council
of National Academy of Internal Affairs
(Minutes No. 10 of May 28, 2024)*

Media identifier in the Register of Media Entities R30-02448
Decision of the National Council of Ukraine on Television and Radio Broadcasting
of 11 January 2024 No. 26

The journal is included in the list of professional publications of Ukraine
Category "B". Branch of sciences – legal, specialty – 081 "Law"
(order of the Ministry of Education and Science of Ukraine of December 28, 2019 No. 1643)

The journal is presented international scientometric databases, repositories and scientific systems: DOAJ, CrossRef, ISSN International Centre, ORCID, ERIH PLUS, Electronic repository NAIA, VNLU, Professional publications of Ukraine, Index Copernicus, Google Scholar, UCSB Library, Dimensions, University of Oslo Library, University of Hull Library, SOLO, European University Institute, Leipzig University Library, Cambridge University Library

Law Journal of the National Academy of Internal Affairs / Ed. by S. Cherniavskyi (Editor-in-Chief) et al. Kyiv: National Academy of Internal Affairs, 2024. Vol. 14, No. 2. 106 p.

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МІНІСТЕРСТВО ВНУТРІШНІХ СПРАВ УКРАЇНИ
НАЦІОНАЛЬНА АКАДЕМІЯ ВНУТРІШНІХ СПРАВ

ЮРИДИЧНИЙ ЧАСОПИС
НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ

Науковий журнал

Том 14, № 2
2024

Київ
2024

ISSN 2519-4216
E-ISSN 2519-4313
DOI: 10.56215/naia-chasopis/2.2024

Засновник:
Національна академія внутрішніх справ
Рік заснування: 2011

Рекомендовано до друку та поширення
через мережу Інтернет Вченою радою
Національної академії внутрішніх справ
(протокол № 10 від 28 травня 2024 р.)

Ідентифікатор медіа в Реєстрі суб'єктів у сфері медіа R30-02448
Рішення Національної ради України з питань телебачення і радіомовлення
від 11 січня 2024 року № 26

Журнал входить до переліку фахових видань України
Категорія «Б». Галузь наук – юридичні, спеціальність – 081 «Право»
(наказ Міністерства освіти і науки України від 28 грудня 2019 р. № 1643)

Журнал представлено в міжнародних наукометричних базах даних, репозитаріях та пошукових системах: DOAJ, CrossRef, ISSN International Centre, ORCID, ERIH PLUS, Електронний репозитарій НАВС, НБУ ім. В.І. Вернадського, Фахові видання України, Index Copernicus, Google Scholar, UCSB Library, Dimensions, University of Oslo Library, University of Hull Library, SOLO, European University Institute, Leipzig University Library, Cambridge University Library

Юридичний часопис Національної академії внутрішніх справ : наук. журн. / [редкол.: С. Чернявський (голов. ред.) та ін.]. – Київ : Нац. акад. внутр. справ, 2024. – Т. 14, № 2. – 106 с.

Адреса редакції:
Національна академія внутрішніх справ
03035, пл. Солом'янська, 1, м. Київ, Україна
Тел.: +38 (044) 520-08-47
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LAW JOURNAL
OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS
Volume 14, No. 2

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LAW JOURNAL
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Volume 14, No. 2

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Том 14, № 2

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UDC 343.347
DOI: 10.56215/naia-chasopis/2.2024.09

Improper performance of professional duties by medical and pharmaceutical professionals: Current status and problems of counteraction

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Abstract
Protecting the lives of citizens and providing qualified medical care is of utmost importance in times of war. At the same time, statistics show that numerous cases of criminal offences committed by healthcare professionals do not result in them actually serving a criminal sentence. The purpose of this study was to investigate the issues of non-performance or improper performance of professional duties by medical and pharmaceutical professionals and to outline the problematic aspects of combating these criminal offences and the ways to address them. The study employed a combination of both general scientific (general dialectical, analysis, synthesis, legal, induction, and deduction) and special (systemic-structural, statistical, critical) methods of knowledge to identify, analyse, and interpret data. The study made it possible to state that there are a range of problems impeding the effective prosecution of medical and pharmaceutical professionals for criminal offences, and to classify the identified complications into subjective and objective ones, related not only to the training of medical professionals, judicial, and law enforcement agencies, but also to legislative gaps and problems in medicine, which lead to a high level of latency of medical torts, ineffective pre-trial investigation of medical torts, as well as avoidance of criminal liability by medical professionals. Therefore, combating these crimes is largely reduced to recording them by law enforcement officials. The unsatisfactory performance of professional duties by doctors not only negatively affects the quality of services provided to patients, but also leads to serious consequences in the form of their death or considerable damage to the health of the victims. The findings of this study will be useful for practitioners of investigative bodies engaged in qualification and investigation of the torts under study, will contribute to the development of a strategy to improve the effectiveness of combating such criminal offences, and will also be useful for medical professionals to prevent mistakes leading to serious consequences for the life and health of patients, as well as in the context of motivation to perform their professional duties in good faith

Keywords:
doctor; patient; life and health; criminal liability; pre-trial investigation and trial

Article's History:
Received: 04.02.2024
Revised: 26.04.2024
Accepted: 28.05.2024

Suggest Citation:
Vozniuk, A., & Hryha, M. (2024). Improper performance of professional duties by medical and pharmaceutical professionals: Current status and problems of counteraction. *Law Journal of the National Academy of Internal Affairs*, 14(2), 9-19. doi: 10.56215/naia-chasopis/2.2024.09.

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Introduction

Protecting the lives and health of Ukrainians is now of unprecedented importance, as both military and civilians are killed or injured and suffer moral distress during the war. Therefore, the state should focus its efforts on ensuring effective protection of these inalienable rights. In this context, it is important to create conditions for providing citizens with quality healthcare services. To protect human life and health, the Criminal Code of Ukraine[1] (CCU) prescribes a range of criminal prohibitions, among which attention should be paid primarily to the failure to perform or improper performance of professional duties by medical professionals (Article 140 of the CCU). This is one of the most widespread and dangerous acts in the system of criminal offences in the field of medicine, the degree of public danger of which is increasing in the context of the ongoing international armed conflict in Ukraine. At the same time, as practice shows, criminal prosecution for this criminal offence is associated with a set of problems that deserve attention.

The study of the problems of combating medical criminal offences has always aroused considerable interest among researchers. Since a considerable number of problems with bringing healthcare professionals to criminal liability for failure to perform or improper performance of their professional duties have not been resolved, the subject under study stays relevant. O.P. Horpyniuk & P.M. Lepisevych (2021) focus on the shortcomings of the legislative wording of the provisions of Article 140 of the CCU, difficulties in law enforcement and the need to consider international standards and ECHR practices in the context of combating the torts under study. Other researchers have also investigated the shortcomings of the legislative construction of Article 140 of the CCU, suggesting ways to improve this legislative construction. N.O. Hutorova & V.M. Pashkov (2019) suggest expanding the differentiation of criminal liability under Article 140 of the CCU by supplementing it with such qualifying features as death of a patient and death of a foetus. V.A. Kononenko & M.I. Demura (2021) substantiate the need for statutory regulation and detailing the forms of the objective side of this tort.

A considerable number of publications are devoted to identifying complications arising in the course of bringing healthcare professionals to criminal liability. N.O. Hutorova & V.M. Pashkov (2019) demonstrate the problems of criminal prosecution under Article 140 of the CCU using evidence from criminal offences committed by obstetricians and gynaecologists during childbirth. K.M. Danchenko & Kh.V. Hereliuk (2020) identified certain problems and gaps in the legislation related to the commission of the torts under study and identified the factors of these criminal offences. The researchers also addressed the problems that complicate the investigation of the criminal offences under study. O.V. Baulin (2020) attributes isolated cases of criminal prosecution for improper performance of professional duties by a healthcare professional against the background of numerous complaints from victims to the problems of proving these torts. K.D. Yanishevska (2020) thoroughly describes the problems of "corporate" healthcare workers and their negative impact on the investigation of medical crimes. R. Stepaniuk *et al*. (2022) identify the key determinants of ineffective investigation of medical crimes in Ukraine based on the review of 78 court decisions on medical negligence.

Considering that a noticeable role in determining medical torts is played by the legal regulation of the rights and obligations of a doctor and a patient, Y. Baulin *et al*. (2019; 2020) and O. Knyzhenko *et al*. (2022) investigate the system of legal regulation of professional duties of a doctor, emphasising the need to improve it, while O. Lisnycha (2020) emphasises the need to reform legislation in the field of patient protection. However, even though various aspects of the liability of medical or pharmaceutical professionals for failure to perform or improper performance of their duties have been investigated by a considerable number of researchers, this topic stays relevant, as many problems are still unresolved.

The purpose of this study was to establish the current state of the criminal offence of non-performance or improper performance of professional duties by medical and pharmaceutical professionals, to identify the problems of countering these torts, and to formulate proposals for their solution.

Materials and Methods

The purpose of this study required the use of a set of both general scientific and special methods. The methodological framework of this study was formed by a general dialectical approach, which helped to analyse a range of problematic aspects of combating improper performance of professional duties by medical and pharmaceutical professionals. The use of the methods of analysis, synthesis, induction, and deduction, in addition to building the logical structure of the scientific article, enabled a thorough analysis of the source base of the study. The following special research methods were employed: systemic and structural – helped to systematise the problems that complicate the counteraction to the criminal offences under study; legal method helped to analyse the criminal law provision that prescribes the liability of medical and pharmaceutical professionals; statistical method – helped to comprehensively investigate empirical sources of research; critical method was used by applying a critical approach to interpret

[1]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.

data on problematic aspects of the issue under study and helped to predict how the effectiveness of bringing medical and pharmaceutical professionals to criminal liability for crimes committed by them could be improved in the future.

The scientific findings were based on a comparative analysis of the statistical data of the Prosecutor General's Office (2024) (on the number of registered criminal offences under Article 140 of the CCU and the results of their pre-trial investigation) and the State Judicial Administration of Ukraine (on the results of consideration of criminal proceedings under Article 140 of CCU in the court of first instance, consideration of appeals in criminal proceedings, persons brought to criminal responsibility, and types of criminal punishment) (Judicial statistics, 2024). The analysed state statistics helped to establish the existence of a substantial difference between the number of registered criminal offences and those in which persons were served with notices of suspicion and proceedings were sent to court, which suggested the presence of substantial complications in the process of bringing to criminal responsibility those guilty of committing the torts under study. The study also included elements of the analysis of Articles 119 and 140 of the CCU[1], as well as Articles 4.1.2., 4.1.6., 4.1.4. of the draft Criminal Code of Ukraine[2], which made it possible to establish what complications in the qualification of the torts under study are related to the imperfection of the legislative construction of the current criminal provision and whether the draft CCU makes provision for their elimination. The scientific developments of Ukrainian (Hutorova & Pashkov, 2019; Horpyniuk & Lepisevych, 2021) and foreign (Bernain *et al*., 2019) researchers on the specific features and problems of criminal prosecution of healthcare professionals for improper performance of professional duties helped to further explain the empirical data obtained and formulate the necessary conclusions.

Results and Discussion

The study of criminal offences involving the failure to perform or improper performance of professional duties by medical and pharmaceutical professionals should begin with the analysis of statistical data on the number of detected torts under Article 140 of the CCU[3], the results of pre-trial investigation and court consideration of relevant criminal proceedings.

According to the Prosecutor General's Office (2024) (Table 1), 654 criminal offences under Article 140 of the CCU were registered in 2020, while in only 4 cases (0.6%) were persons served with a notice of suspicion, in 313 cases (47.9%) proceedings were closed, and in 651 cases (99.5%) no decision was made (on termination or suspension) at the end of the reporting period. In 2021, these figures were 566.2 (0.4%), 310 (54.8%), 566 (100%); in 2022 – 327.2 (0.6%), 183 (56%), 325 (99.4%); in 2023 – 436.2 (0.5%), 192 (44%), 434 (99.5%), respectively. No criminal proceedings under Article 140 of the CCU were brought to court during the above periods.

Table 1. General information on the number of registered criminal offences and the results of their pre-trial investigation

		2020	2021	2022	2023
Number of recorded criminal offences under Article 140 of the CCU		654	566	327	436
Criminal offences in which persons were served with a notice of suspicion		4 (0.6%)	2 (0.4%)	2 (0.6%)	2 (0.5%)
Criminal offences for which proceedings have been referred to court (Items 2, 3 of Article 283 of the CPCU) with an indictment	**Total**	2 (0.3%)	0	2 (0.6%)	2 (0,5%)
	2 (0.3%)	0	2 (0.6%)	2 (0,5%)	
Criminal offences for which proceedings were sent to court with a motion to close under Item 3-1, Part 1, Article 284 of the CPCU		0	0	0	0
Criminal offences in which proceedings were closed	**Total**	313 (47.9%)	310 (54.8%)	183 (56%)	192 (44%)
	under Items 1. 2. 4. 6. 9-1 of Part 1 of Article 284 of the CPC of Ukraine	312 (47.7%)	310 (54.8%)	183 (56%)	192 (44%)
Criminal offences in which no decision was made at the end of the reporting period		651 (99.5%)	566 (100%)	325 (99.4%)	434 (99.5%)

Source: Prosecutor General's Office (2024)

[1]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.
[2]Draft of the Criminal Code of Ukraine. (2024, February). Retrieved from https://newcriminalcode.org.ua/upload/media/2024/02/26/kontrolnyj-tekst-proyektu-kk-25-02-2024.pdf.
[3]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.

The analysis of statistical data shows, firstly, that there are numerous cases of citizens reporting non-performance or improper performance of professional duties by medical professionals. In 2020-2023, an average of almost 500 reports of non-performance or improper performance of professional duties by medical and pharmaceutical professionals were registered annually. At the same time, this figure may be much higher considering the level of latency of crimes under Article 140 of the CCU, due, specifically, to the reluctance of victims to report to law enforcement and the refusal to register relevant criminal proceedings. However, the misclassification of the act should not be excluded, specifically in circumstances that exclude criminal unlawfulness of the act. On the one hand, considering the level of latency, the rate of registered criminal offences under Article 140 of the CCU may be much higher, while on the other hand, the harm to the victim may be caused as a result of lawful behaviour of a healthcare professional, i.e., in circumstances that exclude criminal unlawfulness of the act.

According to K.M. Danchenko & Kh.V. Hereliuk (2020), the latency of these torts committed by medical or pharmaceutical professionals is conditioned by the victims' (both patients and their relatives) lack of faith in fair justice, as well as fear of condemnation in connection with the receipt of medical services that they do not wish to disclose (e.g., abortion). N.O. Hutorova & V.M. Pashkov (2019) are right that in many cases there is no necessary causal link between a doctor's professional activity and harm to the patient's life or health. This is the reason for the closure of criminal proceedings during the pre-trial investigation due to the lack of appropriate grounds for criminal liability of the doctor. In furtherance of this thesis, I.A. Vyshnevska (2021b) rightly notes that even the conscientious performance of professional medical duties in certain situations can lead to negative consequences in the form of harm to the patient's life or health. This is conditioned by factors beyond the control of the healthcare professional, including other concomitant diseases, their exacerbation, improper treatment, etc. In such circumstances, there are no grounds for bringing medical professionals to criminal liability for the negative consequences that have occurred for the patient.

Researchers, including O.V. Baulin (2020), have repeatedly pointed out that cases of criminal prosecution for these crimes are quite rare, although there are many complaints from citizens. The practice of applying Article 140 of the CCU without an active position of the victim is practically absent in Ukraine (Hutorova & Pashkov, 2019). According to K.D. Yanishevska (2020), the relevant proceedings are most often carried out at the request of patients or their relatives.

This brings us to the key point: the performance of healthcare workers in many cases is unsatisfactory and leads to serious consequences for the lives and health of patients. Secondly, we cannot but pay attention to the negligible number of criminal offences in which persons were served with notices of suspicion: on average, this is 0.5% of the torts recorded in 2020-2023 under Article 140 of the CCU. This may be caused by either insufficient evidence to suspect a person of committing a criminal offence under this article or incorrect qualification of the offence. Thirdly, about half of criminal proceedings under Article 140 of the CCU (50.7% on average) are closed at the pre-trial investigation stage (primarily due to the establishment of the absence of an event or corpus delicti). Fourthly, most criminal proceedings are stuck in pre-trial investigation bodies. In 2020, criminal offences for which proceedings were sent to court with an indictment amounted to 0.3% (half of the offences for which suspicion was served). In 2021, no criminal proceedings were sent to court with an indictment, while in 2022 and 2023, there were two such proceedings each, which accounted for 0.6% and 0.5% of recorded torts and 100% of crimes in which persons were served with a notice of suspicion. Thus, most criminal offences in which persons were served with a notice of suspicion were sent to court with an indictment (50% in 2020, and 100% in 2022 and 2023) (Prosecutor General's Office, 2024).

On average, during 2020-2023, criminal offences under Article 140 of the CCU, in which no decision was made at the end of the reporting period, amounted to 99.6% or 500 criminal offences annually. This number of crimes is almost equal to the number of recorded torts in this category (Prosecutor General's Office, 2024). Confirmation of the existence of problems in terms of bringing to criminal responsibility the perpetrators of the above-mentioned criminal offences is found not only in the low level of efficiency of pre-trial investigation of these delinquencies, but also in the analysis of statistical indicators of the State Judicial Administration of Ukraine.

An analysis of the Report of the courts of first instance on the consideration of criminal proceedings (Judicial statistics, 2024) (Table 2) shows that there is a considerable number of proceedings in the courts. About a quarter of the proceedings are considered during the reporting period. However, most of the proceedings were still pending at the end of the reporting period. Of the proceedings that are being considered in court, most cases end up being dismissed. In a small number of cases, proceedings are returned to the prosecutor. At the same time, sentencing took place in 10 proceedings in 2020, 12 proceedings in 2021, 9 proceedings in 2022, and 15 proceedings in 2023 (Judicial statistics, 2024).

Table 2. Report of first instance courts on consideration of criminal proceedings (No. 1-k)

		2020	2021	2022	2023
Number of pending proceedings		143	152	134	129
Number of proceedings reviewed	**Total**	33 (23.1%)	37 (24.3%)	34 (25.3%)	38 (29,5%)
	with the passing of a sentence	10 (6.9%) (30.3%)	12 (7.8%) (32.4%)	9 (6.7%) (26.4%)	15 (11,6%) (39,4%)
	returned to the prosecutor	4 (2.8%) (12.1%)	3 (1.9%) (8.1%)	2 (1.5%) (5.9%)	0
	closure of the proceedings	17 (11.8%) (51.5%)	21 (13.8%) (56.7%)	22 (16.4%) (64.7%)	23 (17,8%) (60,5%)
Number of pending proceedings at the end of the reporting period		110 (76,9%)	115 (75.6%)	100 (74.6%)	91 (70.5%)

Source: Judicial statistics (2024)

Thus, on average, 35 proceedings are being considered in 2020-2023. They accounted for 25.5% of those under consideration. As a result of the review of criminal proceedings in the courts of first instance, the proceedings are usually dismissed (on average, 14.9% of the cases under consideration or 58.4% of the cases reviewed in the period under study), less often a verdict is passed (8.3% and 32.1% respectively), and the case is returned to the prosecutor (2.1% and 6.5%, respectively). At the end of the reporting period, the number of pending proceedings was considerable (74.4% on average for the period).

The above indicates a slow pace of court consideration of criminal proceedings under Article 140 of the CCU and significant backlogs of proceedings in this category at the end of the reporting period. Following the trial, most criminal proceedings are closed, some are returned to the prosecutor, and only about a third of cases result in a verdict.

The statistics on the activity of the courts of appeal regarding the review of sentences under Article 140 of the CCU (Table 3) (No. 2-k) is also worthy of attention. On average, 9 verdicts were reviewed annually in 2021-2023. In 63.5% of cases, verdicts stay unchanged, in 14.1% they are changed, and in 22.4% they are cancelled on various grounds, including acquittal, a new trial, closure of criminal proceedings due to exemption from criminal liability, and a new verdict.

Table 3. Report of the courts of appeal on consideration of appeals in criminal proceedings (No. 2-k)

		2020	2021	2022	2023
Number of verdicts reviewed in total		7	12	9	9
Number of verdicts upheld without change		3 (42.8%)	8 (66.6%)	9 (100%)	4 (44.4%)
Number of sentences changed		2 (28.6%)	2 (16.6%)	–	1 (11.1%)
Number of sentences cancelled	**Total**	2 (28.6%)	2 (16.6%)	–	4 (44.4%)
	of which acquittals	–	–	–	1
	with the appointment of a new trial	1	–	–	2
	with the closure of criminal proceedings in connection with the release of a person from criminal liability	–	2	–	1
	with the passing of a new verdict	1	–	–	1

Source: Judicial statistics (2024)

According to the Report on Persons Brought to Criminal Responsibility and Types of Criminal Punishment (No. 6) (Table 4), court decisions came into force in 2020 against 19 persons, in 2021 – against 24 persons, in 2021 – against 30 persons, in 2022 – against 27 persons. Two people were acquitted in 2021 and 2012, while none in 2020 and 2023. The above suggests that on average, 3 persons were convicted annually in 2020-2023 (11.9% of the persons whose decisions came into force in the reporting period). The proportion of acquittals is also insignificant –on average, 1 person (3.9%) over the period

under study. The majority of proceedings against persons brought to criminal responsibility are closed (on average, 21 persons or 86.3% in this period) (Judicial statistics, 2024).

Table 4. Report on persons brought to criminal responsibility and types of criminal punishment (No. 6)

		2020	2021	2022	2023
Number of persons whose decisions came into force in the reporting period	**Total:**	19	24	30	27
	convicted	2 (10.5%)	3 (12.5%)	4 (13.3%)	3 (11.1%)
	the criminal proceedings were closed	17 (89.5%)	20 (83.3%)	25 (83.3%)	24 (88.9%)
	vindicated	–	2 (8.3%)	–	2 (7.4%)

Source: Judicial statistics (2024)

The above data allow hypothesising that there are a range of problems which hinder the prosecution of persons guilty of the medical torts under study. To confirm or refute this hypothesis, it is necessary to refer to the scientific literature and court practice. Based on the analysis of statistical data for 2017-2019, O.P. Horpyniuk & P.M. Lepisevych (2021) conclude that the low percentage of convictions under Article 140 of the CCU is conditioned by problems in establishing and proving a causal link, unsatisfactory provision of medical needs, miscalculations during medical reforms, unsatisfactory quality of criminal law provisions, and other difficulties faced by law enforcement agencies.

N.O. Hutorova & V.M. Pashkov (2019) showed that medical crimes are often committed in the field of obstetrics and gynaecology. Often, the reasons for the latency of improper performance of professional duties by obstetricians and gynaecologists during childbirth are the passive behaviour of victims, "successful" falsification of medical documents, which leads to the acquittal of doctors, "medical solidarity" and difficulties in conducting forensic examinations. V.V. Franchuk *et al*. (2023) also concluded that adverse medical outcomes in obstetrics are in all cases associated with deficiencies in medical records. While investigating the problems of medical negligence in the decisions of the Supreme Court of Chile, G.R. Bernain *et al*. (2019) also found that gynaecologists committed such violations most often.

O.V. Baulin (2020) believes that the rare cases of criminal prosecution of medical professionals can be explained by the lack of interest of the staff and management of medical institutions where harm to the patient's life or health has been caused in establishing the objective truth, as well as the low level of qualification of pre-trial investigation and prosecution bodies.

An effective procedural means of proving professional misconduct by healthcare professionals is a forensic medical examination conducted in protecting human rights in the healthcare sector. To establish the correctness of the provision and quality of medical care in cases where medical professionals are held legally liable for professional offences, a commission forensic medical examination is mandatory. However, O. Shevchuk *et al*. (2022) emphasise that the implementation of this procedural tool must be of high quality and follow the principles of forensic science, otherwise the implementation of human rights mechanisms in the healthcare sector is ineffective. At the same time, in the context of the issues under study, K.D. Yanishevska (2020) addresses the problems of "corporate" healthcare professionals, which are clearly visible during forensic medical examination, as the relevant experts and suspected or accused healthcare professionals are subordinated to the relevant territorial healthcare authorities. In certain cases, this affects the quality of forensic examinations and may cast doubt on their results.

R. Stepaniuk *et al*. (2022) argue that the problems of investigating medical crimes in Ukraine are conditioned by the following reasons: the specifics of the mechanism of offences committed in the field of professional activity of medical professionals aimed at helping people with various diseases, injuries, and physiological processes; the secrecy of the results of pathological examination of a corpse with a possible medical error for the relatives and friends of the deceased; lack of proper knowledge of the mechanism of medical crimes by investigators, which leads to low efficiency of evidence collection and evaluation; denial of guilt by medical professionals and shifting it to unforeseen reactions of the body, symptoms, violation of the prescribed regime by the patient, imperfect equipment, violations by other medical professionals, etc.; corporate confrontation between doctors involved in the case as forensic experts or witnesses; absence of independent forensic medical examination institutions in Ukraine and the ineffective system of protecting medical documents from unlawful access.

Y. Baulin *et al*. (2019; 2020) state that there is an ineffective system of legal regulation of the professional duties of a doctor, which not only worsens the quality of medical services but also leads to unjustified prosecution of a doctor, and therefore O. Knyzhenko *et al*. (2022) propose to detail the duties of a healthcare professional at the level of separate national-level

legislative acts, rather than departmental ones, which would consolidate these duties considering the level of development of the healthcare sector. O. Lisnycha (2020) substantiates the need to reform legislation in the field of patient protection by unifying and systematising the legislative provisions governing patient rights in a single regulation.

Many researchers focus on the imperfection of the grounds for criminal liability of healthcare professionals for failure to perform or improper performance of their professional duties. O.P. Horpyniuk & P.M. Lepisevych (2021) conclude that this leads to frequent errors in law enforcement. N.O. Hutorova & V.M. Pashkov (2019) argue that the current construction of Article 140 of the CCU does not correspond to the degree of public danger of certain types of these acts.

There are tangible shortcomings related to the quality of the criminal law prohibition under Article 140 of the CCU[1]. Part of the difficulty of bringing medical and pharmaceutical professionals to criminal liability for failure to perform or improper performance of their professional duties is related to the imperfection of criminal law. Thus, K.M. Danchenko & Kh.V. Hereliuk (2020) and I.A. Vyshnevska (2021a) have repeatedly addressed the inconsistency of the title of Article 140 of the CCU with its disposition, since the title does not mention anything about the failure to perform professional duties by a medical or pharmaceutical worker, which is also criminalised in this provision. V.A. Kononenko & M.I. Demura (2021), based on a generalisation of judicial practice, conclude that there is no single approach to determining the objective side of this type of crime. Yu. Leheza (2022) substantiates the expediency of concretising the norms of current legislation governing the liability of medical professionals in the context of applying circumstances that exclude the criminality of an act.

The draft CCU does not contain such a crime as improper performance of professional duties by a medical or pharmaceutical worker, although I.A. Vyshnevska (2021a) made relevant proposals. The researcher proposed to establish a special corpus delicti in the new Criminal Code of Ukraine, which would prescribe criminal liability of medical and pharmaceutical workers for failure to perform or improper performance of professional duties. However, Article 4.1.2 of the draft CCU recognises the commission of an offence under Articles 4.1.6 (Causing death by negligence) or 4.1.14 (Causing death of a human foetus by negligence) as a two-degree mitigating factor if the death of a person or the death of a human foetus is caused by improper performance of an urgent professional duty by a healthcare professional due to their physical, mental, or emotional overload[2]. Clearly, it is correct to refuse to refer in this provision to the failure to perform such an obligation, since such an act is more dangerous than improper performance. In other words, in case of failure to perform a healthcare professional's duty, liability should be more severe, as opposed to improper performance.

The sanctions of Article 140 of the CCU raised many questions. Since the improper performance of professional duties by a medical or pharmaceutical professional in some cases results in the death of the victim or even several victims (e.g., if a mother and an infant die during or after childbirth), there are grounds to compare the sanctions of Article 140 of the CCU with those of Article 119 of the CCU[3]. In fact, there is a competition between general and special rules.

Negligent homicide under Part 1 of Article 119 of the CCU is punishable by alternative punishments: restriction of liberty (3-5 years) or imprisonment (3-5 years), while under Pat 2 of Article 119 of the CCU – imprisonment (3-5 years)[4]. For a criminal offence under Part 1 of Article 140 of the CCU, alternative punishments may be applied in the form of deprivation of the right to hold certain positions or engage in certain activities (up to 5 years) or correctional labour (up to 2 years), or restriction of liberty (up to 2 years), or imprisonment (up to 2 years), and for a criminal offence under Part 1 of Article 140 of the CCU – restriction of liberty (up to 5 years) or imprisonment (up to 3 years), with deprivation of the right to hold certain positions or engage in certain activities for up to three years (Part 2 of Article 140 of the CCU)[5].

Thus, the sanction of a special rule provides for a milder punishment than the sanction of a general rule. Scientists rightly disagree with this. In this regard, Ya.H. Lyzohub (2005) notes that medical and pharmaceutical workers should be subject to increased requirements for the treatment of a person undergoing treatment, as they have a direct state duty to treat patients and protect their health. Therefore, these special subjects must be subject to adequate, i.e., at least equivalent, state repression to that which exists for ordinary forms of negligent death. O.O. Dudorov (2017) is also right, arguing that the sanctions of the articles under study are inconsistent and substantiating the strengthening of criminal liability for medical torts by appealing to patients' reliance on the professionalism and integrity of doctors. O.P. Horpyniuk & P.M. Lepisevych (2021) propose the establishment of more severe punishment for the actions of medical or pharmaceutical workers that led to the death of a patient and are also supported.

[1]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.
[2]Draft of the Criminal Code of Ukraine. (2024, February). Retrieved from https://newcriminalcode.org.ua/upload/media/2024/02/26/kontrolnyj-tekst-proyektu-kk-25-02-2024.pdf.
[3]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.
[4]Ibidem, 2001.
[5]Ibidem, 2001.

The overly lenient sanction of Article 140 of the CCU allows for the application of probation, and in certain cases, release from punishment on the grounds prescribed in Article 49 of the CCU[1]. Even in the case of grave consequences caused to a minor by a medical or pharmaceutical professional's failure to perform or improper performance of their professional duties due to negligence or dishonesty (Part 2 of Article 140 of the CCU), dismissal due to the expiration of the statute of limitations prescribed in Item 3 of Part 1 of Article 49 of the CCU[2] is possible after 5 years.

In some way related to the previous problem is the debatable issue of determining the consequences and their concretisation in the provision on non-performance or improper performance of professional duties by a medical and pharmaceutical worker, which directly affects the qualification of this crime. The question is whether the grave consequences in the disposition of Article 140 of the CCU include the death of the victim. M.I. Melnyk & M.I. Khavroniuk (2018) and O.O. Dudorov (2017) believe that the consequences in the form of death of the victim are covered by grave consequences specified in Article 140 of the CCU. Ya.H. Lyzohub (2005) and L.P. Brych (2009) deny this conclusion. This issue is of fundamental importance, as it affects the rules for qualifying improper performance of professional duties by a medical and pharmaceutical professional, which resulted in the death of the victim. Several options are possible here: 1) under Article 140 of the CCU; 2) under Article 119 of the CCU; 3) under the combination of Articles 119 and 140 of the CCU[3].

A qualitative solution to these and other problems of qualification of improper performance of professional duties by a medical and pharmaceutical professional is possible in the context of comprehensive reform of criminal law. At the same time, the analysis of the relevant provisions of the draft CC of Ukraine showed that its researchers chose a conceptually different approach. On the one hand, it is clear that the improper performance of professional duties by a medical and pharmaceutical worker that caused death is proposed to be qualified as causing death by negligence (Article 4.1.6 of the draft CCU) or causing the death of a human foetus by negligence (Article 4.1.14 of the draft CCU[4]), i.e., in fact, manslaughter. On the other hand, improper performance of an urgent professional duty by a healthcare worker due to physical, mental, or emotional overload is recognised as a mitigating factor that reduces the severity of these crimes by two degrees. The identified shortcomings of the legislative construction of Article 140 of the CCU clearly need to be eliminated by introducing relevant amendments to this criminal law provision.

Criminal law instruments are undoubtedly an integral part of the mechanism for ensuring the effective performance of professional duties by healthcare professionals, but it should be noted that in some countries civil law instruments are also used in this process. S. Bortnik *et al*. (2020) found that the relationship between patients and healthcare professionals in the United States, France, and Germany is private, governed predominantly by civil law, and liability for violations in the provision of healthcare services by healthcare professionals is limited to compensation for material and moral damage to the patient.

Conclusions

The study of statistics for 2020-2023 on the improper performance of professional duties by healthcare professionals revealed a massive difference between the number of recorded facts of crimes under Article 140 of the CCU. Thus, during this period, an average of almost 500 reports of non-performance or improper performance of professional duties by medical and pharmaceutical professionals were registered annually, but only 3 people were convicted, which is 0.6%. There are grounds to assume that official statistics do not reflect the real state of affairs in this area due to a certain degree of latency of these criminal offences, and to state that a certain number of persons committing these torts avoid criminal liability. It can also be predicted that a considerable number of perpetrators of the crime under Article 140 of the CCU will be released from criminal liability or punishment due to the expiry of the statute of limitations. In any case, the performance of professional duties by healthcare workers is unsatisfactory in many cases and leads to serious consequences for the lives and health of patients. The foregoing confirms the hypothesis that there are a range of problems which hinder the prosecution of persons guilty of the medical torts under study.

Based on the analysis of prosecutorial and judicial statistics and the study of scientific research, the subjective problems that are formed through the influence of participants in the event, criminal proceedings and stakeholders include the passive position of injured patients and their relatives, corruption of judicial and law enforcement agencies, "medical solidarity" or "corporate nature" of medical professionals, low qualifications of medical professionals, insufficient training of law enforcement officers to investigate these torts.

The objective factors that do not depend on the influence of concrete individuals include the need to use a wide range of specialised knowledge and to establish effective interaction between law enforcement

[1]Criminal Code of Ukraine. (2001, April). Retrieved from https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini.htm.
[2]Ibidem, 2001.
[3]Ibidem, 2001.
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and representatives of medical and expert institutions, imperfect document flow that allows for the successful forgery of medical documents, low standardisation of medical professionals, and the difficulty of establishing guilt, specifically in the case of "collective" medical services (i.e., the involvement of several doctors in the treatment of a patient), the flaws in the legislative construction of Article 140 of the CCU, etc. The above list of negative factors is not exhaustive, and the difficulties encountered in bringing to criminal liability for the crimes under study are determined by the conditions of a concrete criminal event.

Future research should focus on developing strategies to prevent unprofessional performance of duties in the medical field, which will not only ensure the prevention of these crimes, but also contribute to improving the quality of medical services and preserving the lives and health of citizens.

Acknowledgements

None.

Conflict of Interest

The authors of this study declare no conflict of interest.

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Неналежне виконання професійних обов'язків медичними та фармацевтичними працівниками: сучасний стан і проблеми протидії

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Анотація

Захист життя громадян і надання кваліфікованої медичної допомоги набуває надважливого значення під час війни. Водночас статистичні дані засвідчують, що численні випадки вчинення кримінальних правопорушень медичними працівниками не завершуються реальним відбуттям останніми кримінального покарання. Метою статті є вивчення питань вчинення невиконання чи неналежного виконання професійних обов'язків медичними та фармацевтичними працівниками, а також окреслення проблемних аспектів протидії цим кримінальним правопорушенням та шляхів їх вирішення. У дослідженні використано сукупність як загальнонаукових (загальний діалектичний, аналізу, синтезу, юридичний, індукції та дедукції), так і спеціальних (системно-структурний, статистичний, критичний) методів пізнання для встановлення, аналізу й тлумачення даних. Здійснене дослідження надало можливість констатувати наявність низки проблем, які стоять на заваді ефективному притягненню до кримінальної відповідальності медичних і фармацевтичних працівників за вчинені кримінальні правопорушення, а також класифікувати виявлені ускладнення на суб'єктивні й об'єктивні, пов'язані не лише з підготовкою медичних працівників, судових і правоохоронних органів, а й із законодавчими прогалинами та проблемами в медицині, що призводять до високого рівня латентності медичних деліктів, неефективного їх досудового розслідування, а також уникнення кримінальної відповідальності медичними працівниками. Тому протидія цим злочинам здебільшого зводиться до їх обліку працівниками правоохоронних органів. Незадовільне виконання професійних обов'язків медиками не просто негативно позначається на якості одержання послуг пацієнтами, а й призводить до тяжких наслідків у вигляді їх смерті чи заподіяння значної шкоди здоров'ю потерпілих. Результати дослідження будуть корисними для практичних працівників слідчих органів, які здійснюють кваліфікацію та розслідування досліджуваних деліктів, сприятимуть розробленню стратегії підвищення ефективності протидії таким кримінальним правопорушенням, а також стануть у нагоді медичним працівникам для недопущення вчинення помилок, що призводять до тяжких наслідків для життя та здоров'я пацієнтів, а також у контексті мотивації до сумлінного виконання професійних обов'язків

Ключові слова:

лікар; пацієнт; життя та здоров'я; кримінальна відповідальність; досудове розслідування та судовий розгляд

UDC 341.645
DOI: 10.56215/naia-chasopis/2.2024.20

National specifics of implementing international standards for the protection of women police officers' rights

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Abstract
Adherence to generally accepted international standards in the area of protecting the rights of women police officers is essential because it improves the country's reputation in the international arena and promotes effective coordination between states in the fight against crime. Therefore, the purpose of this study was to identify the key areas of ensuring equal rights of men and women in law enforcement in Ukraine in the context of the implementation of the European integration course. For this purpose, the study employed historical, comparative, and formal legal methods. The study analysed international legal acts and current national legislation of Ukraine in the field of ensuring and protecting the rights of women who carry out their professional activities in law enforcement agencies. It was found that as of 2024, all countries are characterised by the universalisation of the problem in this area. The study concluded that the issues of women's rights protection are being reactivated due to substantial changes in the social life of European countries. These processes are accompanied by the emergence of negative trends in the professional status of women, rising unemployment and poverty rates, and a decrease in the number of women in elected bodies and government agencies, including law enforcement. It was argued that the focus on international legal standards could become a prerequisite for improving the national regulatory framework for the protection of the rights of

Article's History:
Received: 11.01.2024
Revised: 28.04.2024
Accepted: 28.05.2024

Suggest Citation:
Verenkiotova, O., Mazur, V., & Polishko, N. (2024). National specifics of implementing international standards for the protection of women police officers' rights. *Law Journal of the National Academy of Internal Affairs*, 14(2), 20-30. doi: 10.56215/naia-chasopis/2.2024.20.

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women who carry out professional activities in the police, and for transforming law enforcement practice towards accommodating the interests of this part of society. The practical significance of this study is that its results can be used to improve the work of law enforcement agencies of Ukraine by improving the provisions of domestic protection of the rights of women police officers

Keywords:
gender balance; law enforcement; civil service; European standards; European integration

Introduction

The relevance of the subject under study is explained by the fact that the status of women in law enforcement agencies in individual countries may differ substantially from international standards set by supranational organisations. Some countries face challenges in adapting international standards to their cultural, legal, and social specificities. Considering the growing attention to gender equality and human rights in general, the implementation of international standards for the protection of the rights of women police officers is becoming a priority for many states. Thus, consideration of the national specifics of the implementation of these standards is important for the effective protection of the rights of women working in law enforcement agencies and for improving the overall quality of justice and law enforcement. Integrating a gender perspective into the work of law enforcement agencies is a prerequisite for more effective law enforcement, creating a safer society and strengthening the rule of law within the framework of international and national legal obligations.

Some researchers have investigated these issues in their studies. Thus, M. Kaliman (2021) concluded that it is necessary to adopt a special law on the special status of women police officers, their rights and obligations, and conditions of service following international standards for the protection of the rights of women police officers. Consolidation of these provisions at the legislative level, in the researcher's opinion, will help to reduce violations of the rights of women who carry out their professional activities in the police.

A. Stakhura (2023), comparing the current legislation of Ukraine and the European Union (EU), found that the main manifestations of gender inequality in the law enforcement system are violations of a career, personal, or official nature. According to N. Liakh (2021), the principal measure to ensure the implementation of gender equality in law enforcement agencies is to educate employees. However, the issue of gender policy and the mechanism of its implementation in various spheres of state and society was covered in a fragmented manner. The issues of legislative regulation of the status or organisation of women's service in law enforcement agencies, as well as the difficulties encountered in its implementation, are still unresolved.

The United Nations (UN) Sustainable Development Goal 5[1] calls for the elimination of violence, while Goal 16 calls for strong and stable judicial institutions, with the composition and culture of a country's police force playing a significant role in its ability to achieve these goals. As J. Sebire (2020) notes, in a democratic state, any form of discrimination is unacceptable for the social and political life of civil society. However, gender discrimination and sexual harassment of female police officers by their male colleagues are still problems in EU countries that police departments cannot effectively address.

W.M. Cabilan *et al*. (2023) point out that promoting gender equality in law enforcement is crucial for the well-being of female officers and the creation of a safer and more just community. This issue is relevant in terms of the fact that, according to A. Keddie (2022), in Australia during 2016-2022, the issue of gender equality in law enforcement after numerous reports of high levels of gender discrimination and sexual harassment became one of the most pressing issues in academia.

According to R.A. Aborisade & O.G. Ariyo (2023), who conducted a survey of women police officers in Nigeria, women police officers expressed concern about the existence of structural discriminatory provisions against them. These included the exclusion of married women from service, a ban on unmarried officers becoming pregnant, and a minimum three-year period of service before a female officer could marry. A study conducted by A. Rabrenovic *et al*. (2023) pointed to analogous problems faced by women in the Montenegrin police. The researchers showed that the country is dominated by the stereotypical notion that women should primarily perform formal bureaucratic work rather than managerial work. Therewith, the study highlights insufficient career opportunities for women, poor attitudes of managers, and cases of sexual harassment. D.C. Chu *et al*. (2019) note that these limitations can be partly explained by the fact that there are objectively some areas of law enforcement that are better performed by men than women. This refers to arrests, physical fitness, and stress resistance.

In these studies, the issue of the organisational basis of the mechanism of legal regulation of women's

[1] Resolution Adopted by the General Assembly of United Nations No. 70/1 "On Transforming Our World: The 2030 Agenda for Sustainable Development". (2015, October). Retrieved from https://documents.un.org/doc/undoc/gen/n15/291/89/pdf/n1529189.pdf?token=4U757gaxvqAYvSdvjJ&fe=true.

service in law enforcement agencies following international standards for the protection of their rights is covered only in passing. This determines the following purpose of the study: to identify the main obstacles to ensuring gender equality in law enforcement agencies of Ukraine. The objectives of the study were to analyse the legal regulation of the conditions of service of female police officers in EU countries; to identify factors influencing the process of recruiting female police personnel; the specifics of women's service in the police, as well as factors influencing their service in law enforcement agencies of Ukraine.

Materials and Methods

To fulfil the purpose of this study, comparative legal and formal legal methods were employed. Using the comparative legal method, the study compared various forms and mechanisms of protection of the rights of women who carry out professional activities in law enforcement agencies. In addition, the comparative legal method helped to investigate the variability of types of legal mechanisms in the field of protection of women police officers' rights. The method was used to analyse and highlight the common and distinctive features of gender policy in the law enforcement system of the countries studied. The formal legal method was used to study the general trends in the development of the regulatory framework for the protection of the rights of women police officers in countries. The use of the formal legal method allowed for a comparison of national laws and regulations on the protection of women police officers' rights with international standards. The application of the method helped to identify the specifics of legal regulation of the protection of women police officers' rights in individual countries, analyse how certain international standards have been adapted or implemented into national legislation, and what changes have been made to consider specific national features and context. The historical method helped to investigate how national legislation on the protection of women police officers' rights has changed over time and to consider the chronology of the development of international legal acts in this area.

The choice of the geographical scope of the study – the European Union, the United States of America (USA), Israel, Turkey, and Ukraine – helped to consider the issue of protecting the rights of women police officers in different regions. Such research strategy was chosen to obtain a more comprehensive picture compared to analysing one of these regions. The European Union has a well-developed human rights protection system that includes a wide range of regulations and policies on gender equality and women's rights. The study of EU practices provided an opportunity to analyse the implementation of international standards in developed legal systems. The United States was chosen because of its long-standing experience in the field of human rights protection, which helped to provide valuable information on effective mechanisms for protecting the rights of women police officers. Israel, Turkey, and Ukraine are located on the periphery of Europe, which makes them an interesting case study to examine the impact of different cultural and legal traditions on the implementation of international standards.

To fulfil the purpose and complete the objectives, the study examined international regulations, acts adopted by EU countries to regulate the protection of women's rights and ensure gender equality of men and women in law enforcement. These sources included significant international documents adopted by supranational institutions, such as the UN, which has developed a series of key declarations[1,2,3] and conventions[4,5] of the Council of Europe[6], the Parliament and the Council of the EU[7].

Results

Combating gender imbalance in law enforcement agencies around the world. Human rights are one of the key values of the modern world civilisation, legally consolidated at various levels – international and national. Consolidated in international treaties, they serve as a guide for the development of both individual countries and the international legal system as a whole. The majority of modern member states of the international community, despite their diversity, including political, economic, social, and civilisational characteristics, consider the rule of law and human and civil liberties to be the highest value. Because of this fact and due to the intensive development of positive international law at various levels – international (both universal and

[1] Universal Declaration of Human Rights. (1948, December). Retrieved from https://www.un.org/en/about-us/universal-declaration-of-human-rights.
[2] Declaration on the Elimination of Violence Against Women. (1993, December). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women.
[3] United Nations Millennium Declaration. (2000, September). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-millennium-declaration.
[4] Convention on the Elimination of All Forms of Discrimination Against Women. (1979, December). Retrieved from https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm.
[5] Conventions on the Rights of the Child. (1989, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child.
[6] Declaration by the Committee of Ministers No. (17/03/2021)1 "On Equal Pay and Equal Opportunities for Women and Men in Employment". (2021, March). Retrieved from https://search.coe.int/cm#{%22CoEObjectId%22:[%220900001680a1cb97%22],%22sort%22:[%22CoEValidationDate%20Descending%22]}.
[7] Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. (2011, May). Retrieved from https://www.coe.int/en/web/istanbul-convention.

regional) and national – a range of standards have been formed. This raised the issue of their correlation, coordination, prioritisation, and the need for effective implementation of universal standards in national practice.

From the standpoint of positivism, international human rights standards in modern international law are a specific category that reflects and develops one of the basic principles – the principle of respect and protection of human rights and freedoms. Furthermore, one cannot ignore their deeper meaning, as they are not just rules that develop the principle, and not just international legal obligations. Human rights can be interpreted as universal values, respect for which is a moral obligation of modern states and a guideline for the development of modern society. International human rights standards differ from other social standards: firstly, they are characterised by the fact that they define rights inherent in all people, they cannot be obtained by force or otherwise, they are acquired by a person only at birth. Secondly, the principal obligations arising from international human rights standards apply to states and their organs, not individuals.

The issue of gender equality as one of the necessary conditions for ensuring human rights was first highlighted in the Universal Declaration of Human Rights[1]. Subsequently, they were highlighted in another significant international regulation – the International Covenant on Social, Economic and Cultural Rights[2]. These international regulations contained provisions that guaranteed equal rights for men and women, proclaimed the equality of citizens in any sphere of life, regardless of age, gender, or skin colour. Despite the long history of international regulation of these problems, a series of issues are still controversial or understudied, including the issue of ensuring gender equality in areas where the role of one gender has conventionally prevailed, such as the police.

Different EU countries, the US, and others are addressing this challenge using different approaches. To improve the effectiveness of police work in the United States, programmes have been implemented to attract women to police work. These measures have resulted in an increase in the number of women in the police force in some states. Nevertheless, the overall picture in 2023 shows a considerable gender imbalance (Fig. 1). In France, which has a dualistic centralised system of two national police forces – the civilian national police and the military national gendarmerie – the number of female police officers is growing due to the introduction of various social projects by the government. While in 1980 only six out of 65 police commissioners were women, in 1990 women held 30% of these positions. Despite these results, however, there is still a systemic numerical advantage for men (de Maillard & Skogan, 2020).

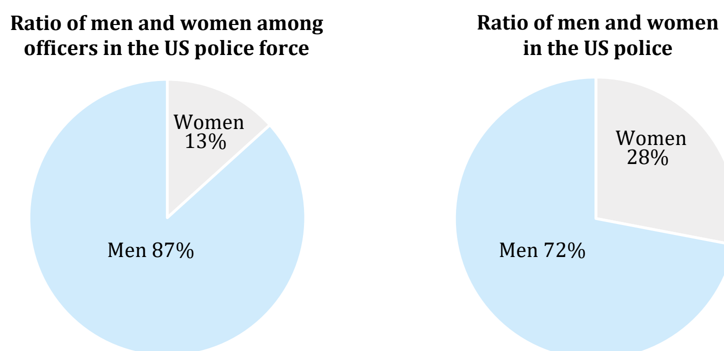

Figure 1. The ratio of men and women in US law enforcement as of 2023
Source: V. Korhonen (2023)

The situation is not too different in Israel and Turkey, countries where women's rights are also an issue that affects religious traditions. There are approximately 75 000 female police officers in the Israeli police force, which is 24% of the total number. The recruitment of minorities into the police force, including women from minority groups, is not only a sign of gender equality, but also reveals the multilayered complexity of the intersection of gender and ethnicity with diversity projects (Meler, 2023). In Turkey, in the Antalya police, the number of women police officers is 18-20% of the total number. Despite being comparable in number to female police officers in other countries, female police officers here have functional limitations. They mainly investigate crimes committed against children and women, but the prospect of their involvement in areas such as intelligence, counter-terrorism, homicide, pickpocketing, fraud, and smuggling is being considered for the future (Tepe, 2021).

Thus, despite the international standards for the protection of the rights of women police officers ratified by the above countries, the exercise of the right to

[1] Universal Declaration of Human Rights. (1948, December). Retrieved from https://www.un.org/en/about-us/universal-declaration-of-human-rights.
[2] International Covenant on Economic, Social and Cultural Rights. (1966, December). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights.

this activity is a problem for women in many countries. This is due to a range of internal and external factors. The former includes all conditions of life in a particular country (economic development, historical, and cultural traditions), while the latter includes political, social, and economic factors of global scale that affect all countries of the world (globalisation, digitalisation). Therewith, the experience of these countries shows that the impact of these factors on the number of women in police forces is not decisive, as regardless of the region studied, their share in law enforcement agencies is within 20-30%. There are even more discrepancies in terms of career restrictions and functional equality. Thus, the number of women in senior positions is lower in the United States than in France, and in Turkey, women police officers face systemic restrictions on their activities within law enforcement agencies.

Analysis of legal regulation of gender equality in law enforcement agencies of Ukraine. Ukraine has become a member of several organisations, both European and international, since gaining independence. Ukraine's membership in the Council of Europe and the Organisation for Security and Cooperation in Europe became momentous events for the country. As a result of its participation in these organisations, Ukraine has signed a considerable number of international legal instruments regulating gender equality. Following their provisions, Ukraine has assumed a series of international obligations to improve the national legal system in the area of legal regulation of gender equality. Despite this, Ukrainian legislation lacks a statutory definition of the term "gender equality", and there is no single formal and doctrinal approach to the concept of gender equality and equal rights in Ukraine.

Ensuring gender equality in society in terms of political, economic, and social life is reflected in the UN Convention on the Elimination of All Forms of Discrimination against Women[1], which at the level of international norms focused on discrimination against women in the public and private spheres, as well as on the responsibility of governments in case of such violations based on gender. The Declaration by the Committee of Ministers No. (17/03/2021)1[2] contained analogous provisions, which proclaimed that discrimination based on gender, which can occur in the political, social, educational, cultural, and other spheres, is an obstacle to the recognition and enjoyment of human rights and fundamental freedoms.

The provisions of the above-mentioned international regulations allow clarifying the term "discrimination". The newest of them deals with the position of women in society and in various spheres of its life. Thus, "discrimination against women" means any distinction, exclusion, or restriction made based on gender that impairs or nullifies the recognition, enjoyment, or exercise by women of their human rights and fundamental freedoms on an equal basis with men in the political, economic, social, public, or any other field, irrespective of their marital status[3].

It is worth noting not only international but also European standards for ensuring gender equality in law enforcement. First of all, this refers to the Recommendation of the Committee (2001)10 of Ministers to the Member States of the Council of Europe dated 19 September 2001[4]. According to the rules of the European Code of Police Ethics, "police officers, regardless of the positions to which they are recruited, shall be recruited based on their competence and experience relevant to the tasks of police work" (Item 22). Furthermore, this legal act states that "recruitment procedures should be based on objective and non-discriminatory criteria (after the necessary vetting) and a policy of recruiting men and women from different social groups, including ethnic minorities, should be applied so that the police reflect the society it serves" (Item 25).

The significance of considering both international and European standards in the field of protection of women police officers in the development of national legislation is crucial from the perspective of Ukraine's political European integration course (Protosavitska, 2022). Ukraine's external course towards European integration requires harmonisation of the activities of state and public institutions and the system of national legislation with European standards and requirements, specifically in the area of gender equality. The gender policy of democratic countries prescribes the involvement of all genders in all areas of public administration.

The establishment of the Council of Europe, which has been engaged in the practical implementation of gender policy for a long time, was one of the main events for addressing gender equality issues for countries throughout the democratic world. The Council of Europe has provided invaluable experience for Eastern European countries, including Ukraine, in addressing the issue of protecting women's rights, including those of police officers. The organisation plays a significant role in the development of gender policy, primarily in European countries. The creation of the Council of Europe marked the beginning of the creation and implementation the first institutional mechanism for gender equality. This refers to the Committee on the Status of Women (1979-1981), which was later renamed

[1] Convention on the Elimination of All Forms of Discrimination Against Women. (1979, December). Retrieved from https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm.
[2] Declaration by the Committee of Ministers No. (17/03/2021)1 "On Equal Pay and Equal Opportunities for Women and Men in Employment". (2021, March). Retrieved from https://search.coe.int/cm#{%22CoEObjectId%22:[%220900001680a1cb97%22],%22sort%22:[%22CoEValidationDate%20Descending%22]}.
[3] Ibidem, 2021.
[4] Recommendation of the Committee of Ministers to Member States on the European Code of Police Ethics. (2001, September). Retrieved from https://www.refworld.org/docid/43f5c7944.html.

the Committee on Equality between Women and Men (1981-1986), while its functions were preserved and expanded. Furthermore, the Steering Committee for Equality between Women and Men has been operating since 1992 within the Council of Europe and simultaneously works within the Human Rights Directorate.

Various aspects of gender issues are covered at regular conferences organised by the Council of Europe at the ministerial level. These measures are of practical importance, as they play a significant role in shaping the gender policies of governments across Europe. Council of Europe member states have agreed to commit themselves to strengthening gender equality and protecting women's rights, and it must be in line with the principles of gender equality, which are directly linked to fundamental ideas about the quality of social justice, human rights, and the nature of democracy. Such obligations of the European member states are stipulated in a series of regulations (international, national, and sectoral agreements and treaties) (Table 1).

Table 1. The principal EU legislative framework on gender law to be harmonised with Ukrainian legislation in terms of protecting the rights of women police officers

Date	Name	Content
1957	EU Treaty[1]	The right to equal pay for men and women; allows for the legal prevention of discrimination at work or in access to goods and services
1975	Directive 75/177[2]	On equal pay for men and women
1976	Directive 76/207[3]	On equal treatment in employment, vocational training and promotion, and working conditions
1979	Directive 79/7[4]	Equal treatment in matters of social security, as amended in 1996
1986	Directive 86/378[5]	Equal treatment in occupational social security schemes, as amended in 1996
1986	Directive 86/613[6]	On equal treatment in employment issues
1992	Directive 92/85[7]	On the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding
1996	Directive 96/34[8]	On the agreement on paternity allowance for childcare, the right of a man to receive maternity allowance for childcare
1997	Directive 97/80[9]	On the burden of proof in cases of discrimination based on sex, sexual orientation, gender identity
2000	Directive 2000/43[10]	On the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin, religion and sexual orientation
2000	Directive 2000/78/EC[11]	Establishes a general framework for equality of treatment in employment and occupation
2004	Directive 2004/113[12]	On equal treatment between men and women in the access to and supply of goods and services

[1] Treaty Establishing the European Economic Community. (1957, March). Retrieved from https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-rome.

[2] Directive of the Council of European Union No. 75/117/EEC "On the Approximation of the Laws of the Member States Relating to the Application of the Principle of Equal Pay for Men and Women". (1975, February). Retrieved from https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31975L0117.

[3] Directive of the Council of European Union No. 76/207/EEC "On the Implementation of the Principle of Equal Treatment for Men and Women as Regards Access to Employment, Vocational Training and Promotion, and Working Conditions". (1976, February). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31976L0207&qid=1718018723117.

[4] Directive of the Council of European Union No. 79/7/EEC "On the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security". (1978, December). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31979L0007&qid=1718018748144.

[5] Directive of the Council of European Union No. 86/378/EEC "On the Implementation of the Principle of Equal Treatment for Men and Women in Occupational Social Security Schemes". (1986, July). Retrieved from https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31986L0378.

[6] Directive of the Council of European Union No. 86/613/EEC "On the Application of the Principle of Equal Treatment Between Men and Women Engaged in an Activity, Including Agriculture, in a Self-Employed Capacity, and on the Protection of Self-Employed Women During Pregnancy and Motherhood". (1986, December). Retrieved from https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31986L0613.

[7] Directive of the Council of European Union No. 92/85/EEC "On the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers Who Have Recently Given Birth or are Breastfeeding (Tenth Individual Directive within the Meaning of Article 16 (1) of Directive 89/391/EEC)". (1992, October). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31992L0085&qid=1718018864464.

[8] Directive of the Council of European Union No. 96/34/EC "On the Framework Agreement on Parental Leave Concluded by UNICE, CEEP and the ETUC". (1996, June). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31996L0034&qid=1718018898847.

[9] Directive of the Council of European Union No. 97/80/EC "On the Burden of Proof in Cases of Discrimination Based on Sex". (1997, December). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31997L0080.

[10] Directive of the Council of European Union No. 2000/43/EC "On Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin". (2000, June). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0043&qid=1718018964641.

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Table 1, Continued

Date	Name	Content
2006	Directive 2006/54[1]	On the principles of equal opportunities and equal treatment in matters of employment and occupation (amended in 2014)
2013	Guidelines dated 24 June 2013[2]	Programme of Action and Plan of Directives for the Protection of Human Rights to Gender Identity (guidelines for the legalisation of LGBTI rights)

Source: systematised by the authors

A.P. Stakhura (2023) notes that almost all articles of legal acts of Ukraine related to military affairs contain provisions on the status and activities of women in a separate part or paragraphs. This, according to the researcher, means that women are considered as a separate category of servicepersons, not equal to the status of men. On the other hand, within the framework of the analysis of the legislation of international legal acts on ensuring the rights of women police officers, which have already been ratified by Ukraine[3,4,5], it follows the standards of equality between men and women in society. The Ukrainian legislators try to maintain the non-discriminatory nature of legal relations, establishing responsibility for violations of legislation in the field of women's rights[6,7,8,9,10], and provide additional guarantees for the protection of motherhood and childhood[11], as this is an essential and priority vector in the development of the state, which is prescribed in the Constitution of Ukraine[12]. Nevertheless, a detailed analysis of EU legislation shows that despite these values and the desire to protect women's rights, the real situation of women police officers in Ukraine is affected by a considerable number of negative factors.

Notably, the provisions of the above-mentioned regulations contain general provisions on ensuring gender equality and protection of women's rights, grounds for civil, administrative, and criminal liability for their violation, but do not reflect the specifics of women's service in law enforcement agencies. Accordingly, in terms of the issues under study, these legal acts are not sufficient to regulate the rights of women police officers and protect them. This is reflected in the ineffective implementation of gender policy in law enforcement. According to this and considering the course of Ukraine towards European integration, it is considered appropriate to improve the current national legislation through its implementation of regulations that have not yet been ratified by Ukraine[13,14,15].

In modern Ukraine, it is difficult to imagine a field of activity in which women do not work. Women are actively mastering new professional skills, irrevocably changing stereotypes, and proving their ability to perform complex and responsible work on an equal footing with men. Feminisation is caused by the objective and subjective factors of contemporary social development, as discussed above. Gender stereotypes, by their very nature, support inequality in all its manifestations and are one of the most difficult problems to solve. Order of the Ministry of Health No. 256[16], which expired in 2017, contained a list of 450 professions prohibited for women. This legal act was contrary to national legislation, EU law, and Ukraine's international commitments on

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gender policy. However, the problem of gender inequality is still relevant for Ukraine's security sector.

At the present stage, it is important to understand that achieving gender equality in law enforcement means not just increasing the number of women in law enforcement. This refers to changing the balance of power in modern society that maintains inequality and gender-based violence. First and foremost, this is about protecting the rights of all people, ensuring and defending their rights and freedoms, and enabling them to fully participate in public life regardless of gender. Apart from the adherence to the numerical target for recruitment to law enforcement agencies in Ukraine, it is also important to recruit representatives of ethnic minorities as one of the key manifestations of the policy of not only gender justice, but also balance. To ensure the listed requirements in the aspect of ensuring and protecting the rights of women police officers, it is considered appropriate to ratify the principal regulations of the EU on the regulation of gender equality issues[1,2]. It is also worth noting that Council Directive 2000/78/EC dated 27 November 2000[3] and Council Directive 2000/43/EC dated 29 June 2000[4] have already been implemented into Ukrainian legislation.

Analysing the provisions of the core law regulating law enforcement, the Law of Ukraine "On the National Police"[5], which defines the status of police officers, including the procedure for their service, one can find only a few provisions that stipulate a small number of rules on the specific legal status of women officers. This provision is considered as generally consistent with the principle of formal, i.e., legal, gender equality. The essence of it is that legally, men and women in law enforcement agencies as employees are equal in everything. This equality stems from the universal status of law enforcement officers as defined by law. This status is mainly administrative legal.

The problem of the effectiveness of the state apparatus in the current realities of public life is of particular significance in the context of armed aggression against Ukraine. The success of the state apparatus is directly related to the quality of the personnel that staffs state agencies, including law enforcement. Public service activities and legal relations arising in their implementation are the key sphere of life in any country, especially at a time when the state faces serious challenges and threats.

Discussion

Police services reflect the society of which they are a part, and changes in the police are therefore partly dependent on those in the society. J. Brown & M. Silvestri (2019) support an analogous position, noting that as the gender ratio in the police is changing and reforms promote a style of policing with a greater emphasis on an ethic of care, it can be expected to reflect more female values (Brown & Silvestri, 2019). W.M. Cabilan *et al*. (2023) expressed a comparable sentiment, noting that in an era of transformation and change, women police officers need to be provided with opportunities for professional growth and development. Therewith, according to the findings of the study and the researcher's conclusions, it is necessary to ensure equal access of women police officers to leadership positions, training, and opportunities for promotion. This can be achieved by creating a support system, clubs, and programmes that empower and promote women in law enforcement. It is also necessary to strictly enforce laws and policies that protect the rights and promote the advancement of women in the field of law. Similarly to the results of this study, such position is supported by H. Reiter (2022), who notes that the comprehensive inclusion of all people in the police service should not be based solely on individual legal measures. It is worth agreeing with the researcher on the necessity of addressing the issue of police culture and the implementation of its ideas in a holistic manner, thus breaking old patterns, and rethinking them in a sustainable way.

The study findings suggest that the police can support or conduct public awareness campaigns that challenge gender biases and stereotypes; offer role models and encourage dialogue. A. Schuck & C. Rabe-Hemp (2024) confirm this opinion, emphasising that rethinking police responsibilities from a caring and gender equality perspective is a viable option to improve police relations with communities and to effectively secure legitimacy within them, especially in marginalised communities (Schuck & Rabe-Hemp, 2024). The results of the study suggest that a comprehensive approach is needed to ensure gender policy in law enforcement agencies in Ukraine. A. Stakhura (2023) adds that it is necessary to overcome manifestations of gender inequality primarily in the following aspects: career, those directly related to the service of women, recruitment, restrictions on women's service in certain areas;

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personal, which relate to harassment in the service, sexism, combining family responsibilities and professional activities, service in terms of uniforms, involvement in duties, and other conditions of service. R.A. Aborisade & O.G. Ariyo (2023) support an analogous position, substantiated in their study, noting that female police officers experience a variety of sexual harassment, intimidation, and violence from their male colleagues, and they feel constrained to report their victimisation. That is why, as A. Keddie (2022) notes, gender inequality cannot be addressed without transforming the hierarchical and masculinised culture of police organisations.

While many of the benefits of women in the police have been recognised, sworn female officers are still largely underrepresented in the workforce (Davenport-Klunder & Hine, 2023). According to J. Sebire (2020), the use of a diverse workforce, especially in terms of female representation at all levels of the police command structure, is a vital factor in shaping police culture. However, many police forces are still traditional hierarchical institutions dominated by men. A. Rabrenovic *et al*. (2023) support a similar opinion, noting that gender inequality in the police is an attempt to shed light on the broader social context and status of women in this structure, demonstrating that women's inequality in it can be at least partially explained by deeply rooted perceptions of women's traditional patriarchal role in the family and society. According to V. Garcia & A. Shenx (2022), regardless of whether the "Western" definition of integration, gender-segregated units, or specialised police for women is used, research shows that in all countries women face barriers to service and are disadvantaged, discriminated against, or marginalised in male-dominated organisations. In this regard, according to N. Liakh (2021), it is necessary to consider the division of regulations governing gender equality in law enforcement into certain groups that have their specifics: international documents that define the fundamental legal framework for ensuring gender equality, regulations of Ukraine governing gender equality in law enforcement, court decisions of international and national courts interpreting these sources of law.

The opposite to the analysed studies and conclusions of the present study is expressed by N. Duclos & C. Jouhanneau (2019), who note that despite the high probability of women joining the police, as past research shows that men and women have analogous reasons for joining the police, women are more likely to discontinue. Accordingly, the issue of gender equality in law enforcement agencies according to international standards for the protection of women police officers is not relevant. The findings of the study suggest the presence of areas of law enforcement wherein women can perform more effectively than their male colleagues. D.C. Chu *et al*. (2019) does not support this position, noting that there are some job duties in law enforcement that are more effectively performed by men: they are significantly more self-efficacious than their female colleagues in the areas of arrests, reporting, and use of police equipment. Furthermore, the researcher notes, men are also much more confident that they are physically and mentally capable of doing police work.

Conclusions

The subject of this study was the protection of the rights of women police officers following the provisions of existing international regulations. Based on the findings obtained, the study summarised theoretical provisions on the regulation of gender equality issues in law enforcement agencies of Ukraine and identified the main shortcomings of the current Ukrainian legislation according to international and European standards for the protection of the rights of women police officers. The conducted study suggests that legally, men and women are equal in law enforcement, which directly follows from the universal status of their work. However, at the same time, it is necessary to further improve both the legislative framework regulating the activities of law enforcement officers following European and international standards in terms of ensuring effective gender policy and other practical measures. Specifically, another aspect in this area should be educational work, which should be carried out primarily among law enforcement officers. The standards of gender equality and inadmissibility of discrimination based on sex, which were analysed in this study, underlie the UN Charter, are the principal standards in the field of women's rights protection and are prescribed in international human rights treaties. Furthermore, an analysis of the provisions of the Universal Declaration of Human Rights and other international legal instruments to which Ukraine is a signatory leads to the conclusion that modern international law has developed a universal norm according to which states are obliged to respect and observe the rights of all women, regardless of their race, language, religion, or profession. Despite the detailed legal formulation of international women's rights standards, problems persist with their enforcement and protection at various levels, including in the area of law enforcement. Analysing the practice of international mechanisms for the protection of the rights of women police officers, the key problematic aspects are violence against women and discrimination in employment, which are among the most difficult to define the legal boundary between abuse of law and violation of law by both the prosecution and the defence. The findings of the conducted study confirm this conclusion and mainly correlate with the problematic aspects of international legal regulation.

Promising areas for further research in this area may be related to the subject under study: finding ways to improve the effectiveness of gender policy implementation in law enforcement agencies of Ukraine according to approved international standards.

Acknowledgements

None.

Conflict of Interest

None.

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Національна специфіка впровадження міжнародних стандартів захисту прав жінок-поліцейських

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Анотація

Дотримання загальновизнаних міжнародних стандартів у сфері захисту прав жінок-поліцейських є актуальним у зв'язку з тим, що цей процес покращує імідж країни на міжнародній арені, водночас сприяє ефективній координації між державами в боротьбі зі злочинністю. Тому метою дослідження стало виявлення основних напрямів забезпечення рівних прав чоловіків і жінок у правоохоронній діяльності в Україні в контексті реалізації євроінтеграційного курсу. Для цього використано історичний, порівняльно-правовий та формально-правовий методи. Проаналізовано міжнародні правові акти та чинне національне законодавство України у сфері забезпечення та захисту прав жінок, які здійснюють свою професійну діяльність у правоохоронних органах. Встановлено, що станом на 2024 рік для всіх країн характерною є універсалізація проблеми в окресленій сфері. Сформульовано висновок, що питання захисту прав жінок реактуалізуються у зв'язку із суттєвими змінами в соціальному житті європейських держав. Ці процеси супроводжуються появою негативних тенденцій щодо професійного становища жінок, зростанням рівня безробіття та бідності, зменшенням кількості жінок у виборних органах, державних структурах, зокрема правоохоронних органах. Аргументовано, що орієнтованість на міжнародно-правові стандарти могла б стати передумовою для вдосконалення внутрішньодержавної нормативної бази в галузі захисту прав жінок, які здійснюють професійну діяльність у поліції, трансформації правозастосовної практики в напрямі врахування інтересів цієї частини соціуму. Практичне значення здійсненого дослідження полягає в тому, що його результати можуть бути використані для покращення роботи правоохоронних органів України шляхом удосконалення положень внутрішньодержавного захисту прав жінок-поліцейських

Ключові слова:

гендерний баланс; правоохоронна діяльність; державна служба; загальноєвропейські стандарти; євроінтеграція

UDC 351.746.2:343.102:343.985
DOI: 10.56215/naia-chasopis/2.2024.31

Impact of the war in Ukraine on the search for persons missing under special circumstances

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Abstract
Given the challenges of the ongoing war, the relevance of this study is conditioned by to the need to improve the practice of searching for Ukrainian citizens who went missing under special circumstances, specifically on the territory of other European states. The purpose of this study was to examine the legislative regulation of the status of missing persons and to analyse the legal regulation of relations related to the identification and search for, as well as social and legal protection of such persons. The methodological framework of the study was formed by both general scientific and special methods of scientific cognition: systemic and structural, informational, terminological, and formal logical method. Using these methods, the study highlighted the content of international and national regulatory legislation, which determines that the legal grounds for conducting a search for missing persons are the legal norms constituting the basis of international, legislative, and departmental regulations and are cumulative. The role of the International Committee of the Red Cross is analysed, and the statistics of identification of persons missing under special circumstances by this organisation was considered. Attention was focused on the activities of the International Commission on Missing Persons, which operated in various countries where the situation of missing persons during armed conflict and military operations arose. It was proved that the effectiveness of the mechanism for searching for missing persons depends on the interpretation of certain provisions of regulatory legislation, as well as on the staffing of bodies and units directly involved in the search for persons of this category. The study focused on the activities of the Commission on Missing Persons under Special Circumstances, which is a permanent advisory body of the Cabinet of Ministers of Ukraine, as well as the significance of the International Commission on Missing Persons. It was concluded that the real situation in countries with ongoing armed conflicts necessitates the introduction and use of advanced digital technologies in the work on searching for missing persons. The study can serve as a basis for improving the legal framework for international cooperation in identifying missing civilians and military personnel in the territories where armed conflicts have occurred or are ongoing

Keywords:
search for persons; armed conflict; war; identification; international cooperation; legal regulation; International Commission on Missing Persons

Article's History:
Received: 27.01.2024
Revised: 30.04.2024
Accepted: 28.05.2024

Suggest Citation:
Zlahoda, O., & Polian, P. (2024). Impact of the war in Ukraine on the search for persons missing under special circumstances. *Law Journal of the National Academy of Internal Affairs*, 14(2), 31-40. doi: 10.56215/naia-chasopis/2.2024.31.

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Introduction

The current situation with the armed conflict in Ukraine calls for the immediate use of comprehensive, prompt, and unprecedented military, economic, political, and legal measures to ensure human rights under martial law. An essential issue in this context is the integration of practices of European countries that have experienced armed conflict and the achievements of international humanitarian law into the Ukrainian system. As a considerable number of people go missing in Ukraine, their relatives and friends are entitled to have information about their missing relatives.

Many researchers investigate the issue of searching for missing persons during armed conflicts based on comparative studies (Doyle & Barnes, 2020; Ablamskyi *et al.*, 2023). The problematic continues to be relevant and requires further investigation. T.I. Blystiv (2020) argues that the problem of searching for missing persons during armed conflict stays very relevant for Ukraine and all countries where there is a fact of disappearance of people under special circumstances. J. Sarkin (2021) notes that enforced disappearance practised by the Syrian regime is classified as the most powerful and sadistic weapon of war. The researcher examines the situation of missing persons in Azerbaijan and Armenia in the territory of Nagorno-Karabakh.

The findings of F. Baça & A. Anxhaku (2023) on the protection of freedoms and human rights, world peace, and international security, namely the role of the United Nations as a human rights defender, are also worthy of attention. Studying the numerous causes and consequences of war, researchers point to significant measures that ensure peace and security in the world but conclude that a considerable number of agreements and treaties, both bilateral and multilateral, between different states have only temporarily avoided conflicts.

According to O. Katz (2023), it is advisable to consider the experience of searching for missing civilians and military personnel in Israel, where the search for these categories of persons has good methodological and material and technical support. In Israel, there is a separate unit of the Israeli police that deals exclusively with the problems of missing persons.

F. O'Brien *et al*. (2023) highlighted the importance of funding in the search for missing persons. Researchers note that a 14% reduction in police personnel in the UK due to austerity measures hinders effective search operations. Noteworthy is the study by L. Huey & L. Ferguson (2023), which is investigates the facts of disappearances during the curfew, through an exploratory descriptive analysis of 291 closed cases of missing persons from the records of the municipal police service.

In the current context, research on this topic has intensified in the Ukrainian academic space, which was caused by the invasion of Ukraine by the Russian Federation. The situation as of 2024 is worrying and requires a comprehensive approach to investigating the problematic aspects of searching for missing persons in special circumstances. In the context of the study, the findings of D. Moiseianko & A. Taranenko (2023) are valuable. According to the researchers, to overcome the challenges of the war, it is necessary to cooperate with many international institutions and organisations, as the main task is to reduce the violation of the rights and legitimate interests of persons who are missing. It is also important to address the illegal and morally unacceptable actions of the Russian military, which hinder the collection of detailed information on the circumstances of disappearances, abductions and captivity, or the possible death of a person, leading to the suspension of the investigation. Researchers consider it necessary to focus on the rules governing the legal consequences associated with the restoration of violated rights after a person goes missing. This is explained by the slow development of legislation in this area, as citizens reported missing sometimes return from captivity after a certain time. It is also worth paying attention to studies aimed at examining the essence and content of temporary restrictions of the right, specifically, on the example of declaring a person missing or declaring them dead during martial law. V.P. Makovii (2023) notes that there are a limited number of persons who can exercise the right to declare a person missing and declare them dead. According to O.V. Zlahoda & M.S. Mishko (2022), considering the increase in the detection of crimes related to the disappearance or abduction of persons and servicemen during martial law in Ukraine, it would be advisable to create a temporary interagency investigative task force to investigate and stop the abduction of servicemen and persons involved in the war in eastern and southern Ukraine.

Despite the wide range of studies, certain aspects of the topic are still unexplored, and the purpose of this study was to analyse the comprehensive indicators of the status of search for persons missing under special circumstances in Ukraine as of 2024. Fulfilling this purpose involves a range of tasks: analysis of the legal framework for searching for missing persons during armed conflict at the national and international levels, analysis and interpretation of numerical indicators that characterise the state of search for missing persons, analysis of the experience of countries that have had analogous problems with searching for missing persons in armed conflict.

Materials and Methods

A fundamental component of the methodological toolkit was the dialectical approach, which helped to investigate contradictory manifestations of reality in their interconnection and interaction. The use of this method helped to expand the knowledge of the conceptual apparatus by studying and reflecting the discussion of researchers who have different visions of the subject

under study. The system approach allowed analysing the object of the study through the components of the system and their interrelationships within a particular organisational structure. As is well known, strategic communications constitute, on the one hand, a system of ideas, opinions, and beliefs that form a background on which interaction unfolds at the international level in the sphere of politics, economy, culture, etc., and on the other hand, a system of institutions, subjects of interaction, which determine the rules and the subject of this interaction.

Using the terminological method, the study examined a range of specific features of searching for persons missing under special circumstances. The systemic-structural method was used for a comprehensive scientific analysis of the structure of international treaties and current national legislation related to the search for persons who went missing under special circumstances. The use of the formal logical method helped to analyse the trends in the development of legal norms governing the search for missing persons in different countries. The comparative legal method was used as the basis for the analysis of definitions from the legislation. To obtain reliable and valid results, the above methods were applied in a mutual relationship and interdependence.

During this study, a survey was conducted with 150 people, namely those who have applied to units that provide assistance in the search for missing persons in special circumstances. This sample was composed of people living in central and western Ukraine who agreed to take part in the survey. An important methodological component of the survey was the formation of a sample of people who simultaneously applied to several units. This allowed the respondents to determine which of them, in their opinion, was the most effective. The respondents were asked to indicate which units they had contacted to search for missing relatives and friends and to identify which unit had helped them the most. The survey was conducted in December 2023. The survey was conducted in a face-to-face format, following the principles of the Helsinki Declaration[1]. All respondents were informed about the purpose of the survey and how their anonymity was ensured.

The regulatory framework for this study is based on international studies, as well as national legislation, namely the Law of Ukraine "On the Legal Status of Persons Missing Under Special Circumstances"[2], "On Operational and Investigative Activities"[3], the Constitution of Ukraine[4] and a range of instructions adopted at the legislative level. Along with this, the study employed empirical methods, which included the investigation of the legal positions of the Convention for the Protection of Human Rights and Fundamental Freedoms[5], the Geneva Convention relative to the Treatment of Prisoners of War[6]. Using the above methods, the study examined the activities of joint investigations by national and international bodies into the responsibility of perpetrators of enforced disappearances in the territory of hostilities, war crimes, and crimes against humanity in Ukraine. To obtain reliable and real research results, the above methods were used in mutual connection and interdependence.

Results

According to the Constitution of Ukraine, the greatest social value in the state is the human right to life, health, honour and dignity, inviolability and security[7]. This constitutional principle obliges the state, its bodies and officials to take all possible measures to trace a missing person, regardless of the circumstances. The right to life is protected by law[8]. Considering the aggression of the Russian occupation forces, it can be stated that this right of Ukrainian citizens is being violated on an unprecedented scale in the history of the state. Since 2014, civilians and military personnel have been going missing in Ukraine, and with the start of the full-scale invasion in February 2022, this situation has become particularly acute.

The legal grounds for the search for missing persons in special circumstances is the Law of Ukraine No. 2505-VIII[9]. According to Article 4 of the Law, the term "person missing under special circumstances" is defined. This Article specifies that such a person is a person who went missing in connection with an armed

[1]The Declaration of Helsinki. (1975, October). Retrieved from https://www.wma.net/what-we-do/medical-ethics/declaration-of-helsinki/doh-oct1975/.
[2]Law of Ukraine No. 2505-VIII "On the Legal Status of Persons Missing Under Special Circumstances". (2018, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2505-19#Text.
[3]Law of Ukraine No. 2135-XII "On Operational and Investigative Activities". (1992, February). Retrieved from https://zakon.rada.gov.ua/laws/show/2135-12#Text.
[4]Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[5]Convention on the Protection of Human Rights and Fundamental Freedoms. (1950, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004.
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[7]Constitution of Ukraine". (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.+
[8]Convention on the Protection of Human Rights and Fundamental Freedoms. (1950, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004.
[9]Law of Ukraine No. 2505-VIII "On the Legal Status of Persons Missing Under Special Circumstances". (2018, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2505-19#Text.

conflict, military operations, temporary occupation of a part of the territory of Ukraine, natural, or anthropogenic emergencies. On 31 August 2023, the International Commission on Missing Persons and the National Police of Ukraine signed a Protocol granting the Main Investigation Department of the National Police of Ukraine access to the data management system (iDMS) developed by the International Commission on Missing Persons to process information to search for and identify persons who went missing as a result of the Russian invasion of Ukraine (What does the International Commission..., 2023).

An essential task is to organise the interaction of a range of national and international organisations involved in the search for persons missing under special circumstances. Considering the cooperation between the International Commission on Missing Persons (ICMP) and the National Police of Ukraine (NPU), in 2023, a Protocol was signed that allows the Investigation Department of the NPU to use the integrated Data of the Management System (iDMS) developed by the ICMP to process data used to search for, summarise and identify people who went missing as a result of the invasion of the territory of Ukraine by the Russian occupation forces. Notably, the signing of the Protocol envisages the launch of the ICMP campaign to optimise the collection of information about families who have left Ukraine and are living in Europe and have relatives who went missing during the ongoing war in Ukraine (ICMP & Ukrainian authorities sign Protocol..., 2023).

Signing the Protocol was of great importance in connection with providing the relevant authorities with access to the Deoxyribonucleic Acid (DNA) profile, which will be formed and stored in iDMS from the data provided by the relatives of the missing persons, if the relatives give appropriate written permission. Relatives will be able to access DNA profiles from a tooth or bone that have been processed by ICMP based on a relevant document, namely an investigator's or prosecutor's order, DNA match reports (ICMP & Ukrainian authorities sign Protocol..., 2023).

According to Matthew Holliday, ICMP Europe Programme Director, the ICMP's activities are aimed at helping the Ukrainian government find people who went missing during the armed conflict in Ukraine or in other war-related circumstances. This organisation expresses its support for the performance of a particularly important task for Ukraine, namely the search for tens of thousands of missing persons and the continuation of investigations into disappearances, following international judicial standards and international treaties. An example is the need for DNA-based identification, by sampling thousands of families of missing persons who have become refugees in other European countries (ICMP & Ukrainian authorities sign Protocol..., 2023). In 2023, samples were taken from more than 400 Ukrainian citizens abroad. With the help of international cooperation, about 90 matches were established. As of the beginning of 2024, the State Migration Service of Ukraine has created the possibility to submit buccal epithelial samples in seven European countries, namely: Czech Republic, Germany, Italy, Poland, Spain, Slovakia, Turkey (Ukrainians can submit DNA samples..., 2024).

The International Commission on Missing Persons has been involved in legislative and institutional activities to increase Ukraine's capacity to identify missing persons. A considerable number of ICMP recommendations were implemented before the full-scale invasion of the Russian occupation forces in 2022. In the spring of 2022, representatives of the Commission opened an office in Kyiv, where they launched a comprehensive programme to assist institutions and organisations in tracing persons who went missing during the invasion of Ukraine by Russian troops (ICMP & Ukrainian authorities sign Protocol..., 2023).

As of the beginning of 2024, over 90% of information on missing persons is investigated by the National Police of Ukraine. From 19 February 2014 to 23 February 2022, the largest number of persons was registered in 2014 in Donetsk region – 1,337 people. The situation changed dramatically with the start of the full-scale invasion from 24 February 2022 to 1 January 2024. In Donetsk region alone, 7,334 people were registered as missing. In other regions that suffered considerable destruction as a result of the war, the situation is also worthy of attention (Fig. 1).

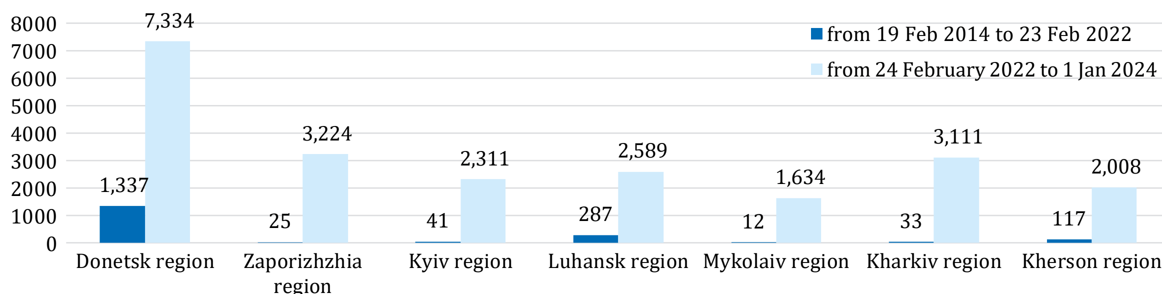

Figure 1. Information on the number of persons gone missing under special circumstances during the specified period

Source: Office of the Prosecutor General (n.d.)

Thus, considering the situation in Donetsk region, it can be concluded that due to the fact that this region was one of the first to be hit by the military conflict, it was already reflected in the significant number of persons missing under special circumstances in early 2014. A great concern arises from comparing the situation in Ukraine with other countries where armed conflicts have occurred, as no other European country has suffered such a great number of losses in the 21st century.

Considering the data of the Prosecutor General's Office of Ukraine over the past five years, from 2019 to 2023, the number of missing persons has changed significantly, e.g., in 2019, 9,723 people were declared missing, of whom 9,270 people were found, while with the full-scale invasion of the Russian occupation forces in 2022, the number of registered cases of missing persons has reached 33,186 people, and only 12,017 people have been found, as can shown in the table below (Fig. 2).

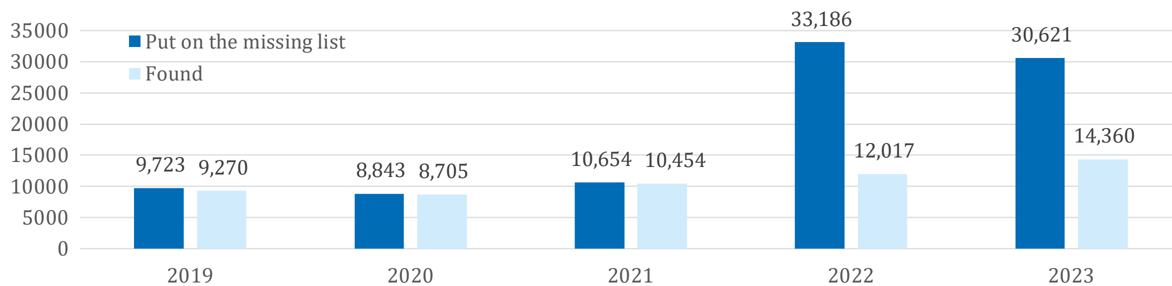

Figure 2. Statistical data of the Prosecutor General's Office of Ukraine for the period from 1 January 2019 to 31 December 2023 on the status of search for missing persons

Source: Office of the Prosecutor General (n.d.)

Paying attention to a more detailed analysis of the search for persons missing under special circumstances before the full-scale invasion (19 February 2014 to 23 February 2022), 2,462 (66%) of the registered missing persons were found, 1,242 (34%) were found and during the full-scale invasion (24 February 2022 to 1 January 2024), 46,857 (79%) of registered missing persons were found, 12,121 (21%) were traced, and therefore it can be concluded that the efficiency of searching for missing persons decreased by 13% (Fig. 3).

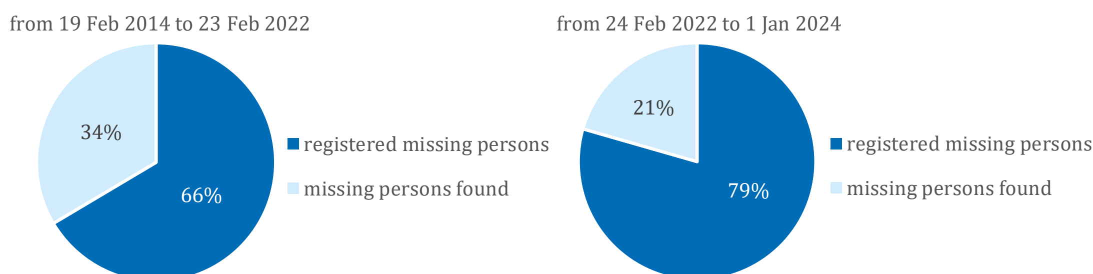

Figure 3. Statistical data of the National Police of Ukraine on the status of the search for missing persons

Source: Office of the Prosecutor General (n.d.)

The number of missing persons continues to increase in all bodies of the National Police of Ukraine without exception, due to the fact that the occupation forces in the occupied territories are forcibly deporting Ukrainian citizens to the territory of the Russian Federation and other occupied territories, the deaths of Ukrainian defenders during hostilities, and their captivity in the temporarily occupied territory and in the territory of the Russian Federation.

According to the legislation of Ukraine, namely the Law "On the Legal Status of Persons Missing Under Special Circumstances"[1], the creation of the Unified Register of Persons Missing Under Special Circumstances (the Register) was prescribed to collect, accumulate, and process data on such persons, as well as to record and analyse information necessary for effective search. The operational units of the National Police of Ukraine enter information into the Unified Register of Persons Missing under Special Circumstances and, in case of establishing the location of the missing person or the place of their burial or the location of the remains of such a person, notify the applicant and relatives.

[1]Law of Ukraine No. 2505-VIII "On the Legal Status of Persons Missing Under Special Circumstances". (2018, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2505-19#Text.

According to V.K. Kolpakov (2023), the Register can process information, including personal data, received from the authorities. This information includes background information on missing persons, as well as information on their unidentified remains and court decisions recognising such persons as a) missing, b) missing without a trace, or c) dead. Furthermore, the Register may receive other data that may increase the efficiency of search activities. This information may be stored and protected by the Register, including the use of technical and cryptographic tools, and used to trace missing persons. According to the Law, an important form of using the Register database is the interaction between the Register and other state information resources. During the survey of 150 people whose relatives and friends went missing under special circumstances, they noted that the most effective units in the search include National Police, military registration and enlistment offices, and military units of the Ministry of Defence. However, some people also sought help from the National Information Bureau, the State Migration Service of Ukraine, the Office of the Commissioner for Missing Persons Under Special Circumstances, the Joint Centre for the Search and Release of Prisoners of War, which operates under the Security Service of Ukraine, and the International Committee of the Red Cross. Since the respondents applied to the above-mentioned units in parallel, they were able to assess which of them provided them with the most assistance (the total number of applications of these 150 people is presented in Fig. 4).

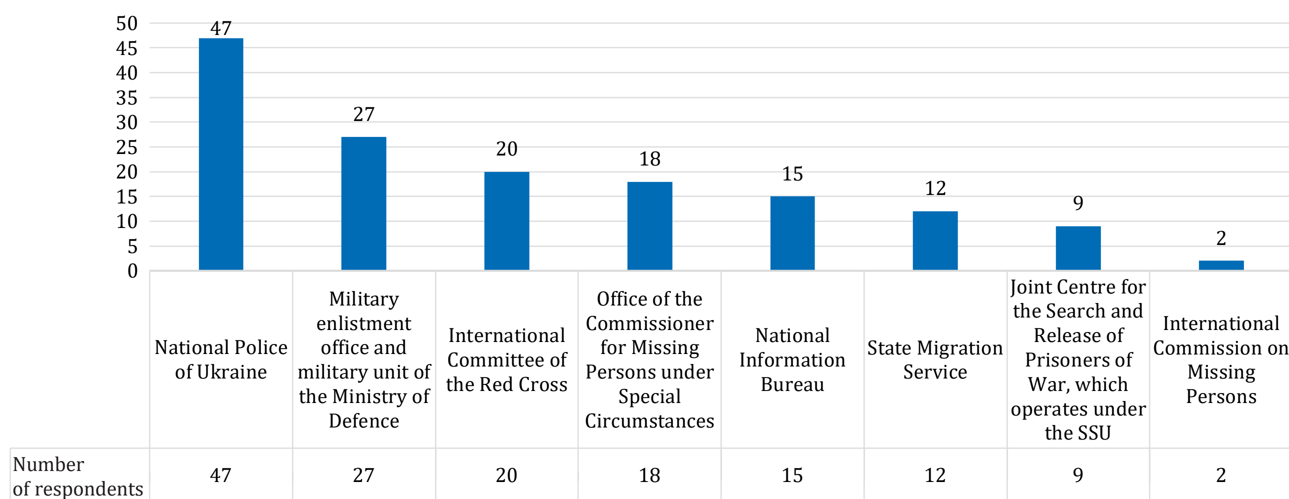

Figure 4. Number of respondents who identified a particular unit as the most effective in providing assistance

Source: compiled based on the findings of this study

According to a survey of people who faced the situation of missing relatives or friends during the war, they felt strong support from the bodies authorised to search for missing persons. According to the survey results (Figure 4), the bulk of the work is carried out by the National Police of Ukraine and units engaged in operational and investigative activities, as defined by the Law of Ukraine "On Operational and Investigative Activities"[1].

According to Deputy Minister of Internal Affairs Leonid Timchenko, as of October 2023, about 9,000 citizens in Ukraine received extracts from the Unified Register of Missing Persons Under Special Circumstances (Zhuravel, 2023). It is not possible to determine exactly how the results of the survey represent the real state of affairs regarding the effectiveness of certain units as of the beginning of 2024 due to the lack of official data on the exact number of relatives of missing persons, as the number of extracts does not correspond to the total number of such persons.

Discussion

The survey results confirm the opinion of V. Terekhov (2022) that during the war, considerable progress in the statutory and organisational regulation of wartime activities was observed in the National Police. Powers were especially strengthened with regard to administrative procedures related to the support of military operations, including ensuring the security of territories under threat of hostilities and the protection of their inhabitants. The results of the survey show that the National Police, according to relatives of missing persons, is making the greatest efforts to search for missing persons in the special conditions of the armed conflict.

The problem under study is a popular subject of investigation by contemporary researchers around the world, especially in those countries where armed conflicts have occurred or are ongoing. It is worth noting the principal areas of research they conduct. There is a fairly strong connection between Ukraine and some

[1]Law of Ukraine No. 2135-XII "On Operational and Investigative Activities". (1992, February). Retrieved from https://zakon.rada.gov.ua/laws/show/2135-12#Text.

international European and global organisations in terms of participation in the search for persons missing in special circumstances. According to J. Sarkin (2022), the problem of missing persons arose due to the conflict between Armenia and Azerbaijan over Nagorno-Karabakh. About 5,000 people from all sides were reported missing by 2020. Ultimately, J. Sarkin (2022) believes that if the state wants to make progress, it is necessary to establish a process involving all parties to the conflict. Considering the legislation of Ukraine, attention should be paid to the existing problem concerning the legal norms on the search for missing persons, which are incomplete and need further development, as new and unforeseen circumstances arise.

J. Sarkin (2022) examines the situation of missing persons in Armenia. The study analyses the fact that about 5,000 people from all sides of the Nagorno-Karabakh conflict are currently missing. The researcher notes that to make progress, a coordination mechanism involving all parties to the conflict is needed to search for, return, and identify missing persons. One of the signs of progress is that in 2019, a new commission was established in Armenia – the Interdepartmental Commission on Prisoners of War, Hostages, and Missing Persons – and a new order was adopted. J. Sarkin (2022) focuses on improving information gathering and searching for potential burial sites. This experience should be used by the law enforcement agencies of Ukraine, as the study proves that it is essential to raise public awareness of the activities of the agencies to which relatives and friends of missing persons can apply in special circumstances.

This is also emphasised by a Ukrainian specialist in the field of identification of persons, V. Korzh, (2019), who investigates the problem from the standpoint of expert and forensic activities using the latest method of genetic identification, which is modern and necessary to identify a missing person. The results of molecular genetic and forensic examination of the skull are of evidentiary value for the investigation of murder or other criminal events related to a missing person. As of 2024, buccal epithelial sampling can be carried out, as noted above, outside Ukraine, namely in seven European countries, which will reduce the number of people who are difficult to identify.

According to V. Voichenko *et al*. (2019), the identification of persons missing under special circumstances, namely during the armed aggression of the Russian Federation, has certain difficulties, and to increase efficiency and objectivity, organisational activities, i.e., a comprehensive approach, are needed. In the current situation in Ukraine, the availability of the latest morgues and modern equipment in the places of storage of material evidence of the Bureau of Forensic Medicine is not key to conducting an effective examination of the identity of the deceased. Considering the experience of European and global countries during natural and anthropogenic disasters, a clear organisation, planning, and sequence of actions in conducting certain studies is essential (Fyfe *et al*., 2015; Filippova, 2023; Kešeljevi & Spruk, 2023). Therewith, as the results of the study show, it would be advisable to use an integrated approach in the activities carried out in Ukraine to identify missing persons during the armed conflict and mass casualties, which increases the accuracy and organisation of law enforcement agencies' interaction with various international institutions and organisations.

Considering this issue in greater detail, some researchers address the identification of unidentified corpses of servicepeople, as this is a necessary process not only to identify the deceased, but also to provide a proper burial according to traditions, as well as to record these cases for further consideration in international courts as war crimes. According to E.I. Orzhynska & V.O. Senina (2023), the identification of bodies during military conflicts is often complicated by the fact that many recovered bodies are severely damaged, their identification features may be partially or completely destroyed or deformed. Even though the Criminal Procedural Code of Ukraine prescribes a clearly defined sequence of actions when examining corpses under martial law, conducting an investigative action, such as identifying a person or remains, may face various difficulties for investigators and other professionals.

According to T.I. Blystiv (2020), it is necessary to introduce certain regulations into the legislative activity, as well as to recruit highly professional personnel to ensure and solve certain tasks in the activities of the International Commission on Missing Persons and the functioning of the relevant Register in the system of military justice bodies of Ukraine. Supporting the researcher's opinion, it should be noted that it is necessary to intensify cooperation with such a significant organisation as the International Commission on Missing Persons, as its activities improve the work on searching for persons missing under special circumstances.

According to I. Holubenko (2023), the measures prescribed in international law can help relatives and friends of missing persons and military personnel. An example is the establishment by the state of an information bureau, which is created and operates to receive and transmit information about protected persons. In addition to the researcher's conclusions, it can be noted that in Ukraine it is advisable to carry out organised interaction between law enforcement agencies and international institutions and organisations that will ensure the search for missing persons in special circumstances at the appropriate legal level, as evidenced by the survey of 150 people who wish to apply to various international organisations.

S. Sydorenko (2022) notes that Ukraine has a considerable number of institutions and organisations at the legislative level that are empowered to search for persons who went missing during the armed conflict. The researcher believes that a significant number of

actors should contribute to the comprehensive and objective conduct of the search for persons. However, this approach can lead to a decrease in the effectiveness of search operations due to improper and untimely coordination between government agencies and institutions performing search functions. This may include the conditional "delegation" of responsibility for search operations from one entity to another, as well as the absence of a centralised state body responsible for coordinating and carrying out search activities for persons missing under special circumstances. According to S. Sydorenko, such a large number of search authorities creates difficulties in contacting relatives and friends. Notably, the key role in the search for missing persons is vested in the National Police of Ukraine, but proper and clear cooperation with other bodies and units and the involvement of international bodies and organisations will considerably accelerate the search for and identification of persons who went missing under special circumstances on the territory of Ukraine.

H.M. Ustinova-Boichenko & O.M. Skriabin (2023) point out that Ukrainian legislation does not make provision for court proceedings on the recognition of missing persons. According to the researchers, the establishment of the fact of a missing person is prescribed in the administrative and personnel procedure, which regulates the formation of an approach that does not correspond to the one consolidated in the provisions of civil law. This situation requires a more detailed investigation.

S. Sydorenko (2023) considers a relevant area on the interaction of public associations with law enforcement agencies of the state. Notably, the involvement of a significant number of concerned groups and organisations united by common views and goals will increase the effectiveness and efficiency of the search, not only by the state authorities, which are granted the relevant powers, but also by public associations. In this regard, it is promising to further organise and cooperate with law enforcement agencies, various organisations, and the public to identify and investigate the facts of searching for missing persons and identifying unidentified bodies on the territory of Ukraine, considering international practices and establishing cooperation with countries that provide support in combating crime and searching for missing persons.

Conclusions

The results of the tasks have shown that the principal areas for improving the effectiveness of establishing the whereabouts of missing persons are the proper submission of information to the National Police on the fact of searching for such persons. The survey received information that relatives and friends most often contact the National Police, as this agency is the main authority in the search for missing persons. The study also noted that the applicants simultaneously apply to a number of other law enforcement agencies and international institutions and organisations to accelerate the search and identification of persons missing under special circumstances.

Having analysed the statistical data of the Prosecutor General's Office of Ukraine, it can be concluded that the most difficult situation with regard to missing persons is observed in the east and south of Ukraine. This is conditioned by the fact that the occupation forces in the occupied territories carry out forced deportations of Ukrainian citizens to the territory of the Russian Federation or other occupied territories, the deaths of Ukrainian defenders during hostilities, as well as their captivity in the temporarily occupied territory or in the territory of the aggressor country.

Since the beginning of the full-scale invasion, the total number of missing persons has increased from 2,462 to 46,857 people, which has drastically increased the burden on law enforcement agencies that are supposed to search for them. The interaction of different departments with each other and with civil society organisations is not properly organised. In such circumstances, the activities of international institutions stay relevant for Ukraine. The activities of international bodies such as the International Commission on Missing Persons, the International Committee of the Red Cross, and the European Court of Human Rights are particularly important. Their decisions and recommendations have a major impact on the development of the national legal system of Ukraine. Notably, the practice of these international bodies contains numerous principles and norms formulated when considering cases related to military operations and armed aggression around the world. Cooperation with them will help both to increase the number of qualified persons involved in the search for missing persons and to borrow their extensive experience.

Further research could be conducted to identify areas of cooperation between law enforcement agencies of Ukraine and various international organisations in the search for persons missing under special circumstances and to develop recommendations that would improve such cooperation.

Acknowledgements

None.

Conflict of Interest

None.

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Вплив війни в Україні на стан розшуку осіб, зниклих безвісти за особливих обставин

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Анотація
Актуальність статті зумовлена необхідністю вдосконалення у зв’язку з викликами війни, що триває, практики розшуку зниклих безвісти за особливих обставин громадян України, зокрема на території інших європейських держав. Метою дослідження стало вивчення законодавчого регулювання статусу осіб, зниклих безвісти, й аналіз правового регулювання відносин, пов’язаних із встановленням та пошуком і соціально-правовим захистом таких осіб. Методологічну основу проведеного дослідження становлять як загальнонаукові, так і спеціальні методи наукового пізнання: системно-структурний, інформаційний, термінологічний, формально-логічний методи дослідження. За допомогою цих методів висвітлено зміст міжнародного й національного нормативно-правового законодавства, у якому визначено, що правовою основою проведення пошуку осіб, зниклих безвісти, є правові норми, які становлять основу міжнародних, законодавчих і відомчих нормативно-правових актів і є сукупністю. Проаналізовано роль Міжнародного Червоного Хреста, а також розглянуто статистику ідентифікації цією організацією осіб, зниклих безвісти за особливих обставин. Акцентовано увагу на діяльності Міжнародної комісії з питань зниклих безвісти, яка діяла в різних країнах, де виникала ситуація зі зникненням осіб безвісти під час збройного конфлікту, воєнних дій. Доведено, що ефективність механізму проведення розшуку зниклих безвісти залежить від тлумачення окремих положень нормативно-правового законодавства, а також кадрового забезпечення органів і підрозділів, які безпосередньо беруть участь у розшуку осіб цієї категорії. Увагу зосереджено на діяльності Комісії з питань осіб, зниклих безвісти за особливих обставин, яка є постійно діючим консультативно-дорадчим органом Кабінету Міністрів України, а також значенні Міжнародної комісії з питань зниклих безвісти. Сформульовано висновок, що реальна ситуація, яка складається в країнах, де тривають збройні конфлікти, зумовлює необхідність упровадження та використання в роботі щодо розшуку зниклих безвісти осіб прогресивних цифрових технологій. Дослідження може слугувати основою для вдосконалення правового забезпечення міжнародного співробітництва у виявленні фактів безвісти зниклих цивільних осіб і військовослужбовців на територіях, де відбувалися або тривають збройні конфлікти

Ключові слова:
пошук осіб; збройний конфлікт; війна; ідентифікація; міжнародне співробітництво; правове регулювання; Міжнародна комісія з питань зниклих безвісти

UDC 343.32(477)
DOI: 10.56215/naia-chasopis/2.2024.41

Peculiarities of legal assessment of aiding and abetting the aggressor state: National and international dimensions

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Abstract
The Ukrainian legislator's differentiation of criminal liability for certain manifestations of collaboration has led to unjustified competition and considerable difficulties in qualifying the relevant unlawful acts. The purpose of this study was to analyse the specific features of criminal liability for aiding and abetting the aggressor state in the national and international dimensions. To complete the tasks of this study, a set of scientific methods was employed: dogmatic – in the analysis of legal constructions of elements of collaboration and abetting the aggressor state; comparative legal – in the context of comparing the rules on liability for collaboration and the rules of international humanitarian law. The study showed that Ukrainian criminal law theory and court practice have not developed consistent approaches to the application of the rules on liability for collaboration. The study focused on the fact that the criminal legislation of Ukraine applies an approach whereby certain types of economic collaboration are factually identified with military collaboration, which does not follow international humanitarian law. It was concluded that when qualifying the transfer of material resources to representatives of the aggressor state, there is a competition between the provisions of Part 4 of Article 111-1 and Article 111-2 of the Criminal Code of Ukraine. In such a situation, it is reasonable to apply the rule on liability for collaboration. It was found that the payment of taxes, fees, and other mandatory payments to the

Article's History:
Received: 26.01.2024
Revised: 29.04.2024
Accepted: 28.05.2024

Suggest Citation:
Kuznetsova, L., Kuznetsov, V., & Matiushenko, O. (2024). Peculiarities of legal assessment of aiding and abetting the aggressor state: National and international dimensions. *Law Journal of the National Academy of Internal Affairs*, 14(2), 41-51. doi: 10.56215/naia-chasopis/2.2024.41.

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Russian budget of any level, made in the occupied territory of Ukraine by a citizen of Ukraine, a foreigner, a stateless person for themselves and/or in the interests of legal entities registered in the territory of the Russian Federation cannot be covered by the objective side of abetting the aggressor state, as it does not follow international humanitarian law and does not contain such a feature as voluntariness, which is a mandatory feature of the crime under Article 111-2 of the Criminal Code of Ukraine. The practical significance of this study lies in defining certain rules for qualifying aiding and abetting the aggressor state which may be used by pre-trial investigation authorities in the legal assessment of such behaviour

Keywords:
crimes against the national security of Ukraine; qualification of a crime; collaboration; criminal liability; international humanitarian law; corpus delicti of a criminal offence

Introduction

The Russian aggression against Ukraine has exacerbated various legal issues, including collaboration, which has long stayed without statutory regulation. Until 2014, Ukrainian criminal law doctrine did not analyse the behaviour of persons in the occupied territory. After 2014, the Ukrainian legislator made certain attempts (including seven unsuccessful ones) to counteract various manifestations of cooperation and other interaction, primarily of Ukrainian citizens with the occupiers, by criminal law. One of the most effective attempts took place on 3 March 2022, when the Ukrainian parliament adopted Law of Ukraine No. 2108-IX[1]. This law amends the Criminal Code of Ukraine[2] (CCU) and, specifically, introduces a new Article 111-1 "Collaboration Activities". This Article consists of eight parts (16 main and 1 qualified corpus delicti of criminal offences) and a 4-item note. Each part of Article 111-1 of the CCU[3] prescribes separate manifestations of collaboration. The next Law of Ukraine No. 2198-IX dated 14 April 2022[4], expanded collaboration activities by criminalising aiding and abetting the aggressor state, namely by adding a new Article 111-2 to the CCU. These legislative innovations, as evidenced by the analysis of both the positions of Ukrainian criminalists and the materials of investigative and judicial practice, did not solve all the problems of legal regulation of collaboration and considerably complicated the enforcement of the relevant criminal law provisions.

Ukrainian criminal law doctrine is dominated by the position that despite the current full-scale aggression of the Russian Federation (RF), Ukraine continues to implement criminal law policy, accommodating the needs of society and the state (Balobanova *et al*., 2022). This government policy is aimed at protecting the interests of Ukraine as an independent and sovereign state. The researcher states that such regulatory changes determine the vector of development of the law on criminal liability in the near future.

P. Digeser (2022), analysing the term "collaboration", defines its two substantive aspects. The first is cooperation, teamwork, or group effort. This is a positive understanding of the term. The second is a form of moral and political complicity of those who aided or abetted the brutal Nazi regime, betrayed their community, or served as accomplices in war crimes. This is a negative understanding of the term "collaboration". This position in the doctrine of law is also developed by other researchers. Specifically, they point out that "collaborationism" was not a recognised legal concept, but after 1945, when "collaborationism" acquired its conventional meaning, cooperation with representatives of the aggressor state began to be punishable as treason or a war crime (Bondarenko *et al*., 2022).

E. Pysmenskyi (2020) states that the Ukrainian criminal law doctrine has two approaches to the legal regulation of collaborative manifestations. The first is that the existing criminal law has sufficient tools to bring perpetrators to justice for collaboration. The second states the existence of a certain gap in the regulatory framework for criminal law counteraction to collaborationism.

O. Dudorov & R. Movchan (2022a) believe that the introduction of criminal liability for aiding and abetting the aggressor state has affected both the conflict of law on criminal liability and the legal uncertainty of the law. Researchers propose to specify in Article 111 of the CCU the types of the most dangerous manifestations of collaborationism, while Article 111-2 of the CCU would stipulate only those acts that are not as dangerous (compared to high treason). V. Kuznetsov & M. Siyploki (2022) take an analogous position, who argue that certain collaborative manifestations require

[1]Law of Ukraine No. 2108-IX "On Amendments to Certain Legislative Acts of Ukraine on Establishing Criminal Liability for Collaborative Activities". (2022, March). Retrieved from https://zakon.rada.gov.ua/laws/show/2108-20#Text.
[2]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[3]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[4]Law of Ukraine No. 2198-IX "On the Introduction of Amendments to the Criminal and Criminal Procedure Codes of Ukraine Regarding the Improvement of Responsibility for Collaborative Activities and the Features of the Application of Preventive Measures for Committing Crimes Against the Foundations of National and Public Security". (2022, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2198-20#Text.

some regulatory clarification or exclusion, as such forms of offence duplicate existing forms of treason.

N. Antonyuk (2022), analysing the opinions of researchers on the legal assessment of collaborationism and the relevant amendments to the CCU, concludes that criminal law is not entirely fair in differentiating between certain collaborative manifestations. For instance, the CCU recognises military, political, and administrative collaboration as especially grave crimes, economic and cultural collaboration as minor crimes, and domestic collaboration as a criminal misconduct. M. Owens (2022) concludes that during a military conflict, international companies, albeit operating in the occupied territory, do not contribute to aggression.

The researchers found that during the adoption of Law of Ukraine No. 2198-IX dated 14 April 2022, the people's deputies of Ukraine did not factor in the existence of Article 111-1 of the CCU. In modern studies, Ukrainian researchers cannot reasonably explain the presence of such a crime as voluntary collection, preparation, and/or transfer of material resources or other assets to representatives of the aggressor state in Article 111-2 of the CCU, which effectively duplicates the provisions of Part 4 of Article 111-1 of the CCU (transfer of material resources to illegal armed or paramilitary groups established in the temporarily occupied territory and/or armed or paramilitary groups of the aggressor state) (Dudorov & Movchan, 2022). M. Havronyuk (2022) originally describes this situation as a type of "violation of the principle of proportionality", when the legislator criminalises a certain act, ignoring the fact that criminal legislation already contains a provision on liability for such an act. In the theory of criminal law, the dominant position is that various manifestations of collaborationism cover an extremely wide circle of persons, which requires improvement of the relevant criminal law prohibitions (Mudretskyi, 2022; Bukreev *et al*., 2023). This leads to the conclusion that, for all intents and purposes, the criminal legislation of Ukraine applies an approach whereby certain types of economic collaboration are effectively equated with military collaboration, which is not in line with international humanitarian law. The cited studies have found that the application of international legal norms is practically necessary for civilians who find themselves in the territory occupied by the Russian Federation.

The purpose of this study was to investigate the legal construction of the crime "Abetting the aggressor State" under the CCU using the norms of the international humanitarian law.

Materials and Methods

This study employed various methods, including general scientific and special methods of cognition. The dialectical method helped to cover the essence of the subject of collaboration with the aggressor state. The application of systemic and structural analysis helped to examine the internal structure of the system of criminal law provisions relating to criminal liability for collaborationism. The dogmatic method was used to analyse the objective and subjective signs of aiding and abetting the aggressor state. The comparative legal method was used to compare the criminal legislation of Ukraine, which prescribes liability for certain forms of collaboration, with international legislation in this area. The application of the methods of analysis, synthesis, induction, and deduction helped to draw reasonable conclusions regarding criminal law instruments for countering certain types of collaborationism. The application of the historical legal method helped to analyse the development stages of the legislative definition of criminal liability for collaborative acts.

Using the statistical method, the study analysed the information on the number of collaborative manifestations and concluded on the effectiveness of criminal legislation. Empirical methods of legal research were used to analyse the judicial practice materials available in the public domain under Articles 111-1, 111-2 of the CCU[1,2,3,4] from the Unified State Register of Court Decisions (n.d.), and provisions of the CCU[5], the Tax Codes of Ukraine[6] and the Russian Federation[7]. According to the General Prosecutor's Office (n.d.), 7,608 criminal proceedings under Article 111-1 of the CCU and 1,125 criminal proceedings under Article 111-2 of the CCU were registered (as of 19 March 2024). According to the State Judicial Administration of Ukraine (n.d.), in 2022, courts delivered 268 verdicts under Article 111-1 of the CCU. O. Syniuk & O. Lunova (2023) investigated about 700 verdicts under various parts of Article 111-1 of the CCU and seven verdicts under Article 111-2 of the CCU and pointed out the imperfection of the relevant provisions of criminal legislation in the qualification of crimes. The analysis of judicial and investigative

[1]Verdict of Ivano-Frankivsk City Court of Ivano-Frankivsk Region No. 344/12085/23. (2023, October). Retrieved from https://reyestr.court.gov.ua/Review/114110442.
[2]Verdict of the Buryn District Court of the Sumy Region No. 574/369/22. (2022, December). Retrieved from https://reyestr.court.gov.ua/Review/107991214.
[3]Verdict of the Trostyanetsk District Court, Sumy Region No. 588/713/22. (2022, August). Retrieved from https://reyestr.court.gov.ua/Review/105808995.
[4]Verdict of the Lebedyn district court of Sumy Region No. 588/672/22. (2022, September). Retrieved from https://reyestr.court.gov.ua/Review/106096380.
[5]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[6]Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2755-17#Text.
[7]Tax Code of the Russian Federation. (1999, July). Retrieved from https://www.wipo.int/wipolex/en/text/586700.

practice regarding the qualification of aiding and abetting the aggressor state (29 sentences under Article 111-2 of the CCU have been established) and the comparison of the rules on liability for collaboration and the rules of international humanitarian law prompt to explore the specific features of legal assessment of aiding and abetting the aggressor state in the national and international dimensions.

Results and Discussion

To identify problematic issues of law enforcement of certain manifestations of collaboration, it is necessary to provide a criminal law description of aiding and abetting the aggressor state. Article 111-2 "Abetting the aggressor state" of the CCU is a rule that prohibits assistance to the aggressor state from Ukrainian citizens, foreigners, or stateless persons, except for citizens of the aggressor state itself. This Article establishes liability for intentional actions aimed at abetting the aggressor state, its armed formations, or occupation administration, committed by citizens of Ukraine, foreigners, or stateless persons, except for citizens of the latter. This liability extends to actions aimed at harming Ukraine through the implementation or support of decisions and actions of the aggressor state, its armed forces or occupation administration, as well as the voluntary collection, preparation, or transfer of material resources or other assets to representatives of the aggressor state, its armed forces, or occupation administration[1]. The crime defined in Article 111-2 of the CCU is particularly grave due to the degree of public danger. This is conditioned by the respective severe penalty of imprisonment (10-12 years), and along with this, deprivation of the right to hold certain positions or engage in certain activities for 10-15 years, or without such right, as well as confiscation of property.

Aiding and abetting the aggressor state has as its object the national security of Ukraine, which is defined as the protection of the territorial integrity, sovereignty, democratic constitutional order, and any other national interests of Ukraine from any real and potential threats (Item 9, Part 1, Article 1 of the Law No. 2469-VIII)[2]. The main direct object of the crime under Article 111-2 of the CCU is the military security of Ukraine, as the protection of vital state interests from military threats (Item 2, Part 1, Article 1 of the Law No. 2469-VIII)[3].

The object of aiding and abetting the aggressor state (material resources and other assets) is a mandatory feature of the object of the crime only in the third form of unlawful acts. Notably, the theory of criminal law does not always address this feature of the object of the crime. The authors of the present study believe that the failure to consider or formally establish this feature will not allow the pre-trial investigation authorities to properly qualify such a crime.

The objective side of this crime involves, first of all, such a mandatory feature as an action (this is stated in the disposition of the norm). The unlawful act may take the following forms: support or implementation of decisions or actions of the aggressor state, specifically its military formations or administration in the occupied territories; assistance in the implementation of decisions or actions of the aggressor, its armed formations or occupation authorities; non-coercive, voluntary collection, preparation, and transfer of assets, material resources to the aggressor state, its representatives[4]. The procedure for implementing such actions is referred to in the legal literature as forms or methods of committing an offence.

Of importance is the hypothesis of M. Havronyuk (2022) that voluntariness is a property of the unlawful actions of the perpetrator and is inherent in all manifestations of this crime. This is conditioned by the focus of the subject's actions and the purpose of the criminal offence. This hypothesis can be supported by noting that voluntariness should be proved when qualifying aiding and abetting the aggressor state, which is a mandatory feature of the objective side of the crime under Article 111-2 of the CCU. In the theory of criminal law, a separate mandatory feature of the objective side of this unlawful act is the setting of the crime, since such actions can only be committed in the context of a military invasion of another state (in the current case, the Russian Federation) or in the presence of occupied territories (in the current case, the territories of Ukraine occupied by the Russian Federation) where the aggressor state has established illegal authorities (Bukreev *et al*., 2023). The third form of this crime prescribes specific addressees of abetting the aggressor state, including representatives of the aggressor state, armed formations, and the occupation authorities.

If a certain person interacts with a business entity of the aggressor state, there is no mandatory addressee prescribed in Article 111-2 of the CCU. Since the relevant business entities with which the potential offender interacts are not representatives of the aggressor state listed in Article 111-2 of the CCU. Therefore, when qualifying such behaviour of a potential offender, the fact of interaction between a business entity and representatives of the aggressor state must be thoroughly investigated and fairly assessed by the pre-trial investigation authorities. The completion of this crime is associated

[1]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2]Law of Ukraine No. 2469-VIII "On the National Security of Ukraine". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/2469-19#Text.
[3]Ibidem, 2018.
[4]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

with the commission of actions, i.e., according to the construction of the objective side, aiding and abetting the aggressor state is a formal crime.

The subject of aiding and abetting the aggressor state under Article 111-2 of the CCU is a general one, which in the theory of criminal law means an individual of sound mind who is at least sixteen years old. Such an entity may be a citizen of Ukraine, a citizen of another country (except for a citizen of the aggressor state, according to the disposition of the relevant criminal law provision)[1], or a stateless person.

The subjective side of this crime textually implies an indication of the intentional form of guilt and the purpose of causing damage to Ukraine[2]. The criminal law theory is rightly dominated by the position that establishing guilt, its type, and form is an essential prerequisite for a correct legal assessment of the subjective side of a criminal offence. The Supreme Court (and previously the Supreme Court of Ukraine) has systematically addressed the attention of lower courts to the need to scrutinise all the circumstances of the case that legally affect the establishment of guilt, its form, type, and content (Us, 2022).

In the theory of criminal law, there are two positions on the type of intent inherent in aiding and abetting the aggressor state (Myslyvyi & Grachova, 2022). O. Kravchuk & M. Bondarenko (2022) believe that, according to the subjective side, this criminal offence can be committed with different forms of intent, i.e., the possibility of direct or indirect intent is allowed. Another position is that a criminal offence under Article 111-2 of the CCU can only be committed with direct intent (Bukreev *et al*., 2023). This opinion is more reasonable because it is based on two arguments. Firstly, the criminal law doctrine defines the presence of a mandatory purpose of a criminal offence as an indicator of direct intent in the commission of an act. Secondly, although there are different positions in the science of criminal law regarding the content of intent in criminal offences with formal elements, there is a tendency to believe that criminal offences that are considered completed from the moment of direct commission of the act (formal elements of a criminal offence) can be committed exclusively with direct intent (Us, 2022).

To qualify this crime with direct intent, the pre-trial investigation authorities must establish that the person: firstly, was aware of the dangerous nature of their actions for society (was aware of both the factual (objective) signs of the actions committed and their social harm); secondly, foresaw its dangerous consequences (inevitability or potential possibility of their occurrence); thirdly, desired their occurrence (Part 2, Article 24 of the CCU)[3].

The purpose of a criminal offence is recognised as a mandatory element of a crime only if it is expressly prescribed in the disposition of the provision of the CCU or unambiguously follows from its text. The analysis of the disposition of Article 111-2 of the CCU suggests that this crime is committed with the mandatory purpose of causing damage to Ukraine. A mandatory feature of each of the above forms of crime is the focus (defined in the doctrine of criminal law as the concentration of the subject's volitional efforts to commit an unlawful act, due to a certain motivation) of the perpetrator's actions on assisting the aggressor state.

Considering the criminal law analysis of Article 111-2 of the CCU, it is now necessary to identify the controversial issues of law enforcement and distinguishing the crime under study from related corpus delicti of criminal offences. The analysis of judicial and investigative practice has shown that the problem of distinguishing between Part 4 of Article 111-1 and Article 111-2 of the CCU, namely, in qualifying the transfer of material resources to representatives of the aggressor state, is extremely complex. O. Dudorov & R. Movchan (2022b) believe that the fact of transferring material resources to the relevant representatives of the aggressor state should be legally assessed through the application of Part 4 of Article 111-1 of the CCU, while the pre-trial investigation authorities should not additionally establish the purpose of causing damage to Ukraine. An analysis of the provisions of the above criminal law norms suggests that the following circumstances should be considered when distinguishing them: unlawful acts under Part 4 of Article 111-1 of the CCU is characterised by voluntariness, while aiding and abetting the aggressor state also includes the forced transfer of property in the absence of circumstances of extreme necessity; the list of items that may be transferred when aiding and abetting the aggressor state is somewhat wider, since, apart from material resources, it may include "other assets", which is not prescribed under collaborationism; aiding and abetting the aggressor state in terms of the objective side of the crime covers a wider scope of actions than the manifestation of collaboration under Part 4 of Article 111-1 of the CCU; collaboration in certain forms, unlike abetting the aggressor state, can also be carried out by a citizen of the state that committed military aggression located on the territory of Ukraine (Pavlykivskyi & Yashchenko, 2023). According to criminologists O. Kravchuk & M. Bondarenko (2022), when distinguishing between these crimes, attention should be paid to the addressees: both manifestations of collaboration activities indicate the transfer of resources to the relevant representatives of the aggressor state, and therefore there is a conflict of criminal law.

[1]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2]Ibidem, 2001.
[3]Ibidem, 2001.

Whereas in the case of transfer of these assets to the armed or paramilitary formations of the aggressor state, which were formed in the temporarily occupied territory, such illegal actions should be qualified under Part 4 of Article 111-1 of the CCU[1].

Comparing collaboration and aiding and abetting the aggressor state, A. Plotnikova (2022) concludes that they have the same generic object of a criminal offence, as well as similar definitions of the objective side of criminal offences, which leads to competition of criminal law provisions, which in the future threatens to create corruption risks for government officials. This leads to a logical conclusion based on both the constitutional principle that all doubts about the proven guilt of a person are interpreted in their favour and the principle of legal certainty: the transfer of material resources to the armed forces of the aggressor state should be qualified under Part 4 of Article 111-1 of the CCU.

An analysis of the literature and analytical reports found that representatives of law enforcement agencies, enterprises, institutions, and organisations have different positions on the organisation of future activities in the occupied territories of Ukraine and noted the need to improve criminal liability for collaboration (Bukreev *et al*., 2023). However, there are criminal proceedings and one court verdict under Article 111-2 of the CCU for paying taxes to the Russian budget in the occupied territory of Ukraine. In other words, the law enforcement agencies of Ukraine charge perpetrators of tax evasion to the aggressor state with a form of crime such as voluntary collection, preparation, and/or transfer of material resources or other assets to representatives of the aggressor state.

Thus, by the verdict of the Ivano-Frankivsk City Court of Ivano-Frankivsk Region dated 12 October 2023, the perpetrator was convicted of a crime under Part 1 of Article 111-2 of the CCU[2] and sentenced to twelve years of imprisonment with disqualification to hold any position in local government for fifteen years with confiscation of property[3]. The perpetrator committed the following intentional actions aimed at assisting the aggressor state to harm Ukraine, including the implementation or support of decisions and actions of the aggressor state and the occupation administration of the aggressor state. For instance, the perpetrator implemented the decision of the occupation administration of the aggressor state and in August 2022 voluntarily registered the Slobozhanskyi agricultural production and service cooperative with illegal authorities. This cooperative, according to Russian legislation, began paying taxes to the budget of the "LPR", i.e., voluntarily transferred assets to representatives of the aggressor state. Expressing solidarity with the activities of the aggressor state, on 11 August 2022, the perpetrator publicly supported them on the Russian video hosting site Rutube and announced the establishment of new ties with the enterprises of the "LPR" for further cooperation with the aggressor state, expressing gratitude to the Minister of Agriculture of the "LPR" and the leadership of the "LPR" for their support in the activities of the economy. Notably, when qualifying such actions, the pre-trial investigation authorities establish the anti-Ukrainian nature of the perpetrator's behaviour. This is confirmed by the following evidence obtained by law enforcement agencies: public statements by the perpetrator that they cooperated with the enterprises of the "LPR" in favour of the aggressor state, which were posted on various websites and on the Russian video hosting site Rutube.

When qualifying such situations, it is vital to establish both objective and subjective signs of the relevant crime. The payment of taxes as a form of collaboration is not prohibited by international humanitarian law. Such a manifestation of aiding and abetting the aggressor state is more difficult to measure in terms of legal assessment. Since its humanitarian nature, namely, ensuring the livelihoods of the civilian population of the territories occupied by the Russian Federation, and solving the everyday problems of such persons, in our opinion, indicates its insignificant social danger, unlike "wartime collaboration". To be fair, it can be argued that the payment of taxes in the occupied territory with certain conditions does not differ substantially from the normal labour activity of the civilian population prior to the occupation. Such economic activities and forced "cooperation" with the occupation authorities are forced due to the certain influence of the general labour duty and life circumstances. Therefore, E. Pysmenskyi (2020) and A. Politova (2022) suggest that these civilians who formally cooperate with the occupation authorities should not be considered collaborators in the usual sense of the term. Effectively, national legislation has introduced a mechanism whereby certain types of economic collaboration are effectively equated with wartime collaboration, which is not in line with international humanitarian law.

The above suggests that collaboration activities cannot be assessed one-sidedly. Based on the analysis of judicial practice, the study found that the broad scope of criminal liability for acts of collaboration, the presence of evaluative features (specifically, the regulatory vagueness of the term "material resources", which leads to a broad interpretation by the courts), which is typical for corpus delicti, make it difficult to determine the boundaries between Articles 111-1 and 111-2 of the CCU. For instance, a person was convicted for

[1]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2]Ibidem, 2001.
[3]Verdict of Ivano-Frankivsk City Court of Ivano-Frankivsk Region No. 344/12085/23. (2023, October). Retrieved from https://reyestr.court.gov.ua/Review/114110442.

actions that, due to their insignificance, should not have been considered a crime. For example, the convict, as a stoker, worked on the territory to which he had to pass through the checkpoint of the occupation forces, and to facilitate the passage of the checkpoint, he handed over water, cigarettes, and a SIM card of the mobile operator "VF Ukraine" to the occupation forces, which the court recognised as "material resources"[1]. At the same time, this complicates the process of imposing an adequate punishment. For example, a man who personally slaughtered two sheep and handed over their carcasses to the occupiers, thus contributing to their occupation activities, was sentenced to one year and three months in prison, disqualification from holding office for ten years and confiscation of property[2]. At the same time, a person who provided free material resources to the military personnel of the Russian occupation forces, such as cooking, washing clothes, and transferring sheep carcasses to the occupiers free of charge, was punished with a fine of UAH 17,850, a ban on holding elected office and confiscation of property[3]. An analysis of international humanitarian law shows that the humanitarian component of voluntary cooperation between civilians and representatives of the aggressor state has a different legal meaning, which should be considered upon the criminal law qualification of such actions (Zhidkov, 2023).

An analysis of law enforcement practice has shown that threshold situations often arise in the occupied territory of Ukraine when Ukrainian citizens deliberately violate national legislation to avoid reprisals by the aggressor state. The international practice of legal assessment of persons in the occupied territory also suggests that it is sometimes difficult to distinguish between legitimate activities and collaborationism (Galvis, 2022), which indicates the need to change the paradigm of the state's attitude towards collaboration and clarify not only its forms, but also the conditions of commission and potential consequences. Another important issue, as noted by V. Bauer *et al*. (2022), is the provision of security guarantees for persons in the occupied territory who are forced to cooperate with the aggressor state. On the one hand, the Ukrainian authorities are trying to resolve certain problems related to the legal protection of persons who have found themselves in the temporarily occupied territories of Ukraine and are resisting the Russian aggressor by regulatory means[4,5]. On the other hand, it can be stated that there are only prohibitive norms regarding the civilian population under occupation and forced to cooperate with representatives of the aggressor state.

Decisive for the legal assessment of such behaviour should be the regulations in the field of international humanitarian law that govern the legal status of civilians in the occupied territories (Bogoniuk *et al*., 2022). Such documents are known to include the Geneva Conventions and their Additional Protocols, the Hague Conventions and their annexes, as well as customary law and other sources of such law. For instance, Article 48 of Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land prescribes that if a representative of the aggressor state collects relevant tax payments determined by the state in the occupied territory, they shall do so, if possible, under the applicable taxation rules. As a result, they are obliged to bear the costs of governing the occupied territory to the same extent as the legitimate government[6].

Thus, international humanitarian law regulates the procedure for taxation of income of persons in the occupied territory. Such activities are considered acceptable by the occupation authorities. If the taxation of income in the occupied territory is legitimate from the standpoint of international conventions, then paying taxes is certainly a legitimate activity. If this provision is ignored, all citizens of Ukraine living in the occupied territory (the Autonomous Republic of Crimea, eastern and southern regions of the country) automatically become potential offenders from the standpoint of Ukrainian criminal legislation. This is certainly not in line with the social purpose of the CCU and Ukraine's international obligations. Ukrainian legislation affirms the primacy of international law. This is reflected in Article X of the Declaration of State Sovereignty

[1]Verdict of the Buryn District Court of the Sumy Region No. 574/369/22. (2022, December). Retrieved from https://reyestr.court.gov.ua/Review/107991214.
[2]Verdict of the Trostyanetsk District Court, Sumy Region No. 588/713/22. (2022, August). Retrieved from https://reyestr.court.gov.ua/Review/105808995.
[3]Verdict of the Lebedyn district court of Sumy Region No. 588/672/22. (2022, September). Retrieved from https://reyestr.court.gov.ua/Review/106096380.
[4]Resolution of the Cabinet of Ministers of Ukraine No. 1451 "Procedure for Compensation for Damages in Connection with Detention, Arrest or Conviction by Illegal Bodies or Formations Formed in the Temporarily Occupied Territories of Ukraine, or by Bodies or Formations of a Country that Carries out Armed Aggression Against Ukraine, to Persons Involved in Confidential Cooperation with the Forces of Special Operations of the Armed Forces". (2021, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1451-2021-п#Text.
[5]Resolution of the Cabinet of Ministers of Ukraine No. 1452 "Procedure for Granting the Status of a Participant in Hostilities to Persons Involved in Confidential Cooperation who Took Part in the Performance of the Tasks of the Resistance Movement in the Temporarily Occupied Territory of Ukraine, in the Area of ATO/OCF, or in Other Territories where Hostilities were Conducted". (2021, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1452-2021-п#Text.
[6]Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land. (1907, October). Retrieved from https://zakon.rada.gov.ua/laws/show/995_222?lang=en#Text.

of Ukraine, which states that Ukraine recognises the primacy of international law over national norms[1]. Article 9 of the Constitution of Ukraine states that international agreements in force and ratified by the Verkhovna Rada of Ukraine form an integral part of national legislation. The conclusion of international treaties that contradict the Constitution of Ukraine is possible only after the relevant amendments to the Fundamental Law of Ukraine[2] are introduced. The provisions contained in Article 19 of the Law of Ukraine No. 1906-IV dated 29 June 2004 should also be considered. According to this Article, if an international treaty of Ukraine, which has entered into force following the established procedure, establishes rules other than those prescribed in the relevant act of national legislation, the rules of the international treaty shall apply[3].

The voluntary nature of the relevant actions is of practical importance for the qualification of this form of abetting the aggressor state. This sign means that a person consciously performs certain actions without any coercion (physical or mental). Voluntariness is interpreted as the participation of a subject in an act that is carried out of their own free will and initiative (Pysmenskyi, 2020). There is no doubt about the opinion of M. Rubashchenko (2019), who fairly notes that under occupation, the civilian population is in an environment of constant real or potential violence. Clearly, the civilian population of the Russian-occupied territory of Ukraine is under the full control of the overwhelming number of armed war criminals. Representatives of the Ukrainian authorities are effectively deprived of the opportunity to provide assistance to such persons. Therefore, according to M. Rubashchenko (2019), even the "voluntary" economic activity of the civilian population under such conditions ceases to be voluntary in its real meaning. Thus, if a Ukrainian citizen in the occupied territory pays taxes, fees, and other mandatory payments to the Russian budget at any level, the question arises whether they do so voluntarily. As is known, in Ukraine, the obligation to pay taxes is stipulated in Article 67 of the Constitution of Ukraine as an unconditional requirement of the state, and Article 57 of the Constitution of the Russian Federation states that everyone shall pay legally established taxes and fees. It is also necessary to consider the features of the concept of taxes and duties as defined in Article 8 of the Tax Code of the Russian Federation. According to this Article, a tax or fee is a mandatory and individual gratuitous payment. This payment is levied on individuals and legal entities in the form of alienation of their funds for the purpose of financial support of the activities of the state and/or its municipalities[4].

Article 6 of the Tax Code of Ukraine defines the following regulatory features of a tax: 1) mandatory payment; 2) unconditional payment; 3) payment to the relevant budget or to a single account; 4) payment levied on taxpayers according to the Tax Code of Ukraine[5]. In financial law, the characteristics of a tax are as follows: mandatory, unconditional, revenues to the relevant budget, established by an act of a public authority, non-targeted and individually free and monetary, and irrevocable.

It is an apparent fact that a citizen of Ukraine living in the occupied territory cannot avoid paying taxes. Because the aggressor state will force people to pay taxes through repressive mechanisms for failing to perform this constitutional obligation (since it actually controls the occupied Ukrainian territory and considers it its own). In addition, the definition of the term "tax" in Russian legislation implies that it is a payment levied on individuals and legal entities in the form of transferring their funds to meet the financial needs of the state and/or municipalities[6]. That is, it is not a person's right to pay tax liabilities, but an obligation not to obstruct the collection of funds to the Russian budget.

Furthermore, the payment of funds to the Russian budget on the territory of Ukraine temporarily occupied by the Russian Federation may also contain signs of an act committed under the influence of physical or mental coercion, and therefore meet the conditions of extreme necessity. In addition, it follows from the term "tax" prescribed in Article 8 of the Tax Code of the Russian Federation that it is a payment levied on legal entities and individuals for the purpose of financial support of the activities of state bodies and local self-government[7]. In other words, even if the Russian legislation does not define the criminal purposes for which such payments may be made, an individual or legal entity cannot be aware of the concrete purposes for which such payments will be transferred. It can be stated that when qualifying such a crime, the pre-trial investigation authorities will be unable to clearly establish that the funds recovered from the Russian budget are used for criminal purposes, and not, for example, for the maintenance of public utilities or payment of pensions. As noted above, one of the features of a tax is its non-designated nature, i.e., tax revenues are not intended for concrete public expenditures, and public expenditures cannot be conditioned by the receipt

[1]Declaration on State Sovereignty of Ukraine. (1990, July). Retrieved from https://zakon.rada.gov.ua/laws/show/55-12#Text.
[2]Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/card/254%D0%BA/96-%D0%B2%D1%80.
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[4]Tax Code of the Russian Federation. (1999, July). Retrieved from https://www.wipo.int/wipolex/en/text/586700.
[5]Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2755-17#Text.
[6]Tax Code of the Russian Federation. (1999, July). Retrieved from https://www.wipo.int/wipolex/en/text/586700.
[7]Ibidem, 1999.

of funds from taxation (Kucheryavenko, 2016). When qualifying the crime under Article 111-2 of the CCU, the pre-trial investigation authorities should clearly formulate the purpose (to harm Ukraine) (describe how personalised tax payments harm the interests of Ukraine) and not be abstract.

The foregoing indicates that the payment of taxes, duties, and other mandatory payments to the Russian budget of any level in the territory of Ukraine occupied by the Russian Federation, made by a citizen of Ukraine, a foreigner, or a stateless person for themselves or on behalf of and in the interests of legal entities registered in the territory of the Russian Federation, cannot be considered as a voluntary collection, preparation, or transfer of assets, material resources to representatives of the Russian Federation, its armed forces and/or the occupation administration. This is because, firstly, it does not follow the international humanitarian law, specifically Article 48 of Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land[1] and, secondly, it does not contain such a feature as voluntariness, which is a mandatory feature of a crime under the CCU.

Conclusions

Russian aggression has led to the transformation of criminal law policy in the field of combating crimes against national security. The criminalisation of various manifestations of collaboration (Articles 111-1 and 111-2 of the CCU), on the one hand, allowed for differentiation of criminal liability for different forms of cooperation with the aggressor state; on the other hand, it created unjustified competition between the provisions and complicated law enforcement. The study concluded that the new criminal law prohibitions apply to an extremely wide circle of persons due to the new approach of Ukrainian criminal law, which effectively equates certain types of humanitarian collaboration with military collaboration, which does not follow the international humanitarian law. An analysis of law enforcement practice has shown that threshold situations often arise in the occupied territory of Ukraine when Ukrainian citizens deliberately violate national legislation to avoid reprisals by the aggressor state. The specific features of the construction of these manifestations of collaboration do not allow for a clear distinction between legitimate activities and collaboration, which indicates the need to change the paradigm of the state's attitude towards collaboration and clarify not only its forms, but also the conditions of commission and potential consequences. It was found that the application of international humanitarian law in this area is crucial for the civilian population under occupation. Decisive for the legal assessment of such behaviour should be the regulations in the field of international humanitarian law that govern the legal status of the civilian population in the occupied territories. Such documents include the Geneva Conventions and Additional Protocols thereto; the Hague Conventions and their annexes; customary law and other sources of such law. The study provided a legal assessment of a common typical situation when, first of all, a citizen of Ukraine, staying in the territory occupied by the Russian Federation, pays taxes, fees, and other mandatory payments to the Russian budget of any level. It is concluded that such activities do not constitute aiding and abetting the aggressor state, as they do not follow the international humanitarian law (specifically, Article 48 of Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land) and do not contain such a feature as voluntariness, which is a mandatory element of the crime under Article 111-2 of the CCU.

Prospects for further research in this area are to investigate other manifestations of corrupt practices, to define clear algorithms for their qualification, and to identify model structures for improving criminal legislation.

Acknowledgements

Special thanks to the Security and Defence Forces of Ukraine for the opportunity to develop the national criminal law science in the context of Russian military aggression.

Conflict of Interest

The authors of this study declare no conflict of interest.

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Особливості правової оцінки пособництва державі-агресору: національний та міжнародний виміри

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Анотація
Здійснена українським законодавцем диференціація кримінальної відповідальності за окремі вияви колабораційної діяльності спричинила невиправдану конкуренцію та значні складнощі під час кваліфікації відповідних протиправних діянь. Мета статті – аналіз особливостей кримінальної відповідальності за пособництво державі-агресору в національному та міжнародному вимірах. Для досягнення завдань статті було використано комплекс наукових методів: догматичний – під час аналізу юридичних конструкцій складів колабораційної діяльності та пособництва державі-агресору; порівняльно-правовий – у межах зіставлення норм про відповідальність за колабораційну діяльність і норм міжнародного гуманітарного права. Дослідження засвідчило, що в українській кримінально-правовій теорії та судовій практиці не сформовано узгоджені підходи до застосування норм, що стосуються відповідальності за колабораційну діяльність. У статті акцентовано на тому, що в кримінальному законодавстві України застосовують підхід, за якого окремі види економічного колабораціонізму фактично ототожнюються з воєнним колабораціонізмом, що не відповідає нормам міжнародного гуманітарного права. Сформульовано висновок, що під час кваліфікації передачі матеріальних ресурсів представникам держави-агресора виникає конкуренція норм – ч. 4 ст. 111-1 і ст. 111-2 Кримінального кодексу України. У такій ситуації видається доцільним застосовувати норму про відповідальність за колабораційну діяльність. Встановлено, що сплата податків, зборів й інших обов'язкових платежів до російського бюджету будь-якого рівня, вчиненого на окупованій території України, громадянином України, іноземцем, особою без громадянства за себе та/або в інтересах від імені юридичних осіб, які зареєстровані на території Російської Федерації, не можуть бути охоплені об'єктивною стороною пособництва державі-агресору, оскільки це не відповідає нормам міжнародного гуманітарного права й не містить такої ознаки, як добровільність, що є обов'язковою ознакою злочину, передбаченого ст. 111-2 Кримінального кодексу України. Практичне значення статті полягає у визначенні певних правил кваліфікації пособництва державі-агресору, які можуть бути використані органами досудового розслідування під час здійснення правової оцінки такої поведінки

Ключові слова:
злочини проти національної безпеки України; кваліфікація злочину; колабораційна діяльність; кримінальна відповідальність; міжнародне гуманітарне право; склад кримінального правопорушення

UDC 342.6:364-4
DOI: 10.56215/naia-chasopis/2.2024.52

Problematic aspects of at the scene police work with victims of terrorist acts on the territory of Ukraine

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Abstract
The relevance of this study is conditioned by the fact that as of 2024, the population of Ukraine will be subjected to mass terror in the form of air strikes by a military adversary, and therefore law enforcement officers must provide qualified first aid and psychological support at the crime scene. The purpose of this study was to investigate the effectiveness of police officers' work at the scene of a terrorist attack and to identify barriers that have a negative impact on establishing contact with victims. The necessity of scientific development of a mechanism for involving professional psychologists – specialists in life crises in work with victims was substantiated. The following theoretical and empirical methods were used to achieve the objectives: surveys and questionnaires, extrapolations, and synergistic methods. The empirical study found that since the declaration of martial law in Ukraine, the range of risks to the life and health of police officers working in the stressful conditions of military conflict has considerably expanded. This necessitates improving the system of professional and psychological support and training of police officers. The study examined the specifics of police work with victims at the scene of terrorist acts, their psychological state related to such work. It is proposed to revise the legislative framework governing the interaction of police officers with other services in eliminating the consequences of terrorist acts. Based on the analysis of foreign scientific studies, it is proposed to use an unmanned aerial vehicle with artificial intelligence to identify persons in need of emergency assistance in the area affected by a terrorist attack. The study emphasised the significance of familiarising police officers with emergency first aid protocols during their in-service training and additional training to master the rules of providing the necessary assistance to victims. The practical significance of the study is that its results can be used to improve the process of supporting the activities of police officers under martial law

Keywords:
terrorism; first aid; psychological support; law enforcement agencies; communication support

Introduction

During the active hostilities of the aggressor country against Ukraine, the latter is subjected to massive missile and artillery attacks by the aggressor. Almost every day, air raid warnings are sounded in the country and a number of settlements are subjected to air strikes. Missile impacts or their fragments cause considerable damage to infrastructure, private property, people, and animals (Dankévych, 2023). Eliminating the consequences

Article's History:
Received: 04.02.2024
Revised: 01.05.2024
Accepted: 28.05.2024

Suggest Citation:
Lytvyn, V., & Ahmadov, V. (2024). Problematic aspects of at the scene police work with victims of terrorist acts on the territory of Ukraine. *Law Journal of the National Academy of Internal Affairs*, 14(2), 52-60. doi: 10.56215/naia-chasopis/2.2024.52.

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of bombing, rocket attacks, and artillery shelling requires coordinated action by the Ministry of Emergency Situations and law enforcement agencies, as all rescue services and law enforcement agencies are the first to arrive at the scene of damage. Their activities are aimed at conducting rescue operations to quickly find victims in need of assistance. Apart from the search, the police officers involved are also involved in recording the criminal event and preparing materials for the investigation. During this period, communication with the victims and their families is overloaded, requiring time and special interaction skills. The person is often in a state of fear of death, helplessness, loneliness, hysteria, stupor, or complete disorganisation. Therefore, to fulfil their duties at the scene, it is necessary to provide proper pre-medical and psychological assistance in a short time, using a wide range of available means of communication to establish interaction.

Y. Oliynyk *et al*. (2022) tried to reveal innovative ways to establish interaction with a person in crisis in the context of military operations using mobile phones. The researchers highlighted the traumatic, socially stressful, intra-conflict life-crisis consequences of the stress experienced, which should be considered by police officers when providing first aid and psychological assistance. O. Yatsyna (2022) covered the consequences of the impact of hostilities on a person, which are manifested in mono- and multi-traumas. The very threat of injury causes a sequential trauma over time, which makes it impossible to fully confide in the interlocutor. P.V. Teslyuk (2022) found that armed conflict and captivity increase the risk of post-traumatic disorders by 60-80%, which require further therapeutic work.

During the full-scale invasion, the issue of providing qualified first aid and psychological support became essential. Police officers must not only acquire knowledge, skills, and abilities, but also successfully apply them in practice. Especially if many people need help in one place and at one time. Z. Sivers (2021) investigated the predictors of the success of law enforcement and rescue services at the scene of an emergency and identified the key competences that everyone working in the affected area should have (stress resistance, tolerance for empathy, etc.). O. Konev & O. Gerashchenko (2022) proposed modern algorithms for the phased provision of premedical care in the evacuation zone with triage of victims, as well as in case of a long delay in their transfer to medical facilities. J. Lu *et al*. (2023) proved the feasibility of using an intelligent triage system based on unmanned aerial vehicles (UAVs) in mass casualty incidents. Such modern system will allow emergency services in Ukraine to identify people in need of rescue and emergency assistance promptly and efficiently. O.V. Mazurenko *et al*. (2018) proposed an updated system for organising assistance in events with mass casualties.

M.I. Pashkovskyi *et al*. (2023) developed methodological recommendations that contain European standards for the investigation of war crimes. The general part contains categories of war crimes, forms of commission, rules of qualification and distinction between the terms "war crime" and "general criminal offence". Furthermore, the same researchers developed standards for investigating cases of torture and illegal deprivation of liberty. The cited study covered the specific features of interaction during police actions with persons subjected to forced deportation, hostage-taking, and inhumane treatment in the context of international humanitarian law.

As Ukraine defends its borders, its enemy resorts to provocations that harm the health and lives of the population. Victims of mine injuries are in a state of shock and acute disorders for the first 12-40 hours, which makes it impossible to perceive the situation in real time. Furthermore, a person can suffer significant damage to the head, body, eyes, contusions, and coma, which provokes unbearable pain and makes them focus only on this and prevents them from communicating with police and rescuers. Changes in the emotional state, disorientation, amnesia require immediate examination, and appropriate rehabilitation actions. At the same time, the task of law enforcement officers is to provide quality and prompt assistance to victims, saving them from severe psychological and physical consequences. To achieve this, it is necessary to establish: the following what difficulties police officers face at the scene; whether specialists from other services are involved in working with victims; and whether law enforcement officers are ready to work in such conditions. That is why the purpose of this study was to identify the problematic aspects of police interaction with victims at the scene of a terrorist act and to provide recommendations which could be considered by researchers in their future research.

Materials and Methods

A range of theoretical, empirical, and special methods were employed in this study. The synergistic method became relevant to researchers when describing the main functional responsibilities of police officers in the course of their official duties. The systematic method was used to describe the main, mandatory, interrelated actions of police officers at the scene of a terrorist act. Analysis and synthesis are necessary to conclude on the existing problematic aspects of working with victims of a terrorist act. The axiomatic method was used after interpreting the results of a survey of police officers about the problematic aspects of performing their functional duties under martial law.

In March 2024, an offline survey was conducted using the author's own 10-question survey, which clarifies the details of police work with victims at the scene of a terrorist crime. The survey involved 29 patrol police officers of the Patrol Police Department (PPD) in Kyiv and the PPD in Kyiv region of different ages and

genders (including 21 men and 8 women) who agreed to answer the survey questions anonymously. All anonymity requirements were met. The survey was conducted following the requirements of the Psychologist's Code of Ethics (The psychologist's code of ethics..., 1990). The questionnaire contained open-ended questions that allowed police officers to fully express their opinion on a particular issue, namely: "How did the martial law affect the work of police officers in general?", "What condition are victims usually in?", "Are victims easy to contact at the scene?", "What kind of help do victims usually need at the scene?", "What age group of victims is the most difficult to establish contact with at the scene?", "Do you have enough knowledge of effective communication in working with victims?", "Are psychologists involved in working with victims at the scene?", "How do you feel after working with victims?", "Is the interaction between police officers at the scene and other services clear?", "What communication difficulties have you observed when interacting with victims?". The questionnaire method provided an opportunity to understand the state of readiness of police officers to work in extremely difficult conditions with victims in various states of stress. The graphic method helped to compare the answers of respondents by gender. The graphic method helped to clearly highlight the difficulties of working with victims from the standpoint of male and female police officers.

The method of structuring helped to arrange the study in a logical sequence: a) analysis of police officers' activities in emergency and extreme situations; b) study of modern scientific studies of researchers who have tried to investigate and provide recommendations for improving the work of police officers under martial law; c) conducting research and interpreting the findings with the following graphical percentage coverage; d) providing recommendations for further scientific research to improve the priority actions at the scene of a terrorist act.

The regulatory framework of this study is based on the Order of the Ministry of Internal Affairs No. 357 "On Approval of the Instruction on the Organization of Response to Statements and Reports of Criminal, Administrative Offences or Incidents and Prompt Notification in the Bodies (Units) of the National Police of Ukraine" dated 27 April 2020[1] (regulates the issues of police acceptance of a call to the scene, departure of a patrol crew, actions at the scene, and interaction with other services); CMU Resolution No. 485 "On Amending Clause 4 of the Regulations on the National Police" dated 12 May 2023[2] (describes the main expanded rights and obligations of police officers in connection with the introduction of martial law in the country); Order of the Ministry of Internal Affairs No. 88 "On Approval of the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National Police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Train Police Officers" dated 6 February 2019[3] (specifies the procedure for professional psychological training and support of police officers to act in both normal and atypical conditions); Order of the Ministry of Internal Affairs No. 393 "On Approval of the Instruction on the Procedure for Interaction Between the State Emergency Service of Ukraine, the National Police of Ukraine and the National Guard of Ukraine in the Field of Prevention and Response to Emergencies, Fires and Dangerous Events" dated 15 June 2023[4] (sets out the specifics of practical psychologists' work with police officers who have worked in extreme conditions related to active hostilities); Order of the Ministry of Internal Affairs No. 859 "On Approval of the Instruction on the Procedure for Interaction between the State Emergency Service of Ukraine, the National Police of Ukraine and the National Guard of Ukraine in the Field of Prevention and Response to Emergencies, Fires and Hazardous Events" dated 22 August 2016[5] (contains the procedure for mutual actions of the services at the scene of a crime).

Results and Discussion

Regulation No. 92 dated 18 February 2016 defines four levels of threats (grey, blue, yellow, red), which are characterised by available reliable information about grounds to believe that a terrorist act is being prepared or committed[6]. I.V. Glowyuk *et al*. (2023) developed a methodological guide that covers the intricacies of

[1]Order of the Ministry of Internal Affairs No. 357 "On Approval of the Instruction on the Organization of Response to Statements and Reports of Criminal, Administrative Offences or Incidents and Prompt Notification in the Bodies (Units) of the National Police of Ukraine". (2020, April). Retrieved from https://zakon.rada.gov.ua/laws/show/z0443-20#Text.
[2]Resolution of the Cabinet of Ministers of Ukraine No. 485 "On Amending Clause 4 of the Regulations on the National Police". (2023, May). Retrieved from https://zakon.rada.gov.ua/laws/show/485-2023-%D0%BF#Text.
[3]Order of the Ministry of Internal Affairs No. 88 "On Approval of the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National Police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Train Police Officers". (2019, February). Retrieved from https://zakononline.com.ua/documents/show/383027___755369.
[4]Order of the Ministry of Internal Affairs No. 393 "On Amendments to the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Provide Police Training". (2023, June). Retrieved from https://zakon.rada.gov.ua/laws/show/z0912-23#Text.
[5]Order of the Ministry of Internal Affairs No. 859 "On Approval of the Instruction on the Procedure for Interaction Between the State Emergency Service of Ukraine, the National Police of Ukraine and the National Guard of Ukraine in the Field of Prevention and Response to Emergencies, Fires and Dangerous Events". (2016, August). Retrieved from https://zakon.rada.gov.ua/laws/show/z1254-16#Text.
[6]Resolution of the Cabinet of Ministers of Ukraine No. 92 "On Approval of the Regulation on a Unified State System for Preventing, Responding to and Stopping Terrorist Acts and Minimizing their Consequences". (2016, February). Retrieved from https://zakon.rada.gov.ua/laws/show/92-2016-%D0%BF#Text.

establishing all the facts of offences committed because of the war, as well as the specific features of investigation and proof. The manual contains criminal law, procedural, forensic, and psychological aspects. J.V. Rosenfeld *et al*. (2018) expanded on the guidelines for tactical combat care of the wounded from terrorist attacks, which have saved many lives, while S.V. Yakuba (2023) covered the latest measures and means of providing medical care to police casualties. The authors of the present study fully support the researcher's opinion that during the period of public security and martial law, police officers should be familiarised with emergency medical care protocols so that they can save more victims in extreme situations.

T.S. Vaida (2022) described a mechanism to protect hypothermic victims from hypothermia in a bomb shelter. Signs of hypothermia were described, which manifests itself in cold injury, decreased physical activity, chills, slow speech, and lack of coordination. When providing first aid to police officers, they should be guided by the protocol forms contained in the American Heart Association's guidelines. O.O. Kohut (2023) defined the procedure for providing primary psychological support by police officers to victims in acute stressful conditions. The researcher is inclined to apply a systemic-integrative approach in psychological assistance to victims of warfare.

M. Kryvonos (2023) outlined the procedure for working with victims of violence within the framework of de-occupation measures. According to the researcher, the work should be carried out based on respect for human dignity and with the use of psychological subtleties. When dealing with victims, police officers must maintain emotional neutrality to avoid triggering strong emotions. V.L. Hryshchuk *et al*. (2022) provided a scientific vision of the image of a professionally trained police officer. The communication process of police officers in extreme situations was described separately and recommendations for training in conflict resolution skills were provided.

According to the Order of the Ministry of Internal Affairs No. 357 "On Approval of the Instruction on the Organization of Response to Statements and Reports of Criminal, Administrative Offences or Incidents and Prompt Notification in the Bodies (Units) of the National Police of Ukraine" dated 27 April 2020[1], police officers must respond promptly, arrive at the scene immediately, and provide assistance to victims within the scope of police powers. When arriving at the scene of a terrorist act, police officers organise the preservation of traces of the crime, provide necessary assistance to victims, unblock people, and animals; in cooperation with other services (gas, water, SES, etc.), they localise the consequences so that they do not lead to more serious consequences.

Today's terrorism in Ukraine causes great destruction and casualties. According to the statistics of the Prosecutor General's Office (2024), in 2023 alone, over 70,000 people suffered from hostilities in Ukraine. Enemy troopsare striking at infrastructure, military facilities, and civilian homes in the country. Terrorism is mainly carried out through air strikes that provoke fires and large-scale destruction of premises, followed by the trapping of people inside. The commander of the Air Force of the Armed Forces of Ukraine, Mykola Oleshchuk, estimated that as of 24 February 2024, air attacks had been carried out every day for 730 days of the full-scale invasion of Ukraine (The official Telegram channel of the commander..., 2024). The police officers on the ground are working in extremely difficult conditions, around the clock, risking their lives and health to extinguish the fire and unblock the debris. Thus, the analysis of the survey results revealed that since the introduction of martial law, the risk to life and health has increased in the work of police officers (48% of the men and 2 women in the sample noted this), and police officers have been given broader powers and responsibilities (6 men (28%) and 6 women noted this). Some respondents (5 men – 24%) believe that martial law has not affected the work of law enforcement agencies. The new defensive additional functions, according to police officers, are as follows: ensuring the protection of critical infrastructure facilities; duty at checkpoints; restricting the population within legal limits, movement in certain areas; detecting terrorists or persons preparing to commit provocations (taking photos of strategically important areas and transmitting the data to the enemy); protecting homes and property from looting.

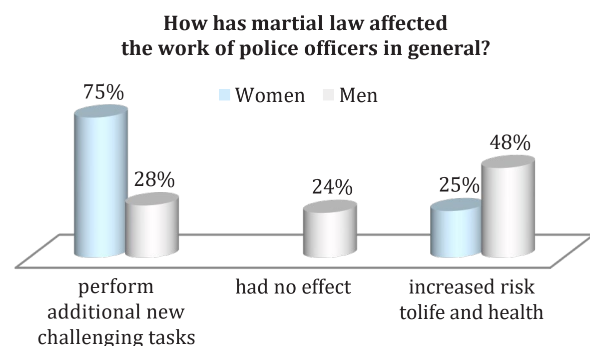

Figure 1. Analysing the effects of martial law on police officers' activities
Source: developed based on the research of the authors of this study

The first to arrive at the scene of a terrorist attack are the patrol police crews, the investigative team, and the patrol police response teams. Firstly, they cordon

[1]Order of the Ministry of Internal Affairs No. 357 "On Approval of the Instruction on the Organization of Response to Statements and Reports of Criminal, Administrative Offences or Incidents and Prompt Notification in the Bodies (Units) of the National Police of Ukraine". (2020, April). Retrieved from https://zakon.rada.gov.ua/laws/show/z0443-20#Text.

off the crime scene and begin to provide the necessary assistance to the victims. Patrol police officers noted that most victims were in a state of hysteria (6 men – 28%); despair (5 men – 24%; 5 women – 62.5%); and shock (10 men – 48%; 3 women – 37.5%). Fractures, breathing difficulties, compression of organs, burns, and bleeding often make it impossible for the victim to communicate with the police officer, which affects the time it takes for the latter to provide assistance. In a state of shock, victims are often unable to explain their condition and refuse to communicate. According to D.W. Mazurkiewicz *et al*. (2022), people who were at the epicentre of terrorist attacks later developed generalised anxiety disorder or significant hyperactivity, making it impossible to establish contact with rescuers. The loss of relatives, housing, means of transport or work triggers an irresistible urge to scream, swear, panic, and take aggressive action against others. Therefore, the police need to normalise their condition first, and only then establish communication.

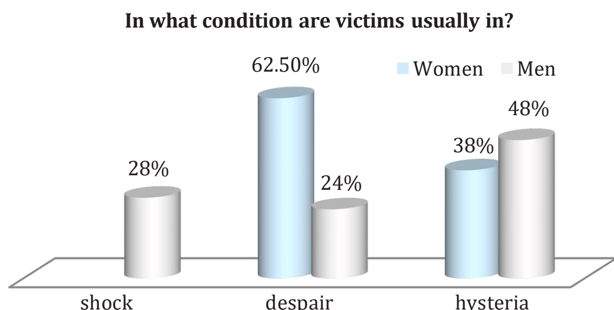

Figure 2. Percentage analysis of the state of victims after a terrorist attack
Source: developed based on the research of the authors of this study

The study found that not all victims are easy to contact (18 men – 86%; 7 women – 87.5%). The key difficulties affecting this include the stressful state of the victims (13 men – 62%; 5 women – 87.5%), their ignoring the interlocutors (2 men – 10%; 2 women – 25%), and clouded consciousness (6 men – 26%; 1 woman – 12.5%). There are several types of victims after an attack: those who remember the moment of impact, are in great emotional distress, but are ready to testify; those who are stressed, unaware of the situation and unable to explain the details. The identified types of victims require finding approaches and techniques to establish interaction and contact with them. For instance, S. Miraki *et al*. (2022) developed tools to study the readiness of all emergency services to work in the face of a terrorist threat. Employees who have a risk appetite and tolerance for human instability at the time of a terrorist attack are allowed to work with victims of terrorism.

The survey clarified how police officers assess their communication skills in dealing with victims of terrorism. The results showed a considerable difference in the responses of women and men. Most women (87.5% vs. 12.5%) believe that they need to work on improving their communication skills. The opinions of the men surveyed were almost equally divided (Fig. 3). Thus, 18 respondents (62%) consider their skills to be insufficient. The reason for this may be the fact that the basis of the necessary knowledge of police officers consists of components of firearms, tactical, service, and psychological training, which they receive after joining the National Police within 6 months. A police officer should be prepared to deal with atypical and difficult situations using all the necessary skills learned. We can agree with the opinion of S. Thoresen *et al*. (2018), who emphasise the significance of training police officers to assist victims of terrorist acts, which will reduce the level of trauma to victims and ensure their quick recovery. Therewith, before the full-scale invasion, professional and psychological training was aimed at preparing police officers to operate in atypical situations related to the deterioration of the operational situation. However, in the current situation, there is a need to reorganise the training system to include the specifics of performing professional duties under martial law and with the expansion of police powers introduced by Resolution of the Cabinet of Ministers of Ukraine No. 485 "On Amending Clause 4 of the Regulations on the National Police" dated 12 May 2023[1]. This opinion is confirmed by Y.Y. Podorozhnii (2022) regarding the significance of continuously acquiring professional knowledge, skills, abilities that will help to further organise both one's own work and the work of the unit in a quality manner.

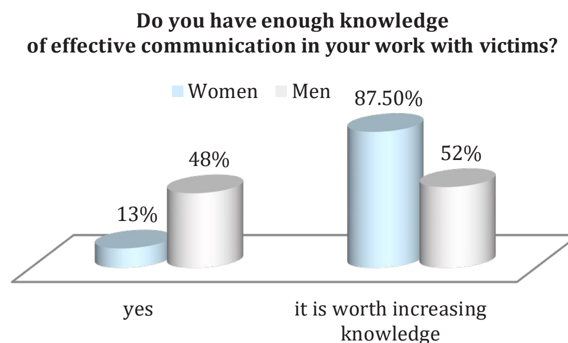

Figure 3. Percentage of effective communication between police officers
Source: developed based on the research of the authors of this study

Hierarchically, it was found that, in the opinion of the police officers on the spot, victims most needed medical (18 men – 86%; 7 women – 87.5%), social

[1]Resolution of the Cabinet of Ministers of Ukraine No. 485 "On Amending Clause 4 of the Regulations on the National Police". (2023, May). Retrieved from https://zakon.rada.gov.ua/laws/show/485-2023-%D0%BF#Text.

(18 men – 86%; 7 women – 87.5%), and psychological assistance (18 men – 86%; 7 women – 87.5%). Victims need to feel protected at this point, and therefore they are first examined for injuries, and then provided with water, food, clothing, and can be moved to a safe place. It is of great importance to promptly provide victims with psychological support and normalise their condition. Police officers are not professional psychologists. They cannot provide sufficient long-term support if there are many people at the scene, which requires the involvement of relevant specialists at the scene of a terrorist attack. Respondents' answers about how often psychologists are involved in work with victims in modern conditions varied: some said that psychologists are always involved (1 man – 5%; 4 women – 50%); others – sometimes involved (12 men – 57%; 2 women – 25%), and some said that psychologists are not involved in work with victims at all (8 men – 38%; 2 women – 25%) (Fig. 4). These results can be explained by the fact that, firstly, the interviewed patrol police officers do not work in the same crews and do not respond to the same calls, and secondly, a psychologist from the SES, who is not a member of the police staff, may sometimes work at the scene. This issue requires additional scientific investigation and development of recommendations for the involvement of psychologists.

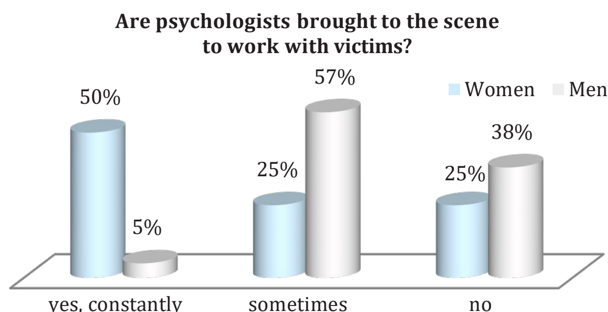

Figure 4. Analysing the involvement of psychologists in work with victims
Source: developed based on the research of the authors of this study

According to the Order of the Ministry of Internal Affairs No. 88 "On Approval of the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National Police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Train Police Officers" dated 6 February 2019[1], the psychological service in the police is obliged to take care of the personnel to maintain good health of police officers and to influence the factors that harm it. During the period of martial law, one of the main focuses of the service should be to support security forces who have been injured, held captive, or deterred armed aggression. Furthermore, psychologists should develop mechanisms for psychological support of police officers who perform extremely complex tasks and are exposed to risks and dangers on a daily basis, so that they are ready to act in a coordinated manner under considerable physical and psychological stress. Order of the Ministry of Internal Affairs No. 393 "On Amendments to the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Provide Police Training" dated 15 June 2023[2] outlined a new range of functional tasks for practising psychologists. Currently, they have to provide psychological support to police officers who have been injured, lost family members, carried out combat missions with the constant use of weapons, been captured or taken hostage.

According to the authors of the present study, the psychological service should select and train personnel to repel aggression and act in extreme, critical, morally stressful situations. Through a survey, the study identified how working with victims of terrorism can affect the moral and psychological state of a police officer who often witnesses the maiming or death of the population. After interpreting the results, it became clear that although police officers "try not to give in to emotions" while performing their duties (16 men – 76%; 6 women – 75%), they still feel "slightly desperate" (2 women – 25%) and "morally exhausted" (5 men – 24%) (Fig. 5).

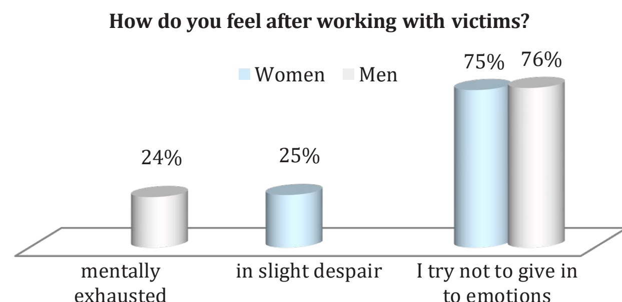

Figure 5. The level of psychological exhaustion of police officers when working with victims
Source: developed based on the research of the authors of this study

It is not uncommon for police to work at the scene for several days. In cooperation with other law enforcement agencies and rescue services, police officers try to carry out their duties in a coordinated manner.

[1]Order of the Ministry of Internal Affairs No. 88 "On Approval of the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National Police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Train Police Officers". (2019, February). Retrieved from https://zakononline.com.ua/documents/show/383027___755369.
[2]Order of the Ministry of Internal Affairs No. 393 "On Amendments to the Procedure for Organizing the System of Psychological Support for Police Officers, Employees of the National police of Ukraine and Cadets (Students) of Higher Education Institutions with Specific Training Conditions that Provide Police Training". (2023, June). Retrieved from https://zakon.rada.gov.ua/laws/show/z0912-23#Text.

Order of the Ministry of Internal Affairs No. 859 dated 22 August 2016[1] regulates the procedure for the activities of both services at the scene. Due to the ongoing cooperation, this study established how difficult it was for the interviewed police officers to interact with other special services that responded to a call. This includes Security Service of Ukraine, Armed Forces of Ukraine, State Emergency Service, National Guard of Ukraine, etc. It was found that there is a certain problem in establishing a mechanism for police cooperation with services that investigate crimes against the state or whose actions are aimed at protecting the public. Police officers believe that interaction with other special services is clearly described in the regulations (14 men – 67%; 7 women – 87.5%) but needs to be improved (5 men – 23%; 1 woman – 12.5%) (Fig. 6). In this regard, there is a need to develop a procedure for cooperation with various specialists at the time of a terrorist act related to military operations on the territory of Ukraine, with subsequent amendments to regulations of national importance.

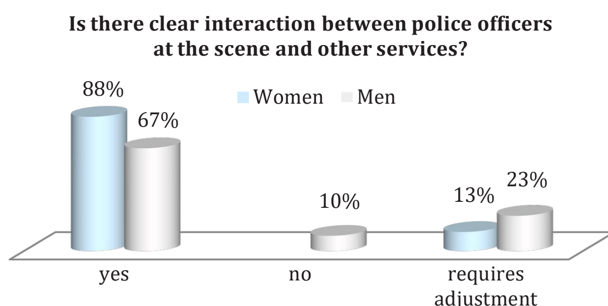

Figure 6. The extent to which police officers interact with specialists from other services at the scene
Source: developed based on the research of the authors of this study

Generally, the performance of the police at the scene of a terrorist attack can be positively assessed. Law enforcement officers are working in a coordinated and professional manner to provide all necessary assistance to the victims. Two years of martial law forced the police to format their activities and acquire new knowledge, skills, and abilities that are so necessary during the period of military operations in the country. Admittedly, as in any activity, there are still problematic aspects that require a scientific search for their solution. Since the expansion of police powers, there is also an urgent need to develop mechanisms for their implementation in practice.

Conclusions

The study concluded that since the full-scale invasion of Ukraine, the patrol police have been working in an intensified mode with a considerable risk to life and health, performing a wide scope of tasks assigned to the security and defence sector. Since the introduction of martial law, the patrol police have not only ensured road safety, but have also been involved in evacuating the population, patrolling checkpoints, searching for and detecting sabotage and reconnaissance groups, etc. Police crews are among the first to respond to calls and carry out procedural actions according to the requirements of the situation at the scene.

Law enforcement agencies are called upon to protect the expression of human will, ensure order, guarantee security, and provide necessary assistance within the limits of their authority. Upon arrival at the scene, police officers must take a range of measures to provide the victims with the necessary pre-medical, social, and psychological assistance. In such activities, obstacles may arise in the form of strong and overwhelming emotional distress of victims, which complicates communication and further interaction. Therefore, the problem of the lack of effective mechanisms for establishing contact with victims persists and requires thorough investigation. Notably, since the introduction of martial law, the activities of police officers have become more dangerous due to the fact that they often perform combat missions.

The survey revealed a need for professional psychologists to be involved in the work with victims of terrorism, who would choose the suitable approaches and provide psychological support to victims as necessary. Furthermore, police officers need to improve their knowledge, skills, and abilities in effective communication and counteracting emotional burnout, which can easily develop after constant work at the scene of terrorist acts. Psychological practical services should review the mechanisms of training and format the process of supporting police officers' activities, guided by the operational situation in the country.

The study also found a need to establish instructions and procedures for law enforcement cooperation with other agencies and structures in organising rescue operations. Police officers need to understand where their competence ends and in what order they should continue to work. Further research could be aimed at analysing the European practices of police work with victims of terrorist acts and developing scientific recommendations for their implementation in Ukrainian practice.

Acknowledgements

None.

Conflict of Interest

None.

[1]Order of the Ministry of Internal Affairs No. 859 "On Approval of the Instruction on the Procedure for Interaction Between the State Emergency Service of Ukraine, the National Police of Ukraine and the National Guard of Ukraine in the Field of Prevention and Response to Emergencies, Fires and Dangerous Events". (2016, August). Retrieved from https://zakon.rada.gov.ua/laws/show/z1254-16#Text.

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Проблемні аспекти роботи поліцейських із постраждалими від терористичних актів на території України на місці події

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Анотація

Актуальність дослідження зумовлена тим, що станом на 2024 рік населення України зазнає масового терору у вигляді авіаударів з боку військового супротивника, у зв'язку з чим правоохоронці мають надавати кваліфіковану домедичну допомогу й надавати психологічну підтримку на місці злочину. Метою статті є дослідження ефективності роботи поліцейських на місці терористичного акту й виявлення бар'єрів, які чинять негативний вплив на встановлення контакту з постраждалими. Обґрунтовано необхідність наукового розроблення механізму залучення фахових психологів – фахівців із життєвих криз до роботи з постраждалими. Задля реалізації поставлених завдань було застосовано такі теоретичні й емпіричні методи: опитування та анкетування, екстраполяції, синергетичний. У межах емпіричного дослідження встановлено, що з часу проголошення воєнного стану в Україні значно розширився спектр ризиків для життя і здоров'я поліцейських, які працюють у стресових умовах воєнного конфлікту. Зазначене зумовлює необхідність удосконалення системи професійно-психологічного супроводження та підготовки поліцейських. Розглянуто специфіку роботи поліцейських із постраждалими на місці вчинення терористичних актів, їх психологічний стан, пов'язаний з такою роботою. Запропоновано переглянути законодавчу базу, яка регулює взаємодію поліцейських з іншими службами в процесі ліквідації наслідків терористичних актів. На підставі аналізу зарубіжних наукових праць запропоновано використовувати безпілотний літальний апарат зі штучним інтелектом для виявлення осіб, які потребують невідкладної допомоги в зоні ураження терористичного акту. Акцентовано на важливості ознайомлення поліцейських із протоколами невідкладної домедичної допомоги в процесі службової підготовки й додаткових навчань для опанування правил надання необхідної допомоги постраждалим. Практичне значення дослідження полягає в тому, що його результати можуть бути використані для вдосконалення процесу супроводження діяльності поліцейських в умовах воєнного стану

Ключові слова:
тероризм; домедична допомога; психологічна підтримка; правоохоронні органи; комунікативна підтримка

UDC 340. 341.4+343
DOI: 10.56215/naia-chasopis/2.2024.61

"Filtration" of the population in the temporarily occupied territories of Ukraine as an instrument of genocide

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Abstract

The relevance of this study stems from the need to investigate the "filtration" structure introduced by the occupation authorities, which contains violations of international humanitarian law. The purpose of this study was to investigate the conceptual and organisational foundations of the "filtration" system through the lens of international human rights law. Considering the subject matter and the purpose of this study, a range of scientific methods was employed, including terminological, systemic and structural, formal and logical, which helped to investigate the subject matter and summarise the analysis findings. The study covered the testimonies of victims about the crimes committed against them while passing through the filtration labyrinth. The study outlined the problematic issues of proving crimes committed on the territory of Ukraine, considering the practice of European and international court decisions on violations of civilian rights through the lens of international humanitarian law related to armed conflict. The study concluded that the "filtration" of the Ukrainian population in the temporarily occupied territories is a gross violation of human rights and contradicts the principles of democracy, freedom, and self-determination. Targeted sanctions against those responsible for these violations are crucial to hold them accountable for their actions. The study concluded that stopping the practice of "filtration" and facilitating the restoration of the rights and freedoms of the Ukrainian population in the temporarily occupied territories is possible only through diplomatic efforts and international cooperation. The main provisions of this study will encourage further investigations of crimes with the recording of testimonies and evidence, as well as contribute to the development of sound policies, mechanisms of international accountability, and prevention of potential violations in the interests of justice and protection of civilians

Keywords:
armed aggression; filtration facilities; filtration measures; temporary occupation; Russian occupation forces; genocidal intent; nationalist

Article's History:
Received: 23.01.2024
Revised: 24.04.2024
Accepted: 28.05.2024

Suggest Citation:
Shapovalova, A., & Fedorovska, N. (2024). "Filtration" of the population in the temporarily occupied territories of Ukraine as an instrument of genocide. *Law Journal of the National Academy of Internal Affairs*, 14(2), 61-73. doi: 10.56215/naia-chasopis/2.2024.61.

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Introduction

The relevance of this study is substantiated by the need for a thorough investigation of the "filtration" structure introduced by the occupation authorities of the Russian Federation (RF) on the territory of Ukraine. Consideration of this aspect is important for uncovering the injustices and violations that occurred during the occupation. A detailed study of this structure will help to understand the mechanisms of its functioning and impact on society. Coverage of this issue will help to raise public awareness and promote a more objective view of the crimes recorded and investigated by international bodies during the war in Ukraine.

According to some researchers, Russia's actions in the war against Ukraine, including those being investigated by international courts, can be considered through the lens of the concept of genocide. In international law, "genocide" is defined as "any act committed with intent to destroy, in whole or in part, any national, ethnic, racial, or religious group as such" and is consolidated as a crime in the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the UN General Assembly in 1948[1] and used in the Rome Statute of the International Criminal Court (ICC)[2]. C. Harrison (2023) describes the killing of civilians in the town of Bucha in 2022 as genocide. Failure to prosecute such suspects, according to the researcher, could lead to the recruitment of many more genocide perpetrators. Using the example of war crimes committed by the Russian military in Ukraine, A.V. Zamryga & M.A. Padalka (2023) examined the state of international cooperation in combating genocide, its development and prospects, emphasising the methodology for recognising and identifying genocide based on institutions of international responsibility for the legal definition of genocide as an international crime.

It should be emphasised that establishing the facts of genocide and, accordingly, prosecuting those responsible for its commission is currently an essential aspect and a relevant field for legal research. O.S. Sotula (2023) investigated criminal offences, distinguishing premeditated murder from genocide as a crime against the peace and security of humankind. Investigating the current trends in sexual violence related to the military conflict in Ukraine, V.M. Rufanova (2022, 2023) concludes that these crimes fall under the category of war crimes, crimes against humanity, and can be considered an act of genocide against the Ukrainian nation. Rufanova believes that sexual violence is part of Russia's military tactics and war strategy, which the researcher attributes to the facts of mass rape, regardless of age and gender, torture and electric shocks to the genital area of victims, even in the presence of relatives, etc. Based on the above-mentioned researchers' attempts to analyse the war crimes of the RF in Ukraine through the lens of the concept of genocide, this study examines the organisation and functioning of the filtration system in the occupied territories of Ukraine from this standpoint. In this regard, it is necessary to mention the study of the transcripts of the materials and documents of the Nuremberg Trials (November 1945 – October 1946) by Y.V. Bevs (2022). The researcher emphasises that the Wehrmacht High Command's W. Keitel was recognised as a war criminal for violating international conventions on the treatment of Soviet prisoners of war, specifically, for keeping them in filtration camps.

M.V. Savva (2023) thoroughly investigated the system of "filtration", covering the existence of special filtration camps for prisoners of war and repatriates in the Soviet Union between 1941 and 1949 (formerly known as special NKVD camps; check and filtration camps). The system of special state verification ("filtration") involved checking Soviet soldiers released from captivity and persons who had returned to their homeland (repatriates) and possibly escaped from captivity at army or frontline assembly and transfer points. According to M.V. Savva, this test was one of the instruments of repression, since as of 1946, over 300,000 people were arrested as a result of this "filtration", which is almost 10% of all those who passed it. F. Exeler (2023) also highlights historical versions of "filtration" camps and checkpoints used by both Soviet authorities during and after World War II and by the RF during the double invasion of Chechnya.

T.V. Drakohrust (2022) detailed the results of the analysed Russian legislation on the status of a Ukrainian citizen staying in the territory of the aggressor country in connection with the massive measures to move Ukrainian citizens from the occupied territories to Russia. The researcher noted that not everyone has access to the procedure for obtaining refugee status or temporary asylum, as not every citizen of Ukraine is screened through "filtration camps". O. Pukhons'ka (2023) covers the traumatic experience of Stanislav Asieiev as a victim of the Donetsk Dachau concentration camp in the context of the current war, as well as in the context of the history of concentration camps such as the Gulag and Nazi camps.

O. Potikha (2023) points out that in an effort to eradicate the national identity of Ukrainian children, the RF, through the forced deportation of children from the occupied territories, violated the Convention on the Rights of the Child[3] and the Geneva Convention relative to the Protection of Civilian Persons[4]. Among the

[1]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.
[2]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[3]Convention on the Rights of the Child. (1989, November). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_021?lang=en#Text.
[4]Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ips.ligazakon.net/document/MU49006.

victims of deportation are orphans, including those whose parents were killed by the occupiers, children from boarding schools who have relatives in Ukraine but are illegally taken away, as well as children of parents who failed the filtration check and ended up in torture chambers, along with other categories of children.

Therefore, the purpose of this study was to investigate the organisational and conceptual foundations of the filtration system in the Russian-occupied territories of Ukraine through the lens of international humanitarian law and to establish the legitimacy of applying the concept of genocide to filtration measures.

Materials and Methods

This study employed the following methods of scientific cognition: theoretical, terminological, systemic-structural, formal-logical, empirical, statistical, and activity-based approaches. The theoretical framework of this study included the findings of Ukrainian and international researchers in the field of genocide. The terms "genocide", "Nazi", "filtration facilities", "filtration measures", "temporary occupation", "armed aggression", "Russian occupation forces" were investigated using the terminological method. The systemic and structural method helped to thoroughly examine the phenomenon of "filtration", its systematic nature and structure, as well as the use of all "filtration" facilities by the Russian military against the civilian population in the occupied territories. Using the formal and logical method, the study analysed the trends in the development of criminal law provisions regulating liability for genocide committed by the occupying forces against the Ukrainian people. The activity-based approach helped to cover the content of the "filtration" system as an instrument of genocide and, accordingly, the consideration of this type of crime by the ICC and the International Court of Justice with the imposition of appropriate punishment on both the aggressor country of the Russian Federation and high-ranking officials of the aggressor country.

The study compiled and analysed the international regulatory framework on the issues covered in this paper. These sources constitute the international legal framework covering the protection of human rights[1], the rights of the civilian population in the time of war[2], rights of the child[3], prevention of crimes of genocide[4], prevention of torture and inhumane treatment[5], as well as establishing norms and procedures for punishing violations of these norms[6]. The next category of sources included the decisions of international organisations regarding the large-scale armed invasion of Ukraine on 24 February 2022, which was confirmed by international organisations, specifically by UN General Assembly Resolution ES-11/1 dated 2 March 2022[7], UN General Assembly Resolution ES-11/2 dated 24 March 2022[8], Clauses 1, 3 of Opinion 300 (2022) of the Parliamentary Assembly of the Council of Europe, Clauses 17, 18 of the Order of the International Court of Justice dated 16 March 2022[9].

The national legislative level defined the crimes committed by the Armed Forces of the Russian Federation and its military and political leadership during the latest phase of armed aggression against Ukraine, which began on 24 February 2022, as genocide of the Ukrainian people. This is reflected in the appeals to the UN, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, governments and parliaments of foreign countries to recognise the genocide of the Ukrainian people, as well as crimes against humanity and war crimes committed by the Russian Federation on the territory of Ukraine[10].

Results and Discussion

As of the beginning of 2024, 4 interstate cases of Ukraine against Russia are pending before the European Court of Human Rights: 1) Ukraine v. Russia (concerning Crimea) regarding human rights violations in the temporarily occupied territory of the Autonomous

[1]Convention for the Protection of Human Rights and Fundamental Freedoms. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004?lang=en#Text.

[2]Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ips.ligazakon.net/document/MU49006.

[3]Convention on the Rights of the Child. (1989, November). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_021?lang=en#Text.

[4]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.

[5]European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (1987, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_068?lang=en#Text.

[6]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.

[7]Resolution of the United Nations General Assembly No. ES-11/1 "Aggression Against Ukraine". (2022, March). Retrieved from https://reliefweb.int/report/ukraine/resolution-adopted-general-assembly-24-march-2022-es-112-humanitarian-consequences.

[8]Resolution of the United Nations General Assembly No. ES-11/2 "Humanitarian Consequences of the Aggression Against Ukraine". (2022, March). Retrieved from https://reliefweb.int/report/ukraine/resolution-adopted-general-assembly-24-march-2022-es-112-humanitarian-consequences.

[9]Order of the International Court of Justice No. 182 "Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)". (2022, March). Retrieved from https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf.

[10]Statement of the Verkhovna Rada of Ukraine "On the Commitment of Genocide in Ukraine by the Russian Federation: Resolution of the Verkhovna Rada of Ukraine". (2022, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2188-20.

Republic of Crimea[1]; 2) four lawsuits of Ukraine and the Netherlands v. Russia, in which an interim decision was made, are consolidated into one case: human rights violations in the occupied Donbas region; abduction of orphans and children with disabilities and their transportation to the territory of the Russian Federation; the tragedy of the downing of the MH17 passenger flight; the crimes of the Russian military during the full-scale invasion of Ukraine[2]; 3) Ukraine v. Russia, the case of the seizure of Ukrainian sailors and ships[3]; 4) Ukraine v. Russia, application No. 10691/21, concerning the murder of Russian opponents[4]. The International Court of the United Nations (the UN) is considering two cases based on the claim of Ukraine against the Russian Federation[5,6] and at the beginning of July 2023, the court agreed to add 32 more states to the claim. Furthermore, the Permanent Chamber of the Arbitration Court in The Hague is considering two more claims[7,8]. A historic event for the system of international law in general and for Ukraine in particular was the decision of the ICC in The Hague dated 17 March 2023 on international arrest warrants for the President of the Russian Federation and the Commissioner for Children's Rights M. Lvova-Belova, who are suspected of forcibly transferring more than 16,000 Ukrainian children from the territories of Ukraine occupied by the Russian Federation (International Criminal Court, 2023).

The stated goal of Russia's military aggression is the "denazification" of Ukraine (Vinnichuk & Ruda, 2024). The term is used to associate armed aggression with extremism, which the Russian leadership calls "Nazis", considering Ukrainians who seek self-identification and definition of their national identity. This policy of the Russian Federation is aimed at distorting the image of the Ukrainian people and their aspirations for independence, spreading false ideological concepts in the world that try to link Ukrainian patriotism with "Nazism" or other radical ideologies[9]. In a situation where the occupying authorities of the occupying power are actively pursuing a policy of destroying Ukrainian national and civic identity, specifically among children and youth, through education, both formal and informal, effective measures should be developed, and modern methods should be used to preserve Ukrainian national and civic identity[10].

The security and defence forces of Ukraine stopped the advance of Russian occupation forces towards Kyiv and prevented its occupation. In most of the territories of Ukraine under the control of the occupation forces, the local population began to openly demonstrate a negative attitude towards them, calling on the representatives of the Russian occupation forces to stop the aggression and liberate the occupied territories, as well as actively counteract the advance of enemy units by passing information about them to the Security and Defence Forces of Ukraine, committing sabotage and otherwise counteracting the occupation forces (Javakhishvili, 2022). In this regard, the occupation forces have committed large-scale violations of international humanitarian law through murder, torture, deportation, destruction of infrastructure necessary for the survival of the civilian population, destruction of library collections, removal of educational materials from educational institutions, and removal of museum collections, including artefacts that constitute a source of Ukrainian history[11].

The illegal actions of the Russian occupation forces in the temporarily controlled territories of Ukraine became systematic and large-scale, as they enabled the destruction of some Ukrainians who were included in the arrest/destruction lists (Mackinnon *et al.*, 2022). According to E. Javakhishvili (2022), the goals were broader: the elimination of anyone who identified themselves as a representative of the Ukrainian national group (spoke Ukrainian, did not welcome the occupation forces,

[1]Decision of the European Court of Human Rights in the Case No. 20958/14 and 38334/18 "Ukraine v. Russia (re Crimea)". (2020, December). Retrieved from https://hudoc.echr.coe.int/ukr?i=001-207622.
[2]Decision of the European Court of Human Rights in the Case No. 8019/16, 43800/14 and 28525/20) "Case of Ukraine and the Netherlands v. Russia". (2022, November). Retrieved from https://hudoc.echr.coe.int/ukr?i=001-222889.
[3]Decision of the European Court of Human Rights in the Case No. 55855/18 "Ukraine v. Russia (VIII)". (2023, October). Retrieved from https://hudoc.echr.coe.int/ukr?i=001-228701.
[4]Press Release of the European Court of Human Rights in the Case No. 10691/21 "Ukraine v. Russia (IX)". (2021, February). Retrieved from https://hudoc.echr.coe.int/fre-press#%7B%22fulltext%22:%5B%2210691/21%22%5D,%22languageisocode%22:%5B%22ENG%22%5D%7D.
[5]Summary of the Judgment of the International Court of Justice in the Case (Ukraine v. Russian Federation: 32 States Intervening) "Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide". (2024, February). Retrieved from https://www.icj-cij.org/sites/default/files/case-related/182/182-20240202-sum-01-00-en.pdf.
[6]Summary of the Judgment of the International Court of Justice in the Case (Ukraine v. Russian Federation) "Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination". (2024, January). Retrieved from https://www.icj-cij.org/sites/default/files/case-related/166/166-20240131-sum-01-00-en.pdf.
[7]Written submission to the Permanent Court of Arbitration in the Case No. 2017-06 (Ukraine v. Russian Federation) "Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait". Retrieved from https://pca-cpa.org/en/cases/149/.
[8]Written submission to the Permanent Court of Arbitration in the Case No. 2019-28 "Dispute Concerning the Detention of Ukrainian Naval Vessels and Servicemen (Ukraine v. the Russian Federation)". Retrieved from https://pca-cpa.org/en/cases/229/.
[9]Decision of the Cabinet of the Ministers of Ukraine No. 1322 "On Approval of the Strategy Confirmation of Ukrainian National and Civil Identity for the Period up to 2030". (2023, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1322-2023-%D0%BF#Tex.
[10]Ibidem, 2023.
[11]Ibidem, 2023.

supported the Armed Forces of Ukraine, showed loyalty to the state bodies of Ukraine and their representatives, did not want to receive a Russian passport, refused to sign contracts with Russian enterprises, refused Russian social benefits, or simply stayed or wished to stay on the territory of Ukraine not occupied by Russia).

In parallel with the unfolding of another act of aggression against Ukraine, according to official Ukrainian sources[1], the narrative that Russia is fighting Ukrainian nationalists, called "neo-Nazis", – Ukrainians who reject the idea of the existence of only one nation and fight for the right of Ukrainians to self-identification – has become widespread in the Russian information environment during the so-called information operation. Thus, it can be assumed that the essence of the definition of "Nazi" used by Russians in the context of Ukrainians is that a Nazi is a Ukrainian who does not want to recognise themselves as a Russian. According to V. Muzhichok & M. Chaplak (2023), the "enemy junta", through information warfare and propaganda, seeks to change the worldview of Ukrainians by imposing the idea of a common history and a common future, to "love and respect" the "Kremlin dictatorship", and additionally promotes severe punishment for expressing the Ukrainian position. I.V. Matsyshina (2022) emphasises that the Russian Federation, through propaganda, is establishing a "homo sacer" policy in the occupied territory of Ukraine, the essence of which is the lack of recognition of any rights for the local population, including the "right to life". The lack of a legal regime thus creates a situation of impunity for the killing of civilians.

The unlawful actions of the military personnel of the aggressor country against the citizens of Ukraine have signs of genocide. The first of these is the announcement of intentions to exterminate Ukrainians. In their public statements, Russian officials, supporters, and commentators of state media have repeatedly denied the existence of a separate Ukrainian identity (Khomenko & Zotova, 2021; Żochowski & Nieczypor, 2022), and broadcast anti-Ukrainian rhetoric about the intentions to annihilate the Ukrainian state and nation in their entirety (Yavir, 2022). Such statements and rhetoric constitute a systematic failure to follow humanitarian law (Article 3(c) of the Convention on the Prevention and Punishment of the Crime of Genocide[2]). Article 3 of this Convention defines these actions as "direct and public incitement to genocide" and prescribes criminal punishment, while Article 4 stipulates the criminal prosecution of individuals responsible for genocide, regardless of their official status or position. At the same time, the RF, as a country that has undertaken to prevent and punish genocide under Article 1 of the Convention, can be held accountable for this crime. The International Court of Justice is already considering this case at the request of Ukraine[3].

A Ukrainian court found Russian propagandist A. Gasparyan guilty of public calls for genocide of the Ukrainian people, violent changes to the constitutional order, and encroachment on the territorial integrity and inviolability of Ukraine under Articles 442 (Part 2), 109 (Part 3), and 110 (Part 2) of the Criminal Code of Ukraine[4]. Public calls for the genocide of the Ukrainian people are the result of the actions of the Russian military and armed forces in Ukraine (Russian propagandist sentenced..., 2023). Such statements and other crimes (conspiracy to commit genocide; genocide; direct and public incitement to genocide; complicity in genocide; and crimes against humanity (persecution, extermination, and murder) already have a precedent in genocide cases before international institutions, namely No. ICTR-99-52-T[5].

Targeted attacks on critical infrastructure with the intention of depriving the population of Ukraine of electricity, water, communications, and other means of normal life, as well as attacks on the healthcare system of Ukraine, namely repeated attacks on perinatal centres and maternity hospitals, also indicate a plan to destroy the Ukrainian people. These coordinated actions by the Russian military to deprive Ukrainians of basic necessities demonstrate that the siege is intended to make life unbearable for as many Ukrainians as possible and is designed to physically destroy them[6] (World Health Organization, 2023). One should agree with the position of O.V. Constanty (2023) that the Russian and Belarusian military and political leadership is responsible for the genocide against the Ukrainian people for the full-scale invasion and aggressive ambitions against Ukraine, the destruction of civilian and critical infrastructure, numerous murders, atrocities against the civilian population of Ukraine, and other war crimes. Article 2 (d)

[1]Decision of the Cabinet of the Ministers of Ukraine No. 1322 "On Approval of the Strategy Confirmation of Ukrainian National and Civil Identity for the Period up to 2030". (2023, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1322-2023-%D0%BF#Tex.
[2]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.
[3]Summary of the Judgment of the International Court of Justice in the Case (Ukraine v. Russian Federation: 32 States Intervening) "Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide". (2024, February). Retrieved from https://www.icj-cij.org/sites/default/files/case-related/182/182-20240202-sum-01-00-en.pdf.
[4]Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[5]Judgement and Sentence of the International Criminal Tribunal for Rwanda in the Case No. ICTR-99-52-T "The prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze". (2003, December). Retrieved from https://www.refworld.org/jurisprudence/caselaw/ictr/2003/en/91852.
[6]Decision of the Cabinet of the Ministers of Ukraine No. 1322 "On Approval of the Strategy Confirmation of Ukrainian National and Civil Identity for the Period up to 2030". (2023, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1322-2023-%D0%BF#Tex.

of the Convention on the Prevention of the Crime of Genocide and its Punishment "measures to prevent childbearing among such a group"[1], Article 18 of the Geneva Convention on the Protection of the Civilian Population[2], Article 6 (d) of the Rome Statute of the ICC[3].

Among the signs of genocide, according to Article 7 (h) of the Rome Statute of the ICC[4], it is also worth mentioning the facts of persecution and destruction in the temporarily occupied territories of Ukraine of people with a pro-Ukrainian position, the destruction of the clerisy, who are the bearers of Ukrainian identity (Steele, 2019; Żochowski & Nieczypor, 2022). Therewith, unaccompanied Ukrainian children are being illegally transferred to Russia in the occupied territory to change their identity, and other crimes aimed at destroying the Ukrainian people are being committed (Javakhishvili, 2022). These actions can be classified as genocide under Article 2(e) of the Convention on the Prevention and Punishment of the Crime of Genocide[5], Article 6(e) of the Rome Statute of the ICC[6], Article 49 of the Geneva Convention relative to the Protection of Civilian Persons[7].

Thanks to many years of work in the investigation of crimes committed by aggressor countries in the World War II, Polish lawyer R. Lemkin (1944) defined it as "genocide" and thus made a valuable contribution to the development and adoption of the Convention on the Prevention and Punishment of the Crime of Genocide by the UN General Assembly in 1948[8], which imposes obligations on states to prevent this crime and, if committed, to criminalise it and punish the perpetrators. According to Article 2 of the Convention, the term "genocide" defines any act aimed at the total or partial destruction of a national, ethnic, racial, or religious group as such[9]. It is this definition of genocide that is valid in the legal field and, accordingly, in the Rome Statute of the International Criminal Court[10]. R. Lemkin himself emphasised that "genocide does not necessarily mean the immediate destruction of a nation, unless it is carried out by the mass destruction of all members of the nation. Rather, it is a coordinated plan of various actions aimed at destroying the essential foundations of national groups with the aim of annihilating the groups themselves."

The introduction of a "filtration" system by the aggressor neighbour in each temporarily occupied Ukrainian settlement is a proof of this, as it is an imitation of the checks on the civilian population in the occupied territories by the Nazi troops of the Third Reich and the Stalinist regime in the USSR. The Russian Federation has implemented the practices of previous totalitarian regimes. This is confirmed by the armed conflicts since the collapse of the USSR, which Russia unleashed in the Republic of Moldova (1992); during the First Chechen War (1994-1996) and the Second Chechen War (1999-2003). The Russian troops were accused of "torturing, beating, and sometimes raping Chechen civilians in the "filtration camps" (Exeler, 2023). In June 2022, the ICC issued arrest warrants for three representatives of the administration of the self-proclaimed Republic of South Ossetia for their involvement in "unlawful detention, torture, and inhumane treatment, outrages on personal dignity, taking hostages, and the illegal transfer of civilians" (Russian-Georgian war, 2008) (International Criminal Court, 2022). In April 2023, the European Court of Human Rights issued an additional judgment in the case of Georgia v. Russia (II) on the payment of just satisfaction to 160 civilians – victims of the armed conflict who suffered humiliating acts in the basement of the South Ossetian Ministry of Internal Affairs in Tskhinvali from 10 to 27 August 2008[11]. This case can be considered a filtration element.

Having previous experience of using "filtration" checkpoints during armed aggressions, specifically in Georgia, from the first days of the occupation of Ukraine, the Russian military leadership set up a "filtration" system. One of the evidences is the results of a comprehensive survey of 421 residents of Kherson evacuated in February-April 2022, conducted by R. Molikevych (2023), who describes in detail the motives and decisions of the civilian population to leave Kherson and the complex and lengthy evacuation route associated with the "filtration" procedure. P. Sauer (2022) publishes testimonies of Mariupol residents forcibly

[1]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.
[2]Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ips.ligazakon.net/document/MU49006.
[3]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[4]Ibidem, 1998.
[5]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.
[6]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[7]Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ips.ligazakon.net/document/MU49006.
[8]Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December). Retrieved from https://ips.ligazakon.net/document/MU48K03U.
[9]Ibidem, 1948.
[10]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[11]Decision of the European Court of Human Rights in the Case No. 38263/08 "Georgia v. Russia (II)". (2021, January). Retrieved from https://rm.coe.int/georgia-v-russia-ii-gc-ukr/1680a58450.

deported to Russia and information from the international charity project "Helping to Leave" (2024). The Foundation provides humanitarian aid to Ukrainians affected by the invasion of Russian troops. According to the journalist, the situation with the forced deportations of Ukrainians has raised concerns among international human rights groups, especially the passage of "filtration camps".

The case of student Illia Gibeskul, who as of 2024 is in the Kaliningrad detention centre of the Russian Federation, provides information on the forced verification, registration, and detention of Ukrainian citizens who could pose a threat to Russian control over Ukraine during the filtration process in Donetsk, which was characterised by psychological and physical pressure, torture, and murder. The reason for the arrest was social media posts calling for donations to the Azov regiment, a video of the regiment's oath, as well as an interview with Dzhokhar Dudayev and a repost from a page called "Russian nationalist", which were published after his arrest when his phone was in the possession of Russian security forces (They took my phone..., 2022).

Among the victims of this system was Mariupol resident Maria Vdovychenko, who reportedly spent several days waiting in the cold, without food or the opportunity to use the toilet (Katrichenko & Klymyk, 2022). According to other accounts, filtering in Mariupol took place in three stages: physical inspection, phone inspection and fingerprinting, and interrogation (Kunytskyi, 2022). Thus, "filtration" should be considered as a multifunctional system introduced by the aggressor country and its proxies on the occupied Ukrainian lands to register, interrogate and, sometimes, detain civilians.

It is also worth considering the opinion of D. Getmanova & S. Matviyenko (2022) on the extension of the timeframe of "filtration" from interrogation to various logistical stages, including the collection of digital and biometric data in the so-called "camps" to instrumentalise and verify deported civilians as data subjects. Particularly noteworthy is the researchers' position that the "subject of deportation" is not a particular person who is deported, but rather a place in the system of "filtration" that a person is forced to pass through during the Russian occupation, and with each subsequent person who is sent to pass the filtration before deportation, this place is reproduced through the infrastructure measures of not only the object of filtration, but also the overall system of communication, transportation, and administration associated with this process. Thus, a filtration "camp" is an essential element of foreign infrastructure that is part of the filtration system.

Forced inspections of civilians are carried out on the streets, in homes, at roadblocks, and at filtration points, with subsequent registration and examination of all data. A thorough check of people's affiliation with the sphere of influence, state affiliation, field of activity, Ukrainian views, identity, and self-expression suggests that the occupation authorities thus identify and deprive of liberty or life active Ukrainians who pose a danger to their regime (Savva, 2023; Exeler, 2023; Poiarkova, 2023).

Notably, in international conflicts, the occupying powers are entitled to register persons in their zone of control, following Articles 42 and 78 of the Geneva Convention relative to the Protection of Civilian Persons. However, the system of "filtration" of the Ukrainian population in the temporarily occupied territories, which includes brutal interrogation methods, torture, unlawful detention, and incommunicado detention, constitutes a serious violation of international humanitarian law, following Article 5 of the Convention relative to the Protection of Civilian Persons in Time of War[1]. Civilians may be detained only in cases where the occupying authorities believe that they pose an imminent security threat. Mass detentions are prohibited unless there is individual proof of a mandatory threat. Detained civilians should be registered immediately, and the fact should be reported to the International Committee of the Red Cross. Furthermore, they are guaranteed due process of law, including the right to appeal against detention.

V. Colvin & P. Orchard (2022), investigating the forced deportation of Ukrainian civilians since 2014, note that the Russian government still uses a filtering system, both borrowed from the Soviet government and its own tactics, which it used during the attack on the Ichkerian Republic and the fighting in Syria. Therefore, all these actions have the elements of both war crimes (according to the Fourth Geneva Convention relative to the Protection of Civilian Persons[2], Additional Protocol II and Article 8 of the Rome Statute[3]) and crimes against humanity (Article 7 of the Rome Statute[4]). In the current environment, a range of mechanisms have been developed to bring individual perpetrators of these acts to justice. It is worth emphasising the significance of recording cases of genocide against Ukrainians during filtration measures, forced displacement of civilians, and illegal adoption of Ukrainian children to further prevent the use of the filtration system as a violation of international legal norms (Andrukhov, 2023; Koval & Kislyak, 2023). The outlined factual material on the organisation of the "filtration" system can be systematised into the following structural and functional diagram (Fig. 1).

[1]Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ips.ligazakon.net/document/MU49006.
[2]Ibidem, 1949.
[3]Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[4]Ibidem, 1998.

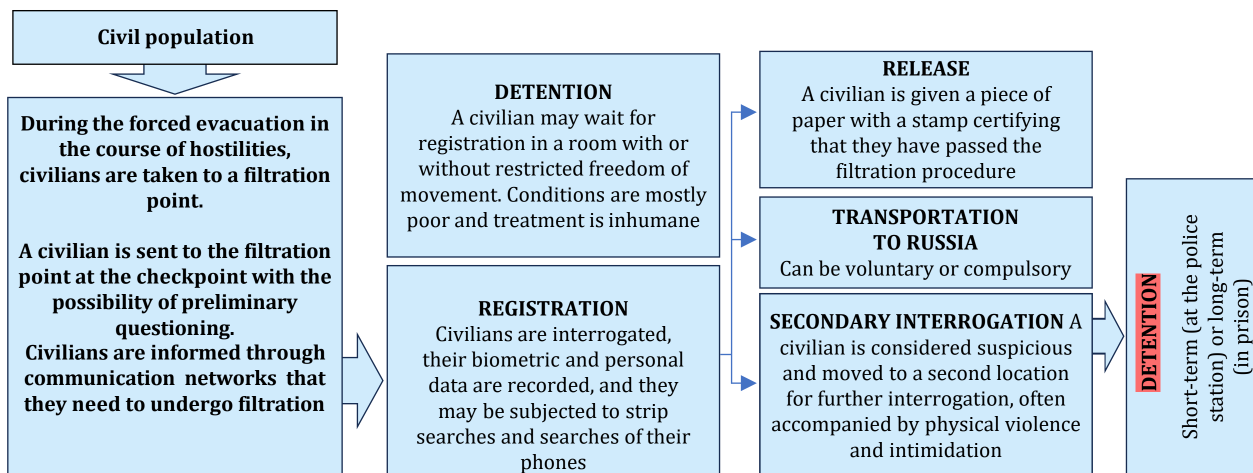

Figure 1. The system of "filtration" in the occupied territories of Ukraine

Source: systematised by the authors of this study

For their own safety, civilians are forced to leave the occupied territories through "registration or filtration points", where they are forced to undergo a range of procedures. These measures by the occupying authorities systematically violate national and international law, specifically Article 32 of the Constitution of Ukraine[1], Article 182 of the Criminal Code of Ukraine[2], Article 7, Part 1 of Article 8 of the Charter of Fundamental Rights of the European Union[3], Article 12 of the Universal Declaration of Human Rights[4], etc. The first procedure is the collection of personal information (Getmanova & Matviyenko, 2022; Kunytskyi, 2022). The second is fingerprinting (Sauer, 2022). The third is photography (Lawson *et al*., 2023), video recording of "material" for propagandist "confessional videos" (Getmanova & Matviyenko, 2022). The fourth procedure is an interview, during which individuals are asked a predetermined set of questions about their attitude towards Ukraine and their ties to the Ukrainian armed forces and their loyalty to the occupation authorities (France24, 2022). The fifth procedure is to check mobile phones, including contacts, chat histories, photos, videos, screenshots, geolocation, likes, reposts, or other interactions with pro-Ukrainian activity on social media, and browser history (Colvin & Orchard, 2022; Bachega, 2022). The sixth stage involves a body examination to identify patriotic Ukrainian tattoos and marks that may indicate the use of weapons, including scuff marks from small arms, body armour, abrasions on the index finger, and bruises from the recoil of shooting (France24, 2022). Seventh stage – vehicles are inspected for weapons, ammunition, military ammunition, IDs, and other evidence that may indicate involvement with state institutions (Human Rights Watch, 2022; Petruniok *et al*., 2022).

In case of a positive result of the check, a person is issued a certificate during the "filtration" procedure, which gives them the right to move freely through the unrecognised "L/DPR" and the opportunity to travel to the Russian Federation. The certificate contains the person's full name, date of birth, the name of the filtration point, the date and signature of the person who carried out the inspection, but without the surname (Kunytskyi, 2022). If a civilian appears suspicious to the occupying forces, they are detained and moved to another location for further interrogation. Notably, operations to detain civilians are not legal. They can only be authorised if there is an "imperative security threat" to the occupying forces from an individual detained civilian. However, as a general rule, administrative civilian detention is discouraged under international law and is highly restricted. After completing the "filtration" procedure, Ukrainian citizens can be deported to the separated regions of the Russian Federation with a special condition of their further stay there for two years (Colvin & Orchard, 2022; Javakhishvili, 2022; Poiarkova, 2023).

The next link in the filtering system is camps and other places of detention for those awaiting registration. As a rule, citizens of Ukraine are held in inhumane conditions and restricted to little or no freedom of movement (Colvin & Orchard, 2022; Getmanova & Matviyenko, 2022; Poiarkova, 2023). Persons who have not passed the "filtration" check at the registration point are taken to "interrogation centres", which are the next stage of the "filtration" mechanism. In these places, individuals are subjected to more severe interrogation

[1]Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2]Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text 2341-III.
[3]Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://ccl.org.ua/posts/2021/11/hartiya-osnovnyh-prav-yevropejskogo-soyuzu/.
[4]Universal Declaration of Human Rights. (1948, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_015#Text.

methods with the use of torture and humiliating acts that degrade the honour and dignity of the person. For example, the decision of the European Court of Human Rights "Georgia v. Russia (II)"[1]. Based on the results of such interrogations, a person may be subject to short-term detention – referral to a police station, or long-term detention – imprisonment. If during the interrogation, Ukrainian citizens change their position towards the occupation authorities or are ransomed by relatives or friends, they are released. Some are given certificates that they have passed the "filtration". As a rule, most of them leave the temporarily occupied territory through humanitarian corridors (Exeler, 2023; Getmanova & Matviyenko, 2022). In other cases, they use the borders of the Russian Federation and the European Union to enter Ukraine (Lawson *et al.*, 2023).

The above measures constitute or systematically contribute to the violation of a range of international human rights instruments, including European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment[2], Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms[3], Articles 3, 17, 32, 147 of the Geneva Convention relative to the Protection of Civilian Persons, which states that "the prohibition of torture is a fundamental principle of international humanitarian law"[4], Article 7(f) of the Rome Statute[5]. The prohibition of torture is also prescribed in national legislation in Articles 3, 21, 28 of the Constitution of Ukraine[6] and Article 127 of the Criminal Code of Ukraine[7].

Citizens of Ukraine who have been subjected to torture and have not changed their views are further taken to places of detention in the temporarily occupied territories and the Russian Federation. Some prisoners face groundless charges and sentences, while others are held in pre-trial detention centres and have no status. Usually, the occupation forces accuse civilian hostages of committing "acts of international terrorism", "high treason", and opposing a "special military operation" (They took my phone..., 2022). They use the "criminal codes" of the unrecognised LPR and DPR republics or refer to Russian law to support these accusations. However, most of the prisoners are held without charge, which is likely due to their use as an exchange pool. They are then moved to different penal colonies. In each place of detention, prisoners are held in inhumane conditions.

The forced displacement of civilians is considered a war crime, and when accompanied by the illegal practice of deporting Ukrainians to specially prepared detention facilities, it may constitute a crime against humanity, which is a more serious international crime. The unlawful detention, inadequate conditions, and mistreatment of displaced civilians violate a host of international conventions. The prohibition of torture is a binding norm of international law that all states must respect, even in times of international armed conflict.

The analysed material suggests that the protection of human rights and dignity of the affected population should be at the forefront of diplomatic efforts. By strengthening international solidarity and applying pressure on those responsible for these violations, there is hope that the practice of "filtration" will be stopped and the rights and freedoms of the Ukrainian people in the temporarily occupied territories will be restored. The stories of those affected should not be relegated to the margins of diplomatic discussions but should be brought to the forefront of global attention. The principles of democracy, freedom, and human dignity are non-negotiable, and their violation requires a unified, decisive response. At the same time, the authors of the present study emphasise the need to ensure the availability of emergency interim reparations for civilians who suffered both physically and mentally as a result of the "filtration" system.

Conclusions

In the ongoing war in Ukraine, as of 2024, its individual regions have become hostages to a system of ignoring/non-observance of freedoms and human rights. The occupation forces systematically use the "filtration" procedure against the population in the temporarily occupied territories. Notably, both deliberate and indiscriminate attacks by the enemy against the civilian population or persons not directly involved in hostilities, as well as against civilian objects and other analogous targets, are defined by international humanitarian law as serious (gross) violations and are accordingly prohibited. The unlawful deprivation of liberty of a civilian, including detention and confinement in a place of detention, e.g., a "filtration" camp, such as internment, shall be considered arbitrary if it does not fall within any of the lawful categories under Article 5 § 1 of the Convention for the Protection of Human Rights and

[1]Decision of the European Court of Human Rights in the Case No. 38263/08 "Georgia v. Russia (II)". (2021, January). Retrieved from https://rm.coe.int/georgia-v-russia-ii-gc-ukr/1680a58450.
[2]European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (1987, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_068?lang=en#Text.
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Fundamental Freedoms, or if it is not permitted under international humanitarian law; it shall also be unlawful if it violates the procedural safeguards established by international humanitarian law.

Considering the analysis of international law and the systematisation of the researched and documented evidence of Russian crimes in Ukraine, the Russian military and political leadership is implementing genocide of a separate national and ethnic group protected by the Convention on the Prevention and Punishment of the Crime of Genocide and Article 442 of the Criminal Code of Ukraine. The analysis of the "filtration" system and the cases of its functioning leads to the conclusion that it is an instrument of genocide. This measure by the occupation authorities requires attention from international institutions designed to protect human rights. Notably, the case of Georgia v. Russia (II), No. 38263/08, has a much larger number of episodes and complex issues than the first Georgian case. This case may serve as an important source in assessing the timeframe for consideration of complaints in the European Court of Human Rights, specifically in the case of Ukraine v. Russia.

The study of the problem of "filtration" of the civilian population in the temporarily occupied territories of Ukraine requires further scientific investigation to fully understand the nature, scale, and consequences of the "filtration" procedures. Further research could provide a platform for clarifying the motivations behind "filtration" strategies and assessing their impact on the affected population, which would make a valuable contribution to the broader discourse on human rights violations.

Acknowledgements

The authors of this study would like to express their gratitude to the Armed Forces of Ukraine for the opportunity to cover problematic issues in the scientific field. The authors would also like to acknowledge Ukrainian lawyers for defending the rights of Ukraine in its integrity and independence, as well as for bringing the Russian Federation to justice for committing genocide of the Ukrainian people, crimes against humanity, war crimes, and other grave crimes on the territory of Ukraine.

Conflict of Interest

The authors of this study declare no conflict of interest.

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«Фільтрація» населення на тимчасово окупованих територіях України як інструмент геноциду

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Анотація

Актуальність статті зумовлена необхідністю дослідити «фільтраційну» структуру, запроваджену окупаційною владою, яка містить порушення міжнародного гуманітарного права. Метою статті є дослідження концептуальних й організаційних засад системи «фільтрації» крізь призму міжнародного права прав людини. З огляду на проблематику та мету наукової розробки, застосовано комплекс наукових методів, зокрема термінологічний, системно-структурний, формально-логічний, що дали змогу здійснити дослідження предмета й узагальнити результати аналізу. У роботі висвітлено свідчення потерпілих про злочини, які було вчинено щодо них під час проходження фільтраційного лабіринту. Окреслено проблемні питання доказування щодо злочинів, вчинених на території України, з огляду на практику європейських і міжнародних судових рішень з питань порушення прав цивільної особи крізь призму міжнародного гуманітарного права, пов’язаного зі збройним конфліктом. За результатами здійсненого дослідження констатовано, що «фільтрація» українського населення на тимчасово окупованих територіях є грубим порушенням прав людини та суперечить принципам демократії, свободи й самовизначення. Застосування адресних санкцій до винних у цих порушеннях має вирішальне значення для притягнення їх до відповідальності за їхні діяння. Сформульовано висновок, що припинення практики «фільтрації» та сприяння відновленню прав і свобод українського населення на тимчасово окупованих територіях можливе лише за наявності дипломатичних зусиль і міжнародного співробітництва. Основні положення статті спонукатимуть до подальших розслідувань злочинів із фіксацією свідчень, доказів, а також сприятимуть розробленню обґрунтованої політики, механізмів міжнародної відповідальності та запобіганню потенційним порушенням в інтересах правосуддя і захисту цивільного населення

Ключові слова:
збройна агресія; фільтраційні об’єкти; фільтраційні заходи; тимчасова окупація; російські окупаційні війська; геноцидальний намір; націоналіст

UDC 343.85:343.7
DOI: 10.56215/naia-chasopis/2.2024.74

Combating crimes against intellectual property: Comparative analysis of international best practices

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Abstract
The relevance of the subject is conditioned by the fact that economic and scientific advance leads to an increase in the level of crime against property rights, specifically its most relevant form – intellectual property. An important task of law enforcement agencies is to overcome threats to intellectual property using the world's best practices in this area. The purpose of this study was to perform a comparative analysis of the world experience of combating crimes against property. Using such methods as the method of legal hermeneutics, formal legal method, comparative legal method and problem analysis, the study outlined the problems associated with the prosecution of intellectual property crimes. The study classified countries according to the type of intellectual property protection regulation and outlines the key issues in the investigation of intellectual property cases. It was found that countries with a long history of criminal law counteraction to crimes against intellectual property, whose experience can be considered advanced, are divided into two groups. The first group includes those countries where legal protection of intellectual property is provided exclusively through the national criminal code. The second group of countries includes those where the relevant provisions are consolidated in special laws, which often prescribe sanctions for intellectual property infringement. As society develops and the use of intellectual property intensifies, the need to create a unified system of legal protection of these rights becomes apparent. The distribution of legal provisions among different legislative acts complicates their application in practice. Based on the conducted study, recommendations were offered for improving the mechanism of combating crime in the field of intellectual property. The study analysed the results of a survey conducted by the World Intellectual Property Organisation in 2023, which aimed to collect information on the prosecution of intellectual property crimes in the member states. The practical significance of this study lies in the fact that the proposed recommendations can be used to improve national mechanisms for combating intellectual property crime

Keywords:
copyright; industrial property; infringement of property rights; protection of property rights; World Trade Organisationgenocidal intent; nationalist

Article's History:
Received: 12.01.2024
Revised: 26.04.2024
Accepted: 28.05.2024

Suggest Citation:
Verbova, N., & Kryzhna, V. (2024). Combating crimes against intellectual property: Comparative analysis of international best practices. *Law Journal of the National Academy of Internal Affairs*, 14(2), 74-83. doi: 10.56215/naia-chasopis/2.2024.74.

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Introduction

Criminal offences against property are classical or so-called conventional crimes, as property is the economic basis of any country, regardless of its historical development, political regime, and other circumstances. The right to property is one of the fundamental rights prescribed in Article 17 of the Universal Declaration of Human Rights[1]. Ensuring effective protection of property, including criminal law measures, is the task of any state. As of 2024, criminal law has undergone considerable changes in concepts and theoretical approaches. They are driven by the development of information technology (Bondarenko *et al*., 2020). The changes also affect economic relations, where new objects of property rights emerge, and the protection of new intellectual property rights related to the creativity of the economy, new technologies, and innovations is being updated.

According to O. Bakulina *et al*. (2019), S. Sudomyr *et al*. (2020), and I. Tkach *et al*. (2020), the conventional methods of criminal law protection of property relations and the definition of theft of property cannot fully accommodate modern reality. Law enforcement agencies should use the extensive experience of information systems and technologies to combat money laundering, organised crime, cybercrime, and national security. To successfully combat crimes against intellectual property, it is important to analyse the world's best practices in this area.

Despite the relevance of these issues, few studies have addressed the above aspects. The problematic of combating crimes against property per se, however, including crimes against intellectual property (IP), has long been discussed in academic circles. Thus, Indonesian researchers A.N.B. Pardede & A. Rachmad (2024) note that experience in dealing with ordinary offences is of great importance for the prosecution of copyright offences. The researchers recommend reclassifying copyright infringements as ordinary crimes to simplify law enforcement procedures and increase their effectiveness. This means that law enforcement agencies will have the power to initiate, conduct, and prosecute investigations without having to wait for complaints from copyright owners. By removing the restrictions that exist in connection with such complaints, law enforcement will be able to act promptly and decisively to counter copyright infringement, which will help strengthen the protection of intellectual property rights. Generally, this transition in classification, according to the researchers, will help to create a more reliable and proactive approach to combating copyright infringement, harmonising it with the state's duty to protect justice and the rights of its citizens.

Other researchers, such as N. Abd Malek *et al*. (2024), discuss the role of the government in the fight against crime, which is to protect the individual and property, as well as to ensure an effective criminal justice system. They focus on the protection of IP rights, which is an essential economic resource, including copyrights, patents, trademarks, and trade secrets. N.A. Sinaga (2020) and R. Sousa-Silva (2021; 2022) covered the significance of legal mechanisms for the protection of intellectual property, which aim to prevent illegal use that may cause damage to rights holders. However, A. Lazuardi & T. Gunawan (2024) indicate that a special law on intellectual property protection can stimulate investment in the creative and industrial sectors, promoting fairness for rights holders and fair international trade. O. Hubanov *et al*. (2021) note the trend towards codification of criminal law, when the rules governing criminal liability for intellectual property infringement are combined in one legislative act. A. Lazuardi & T. Gunawan (2024) also point to the need to unify or codify the legal rules governing the criminal protection of intellectual property.

Thus, the study aims to fill the existing gap in the literature. The purpose of this study was to perform a comparative analysis of the world's best practices in combating crimes against property. To fulfil this purpose, the following tasks had to be completed: to carry out a comparative analysis of existing national regulations that form the regulatory framework for combating intellectual property crimes in certain countries of the world; to compare the practices of combating intellectual property crimes at the national level in certain member countries of the World Intellectual Property Organisation (WIPO); to identify problems in the prosecution of intellectual property crimes.

Materials and Methods

The study employed the methods of legal hermeneutics, formal legal, comparative legal methods, and problem analysis. Comparative legal and formal legal methods were used to investigate national regulations of certain countries of the world. These methods were employed to analyse the legislative acts of various countries regulating criminal law counteraction to crimes against intellectual property. This helped to identify key differences and commonalities in approaches to intellectual property protection at the international level. The method of legal hermeneutics was used to determine the content of these legislative acts. This method allowed for a deeper understanding of legal norms, interpretation of their meaning and application, which is necessary for accurate analysis and adequate interpretation of legislative provisions. The problem analysis was applied to analyse the current problems existing in the field of combating intellectual property offences. This method helped to identify and systematise the principal challenges faced by countries in implementing criminal law

[1] Universal Declaration of Human Rights. (1948, December). Retrieved from https://www.un.org/en/about-us/universal-declaration-of-human-rights.

measures to protect intellectual property, as well as to propose possible ways to address them. Thus, the integrated use of these methods allowed for a comprehensive and in-depth analysis of the issues of criminal law counteraction to crimes against intellectual property, considering both the specific national features and the international context.

The study analysed the national regulations that form the basis for combating crimes against intellectual property in different countries of the world. These included the Swiss Criminal Code[1], the Law of Greece No. 2239 “On Trademarks”[2], the Law of Cyprus No. 59 “On Copyright and Related Rights”[3], The Norwegian Trademarks Act[4], the Law of Portugal No. 143 “Portugal Industrial Property Code Decree”[5], as well as provisions of international law, namely the Agreement on Trade-Related Aspects of Intellectual Property Rights[6]. The findings of a survey conducted by the World Intellectual Property Organisation in 2023 (WIPO, 2024) were used for a comparative analysis of the experience of combating intellectual property crimes. The purpose of the survey was to gather information on the prosecution of intellectual property crimes in the WIPO Member States. Based on the survey findings, recommendations were formulated to improve the fight against these crimes. The survey included data on the key components of national systems for the prosecution of intellectual property crimes; measures used in this area, including blocking/seizure of infringing websites; statistical information on prosecution and confiscation of illegally acquired funds; successes and challenges in the work of national systems for the prosecution of intellectual property crimes. The survey was conducted among 29 respondents from 27 WIPO Member States. Professional affiliation of the respondents: 23 prosecutors, two judges, two representatives of the ministries of justice, one representative of the national police and one representative of the national intellectual property office. The analysis of the WIPO survey report helped to investigate the experience of combating intellectual property crimes at the national level.

Results and Discussion

Criminal activity related to copyright infringement is on the rise globally, which is an alarming trend. This trend creates a variety of risks that affect not only those who produce intellectual property, but also the social structure and economic landscape of society. Copyright infringement indirectly reduces tax revenues, has a considerable impact on the financial and mental state of a person, making it a serious social problem (Pak & Gannon, 2023), and negatively affects the state treasury. That is why modern governments are increasingly taking a strong stand against such crimes to mitigate their negative consequences. A key step in this direction is to strengthen court practice in enforcing decisions in such cases. By improving the implementation of the proclaimed legal measures, the government can effectively prevent future copyright infringements and protect the interests of both authors and society as a whole. Legislative norms are used as instruments that determine the behaviour of legal entities. As legislation evolves, it is vital to ensure that it is in harmony with human behaviour and the evolution of social relations, including the development of intellectual property rights.

In 2019, the US Federal Bureau of Investigation (FBI) reported that around 692 5677 property crimes were committed in the United States, resulting in a total loss of USD 15.8 bn (FBI, 2019). Therewith, according to data from 2022, losses from such offences amounted to USD 38 bn (Federal Bureau of Invasion..., 2023). In Nigeria, in 2017, the National Bureau of Statistics reported 134 663 cases of offences, most of which were property crimes. Approximately one-third of Nigeria’s population has been a victim of theft or robbery (Abd Malek *et al*., 2024). In Malaysia, property crimes account for approximately 80% of all crimes. In 2020, theft (16,725 cases) was the most frequent property crime, followed by motorcycle theft (16,059 cases), residential burglary (14,040 cases), car theft (4,599 cases), and other vehicle theft (921 cases) (Abd Malek *et al*., 2024). There is an elevated level of property crime in various countries around the world, and it is influenced by a range of factors, such as environmental, economic, social, political, demographic, etc.

Therewith, there has been an increase in the number of crimes against intellectual property. As noted by the Organisation for Economic Co-operation and Development and the European Union Intellectual Property Office, trade in counterfeit and pirated goods accounts for about 2.5% annually, and considering imports to the EU alone, it is 5.8% or EUR 134 bn (OECED & EUIPO, 2021). Along with such violations, crimes against IP in the digital environment are also spreading, and crime in this area is taking on organised forms and shows signs of criminal professionalism, which requires adequate measures to counteract it.

[1] Swiss Criminal Code. (1937, December). Retrieved from https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en.
[2] Law of Greece No. 2239 “On Trademarks”. (1994, October). Retrieved from https://www.wipo.int/wipolex/en/legislation/details/9777.
[3] Law of Cyprus No. 59 “On Copyright and Related Rights, as Amended up to Law No. 77 (I)”. (2019, January). Retrieved from https://www.wipo.int/wipolex/en/legislation/details/19025.
[4] The Norwegian Trademarks Act. (2010, March). Retrieved from https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/no/no101en.html.
[5] Law of Portugal No. 143 “On Portugal Industrial Property Code Decree”. (2008, July). Retrieved from https://www.jpo.go.jp/e/system/laws/gaikoku/document/index/portugal-e_sangyou.pdf.
[6] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). (1995, January). Retrieved from https://www.wipo.int/wipolex/en/treaties/textdetails/12746.

The growth of piracy of copyrighted works is explained not only by the inefficiency of law enforcement agencies, but also by insufficient control over creative materials circulating in society. Copyright infringements are openly occurring due to the widespread distribution of pirated works. This suggests that the effectiveness of law lies not only in the logical structure of the statements used by science to describe its respective objects, but also in the concrete meaning of such a description. From the standpoint of natural laws, this condition is related to the fact that legal norms that use the term "necessity" in a descriptive sense should be adapted to all the nuances of the modern criminal situation (Pardede & Rachmad, 2024).

According to economic theory, as opportunities and economic progress increase, crime should decrease. This is because as legal ways of making a living develop, they are less costly, and therefore the incentives to engage in illegal behaviour are reduced (Ajide, 2021). Therewith, economic and scientific progress leads to an increase in crimes against property in its most relevant form – intellectual property. In the modern world, intellectual property makes a considerable contribution to the economy of countries and stimulates innovation, economic growth, and competition (Bondarenko *et al.*, 2020). Therefore, a crucial task of law enforcement agencies is to overcome threats to intellectual property, using the extensive experience of information systems and technologies in combating money laundering, organised crime, cybercrime, and national security (Bakulina *et al.*, 2019; Sudomyr *et al.*, 2020; Tkach *et al.*, 2020). To successfully combat crimes against intellectual property, it is important to analyse the world's best practices in this area.

Global practice is characterised by a differentiated approach to the protection of intellectual property rights. Thus, law enforcement agencies investigate the theft of trade secret information, trade in counterfeit goods, and copyright and/or trademark infringement. Priority is given to issues that pose a threat to public health and safety, national security, or have a considerable economic impact. The key purpose of intellectual property rights enforcement for law enforcement agencies is to identify and disrupt international and national individuals and organisations that produce or sell counterfeit and pirated goods, as well as those who steal, distribute, or otherwise profit from intellectual property theft. The analysis has shown that countries with a long history of criminal law counteraction to intellectual property crimes, whose experience can be considered advanced, can be divided into two groups (Fig. 1).

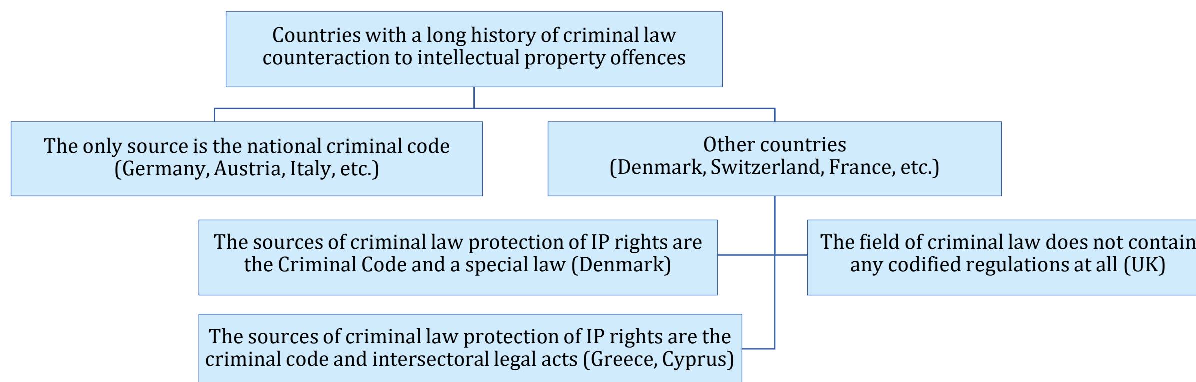

Figure 1. Classification of countries by sources of criminal law counteraction to crimes against intellectual property

Source: compiled by the authors

Two groups of countries can be distinguished according to the sources of criminal law protection of IP rights. The first group includes countries where IP is protected exclusively through the national criminal code, such as Germany, Poland, Austria, Italy, the Netherlands, etc. The second group of countries includes those where the relevant rules are consolidated in special laws, which often prescribe sanctions for IP infringement. In these countries, criminal liability may be regulated both through the code and other laws, or there may be no codified regulations at all. For instance, the Danish Criminal Code[1] states that only those acts that are defined by law or analogous are punishable. Similarly, according to Article 1 of the Swiss Criminal Code, a person cannot be punished for a criminal offence unless it is clearly defined as a violation of the law[2]. Among the European countries where provisions on the application of criminal law for the protection

[1] Denmark Criminal Code. (2009, November). Retrieved from https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Denmark-Criminal-Code.pdf.
[2] Swiss Criminal Code. (1937, December). Retrieved from https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en.

of intellectual property are included in cross-sectoral legal acts are Greece[1], Ireland[2], Cyprus[3], Norway[4], Portugal[5], etc.

As society develops and intellectual property is increasingly used, the need for a unified system of legal protection of these rights becomes apparent. The division of legal provisions among different legislative acts complicates their application in practice (Balynska, 2021). To ensure more effective application of the law, it is recommended that these norms be harmonised in one document – the Criminal Code. An analysis of the criminalisation of intellectual property rights infringements around the world has shown that Article 61 of the Agreement on Trade-Related Aspects of Intellectual Property Rights obliges members of the World Trade Organisation (WTO) to prescribe "criminal procedures and penalties that shall apply at least in cases of wilful trademark counterfeiting or piracy of copyright on a commercial scale"[6]. This means that WTO Members should adopt legislation that criminalises such violations, where they can regulate the issue of criminal liability according to their needs.

The analysis of the criminal legislation of the EU countries showed that most countries criminalise any infringement of copyright or industrial property rights, such as trademarks, industrial designs, patents, etc. Some countries also impose criminal sanctions for infringement of moral rights or plagiarism. Criminal law systems for combating intellectual property crimes can be adversarial or inquisitorial. In the adversarial system, which is used primarily in common law countries, the court considers the case based on the evidence presented by the parties. The inquisitorial process of criminal prosecution is typical for continental law countries. In these countries, the court conducts an extensive pre-trial investigation and interrogations to establish the truth.

According to a World Intellectual Property Organisation survey among representatives of WIPO Member States, the majority of respondents reported that their country uses an adversarial system (59%), while 30% use an inquisitorial system (WIPO, 2024). The adversarial system is typical for common law countries such as the UK, USA, etc. In such countries, the court process determines the facts, while the judge acts as an arbiter. The inquisitorial system is typical of continental law countries such as France, Germany, etc. These countries use extensive pre-trial investigation and interrogation as an official inquiry to establish the truth. In this system, the judge only supervises the process. Representatives from one country that uses an adversarial system noted that pre-trial investigations can be inquisitorial in nature, with the investigator collecting evidence of a violation. Generally, 11% of respondents could not classify the system as one of the two systems (marked as "unsure") (Fig. 2). Thus, the adversarial process of criminal prosecution is more common in the practices of leading countries.

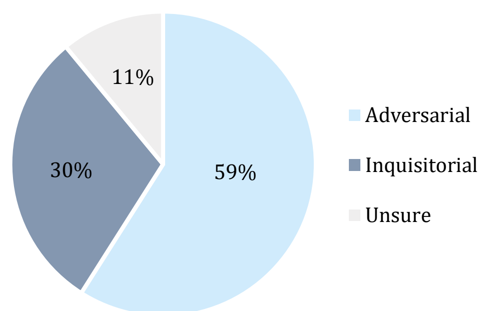

Figure 2. Adversarial vs inquisitorial criminal prosecution in WTO member states
Source: WIPO (2024)

The analysis of the results of the survey conducted among representatives of WIPO Member States (WIPO, 2024) has revealed a series of issues in the prosecution of intellectual property crimes. The WIPO report does not contain information on why these problems occur, which countries are characterised by certain of these problems, and what regulations, procedures, and measures have been taken to address them. The names of concrete countries are also not mentioned. These problems can be classified into three groups. The first includes problems in the prosecution of intellectual property crimes. Among them, WIPO representatives mentioned the complex nature of investigating this category of cases, the difficulty of identifying criminal offenders in the digital environment, and determining and calculating damages to victims, which are often transmitted through a complex chain of intermediaries. Problems arise with the identification and investigation of offenders in a cross-border context. The digital environment also creates other problems: the difficulty of collecting evidence, calculating the damage caused to victims, and recovering illegally obtained assets.

[1] Law of Greece No. 2239 "On Trademarks". (1994, October). Retrieved from https://www.wipo.int/wipolex/en/legislation/details/9777.
[2] Law of Republic of Ireland No. 28 "On Copyright and Related Rights Act". (2000, July). Retrieved from https://www.irishstatutebook.ie/eli/2000/act/28/enacted/en/html.
[3] Law of Cyprus No. 59 "On Copyright and Related Rights". (1976, December). Retrieved from https://www.wipo.int/wipolex/en/legislation/details/19025.
[4] The Norwegian Trademarks Act. (2010, March). Retrieved from https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/no/no101en.html.
[5] Law of Portugal No. 143 "On Portugal Industrial Property Code Decree". (2008, October). Retrieved from https://www.jpo.go.jp/e/system/laws/gaikoku/document/index/portugal-e_sangyou.pdf.
[6] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). (1995, January). Retrieved from https://www.wipo.int/wipolex/en/treaties/textdetails/12746.

The second group of problems – problems related to human and institutional capacity resources – identified in the WIPO survey (2024) include the lack of special training and experience of investigators, law enforcement, prosecutors, and judges, which is partly explained by the insufficient number of cases; lack of human resources: investigators and prosecutors, especially in the areas of financial and technological crimes.

The third group of problems is the problem of operational nature in criminal prosecution. In some jurisdictions, intellectual property crimes are not considered a priority, which may result in insufficient time being allocated by prosecutors to these cases, even though they may be complex in nature. There is also a lack of coordination with the police and other intellectual property rights enforcement agencies, and a lack of cooperation with some right holders. All the above problems are exacerbated by the lack of public awareness of intellectual property crimes and the hesitation of IP rights holders to file criminal lawsuits.

The following steps could be useful to improve the mechanism of combating crime in the field of intellectual property. To improve the administration, it would be useful to establish national bodies to organise and coordinate the activities of state bodies, institutions, and organisations in the field of intellectual property protection. It is important to develop principles and mechanisms for organising and coordinating the structures of the intellectual property protection system. These principles and mechanisms should be approved in a separate sub-legislative act. It is also important to expand the specialisation and training of judges and develop forensic expertise in the field of intellectual property. The specialisation of a judge is the main prerequisite for obtaining a high-quality, properly motivated court decision (Hulak & Shcherbak, 2021).

It is extremely necessary to modernise the information technology system used in the state system of intellectual property legal protection and harmonise it with modern technologies used by leading European and global countries. It is essential to develop patent information support in the field of intellectual property, and to ensure broad public access to information related to the acquisition of rights to intellectual property. There is a need to improve the coordination of law enforcement and regulatory authorities in combating infringements of intellectual property rights. The active use of information and communication media to combat infringements of intellectual property rights will also increase the effectiveness of this mechanism. It is vital to ensure access to information and knowledge in the field of intellectual property. Since the personnel issue is always one of the key ones, it is significant to maintain a high professional level of employees of the state system of intellectual property legal protection, as well as to improve the skills of judges, law enforcement, and regulatory authorities (Svitlychnyi & Korotun, 2021).

The above recommendations can be used to improve national mechanisms for combating intellectual property crime. Therefore, to ensure more effective application of the law, it is recommended to harmonise these provisions in a single document – the Criminal Code. To ensure a unified system of legal protection of IP rights, and to improve the mechanism for combating crime in the field of intellectual property, it is also recommended to establish a national body for organising and coordinating the activities of state bodies, institutions, and organisations in the field of intellectual property; develop principles and mechanisms for organising and coordinating the structures of the National Intellectual Property System; and expand specialisation and training.

The issue of crimes against property, including crimes against intellectual property, has long been discussed in academic circles. Therewith, A. Lazuardi & T. Gunawan (2024) also expressed conclusions analogous to those presented in this study, specifically regarding the need to unify or codify legal norms governing the criminal law protection of intellectual property. N. Abd Malek (2024) and S. Ramadani *et al*. (2021) share the opinion noted in the present study that reducing crime is one of the key tasks for maintaining quality of life standards. According to N. Abd Malek *et al*. (2024) and S. Ramadani *et al*. (2021), the role of the government in combating crime is to protect persons and property, as well as to ensure a criminal justice system Other researchers share this opinion, such as S. Saeed *et al*. (2021) and A. Zurnetti & N. Mulyati (2022) who emphasise the need for increased attention to the protection of intangible assets.

Intellectual property rights cover a wide range of assets, such as copyrights, patents, trademarks, and trade secrets, which help their owners to secure a competitive advantage, which is significant in the era of digital transformation and the evolution of capitalism (Kusumaningtyas *et al*., 2022). B. Budiman & R. Hammar (2024) illustrated this with the example of copyright infringement of the Grand Indonesia logo. Therewith, the analysis of C. Durand & W. Milberg (2019) introduces the concept of intellectual monopoly capitalism, where state protection of intellectual property helps to block monopoly power through the creation of intangible assets. This concept is expanded to include "information rents", which arise from economies of scale and network externalities associated with the production of intangible assets. Integrating global value chains (GVCs) requires intensive information flows to transfer specifications, standards, technical know-how, as well as costs and other operational details. Thus, the expansion of trade within the GVCs is associated with the growing mobilisation and circulation of intangible assets, and the monopoly dynamics arising from these assets should be assessed in this context. It is worth agreeing with the conclusions drawn in this study and

noting that analogous IP antitrust legislation should also be codified in a single legal document.

N.A. Sinaga (2020) and R. Sousa-Silva (2021, 2022) emphasise the significance of legal mechanisms for the protection of intellectual property, including copyrights, patents, and trademarks, the purpose of which is to prevent illegal use that could harm rights holders. However, A. Lazuardi & T. Gunawan (2024) show that IP protection through special legislation can stimulate investment in creative and industrial fields, as well as provide fairness to rights holders, promote fair international trade, and disseminate information and knowledge.

This study concludes that it is necessary to create a unified system of legal protection of IP. O. Hubanov *et al*. (2021) came to comparable conclusions, noting the tendency to codify liability for intellectual property crimes in different legal systems. This means that the provisions relating to criminal liability for intellectual property infringement are consolidated in a single legislative act (code), which helps to ensure a single set of criminal law provisions. For instance, the Criminal Code of the Republic of Bulgaria contains a special section on "Crimes against Intellectual Property"[1], while the Spanish Criminal Code of 1995[2] has a section on intellectual property-related crimes. J. Kjakšta (2019) formulated a hypothesis that the content of intellectual property in European regulations is mostly uniform in terms of the object of a criminal offence. This hypothesis was confirmed by the findings of the study. The reason for this is the unifying effect of international agreements such as Universal Copyright Convention[3], Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations[4], World Intellectual Property Organisation (WIPO) Performances and Phonograms Agreement[5], World Intellectual Property Organisation Copyright Treaty[6], Agreement on Trade-Related Intellectual Property Rights[7], etc.

As of 2024, the Directive on copyright and related rights in the Digital Single Market is in force within the European Union[8]. J.P. Quintais (2019) points out that this act, which was created as a legislative instrument to promote the digital single market, has become an industry policy instrument shaped more by effective lobbying than by evidence and experience. Despite some positive aspects, the Directive contains many problematic provisions, including a controversial new right for press publishers and a new liability regime for content sharing platforms. Generally, the Directive reflects the preference for private ordering over public choice in EU copyright law and does not provide adequate safeguards for users. It is also, as J.P. Quintais (2019) points out, a complex text with many ambiguities, which will not contribute to the desired harmonisation and legal certainty in this area. One can agree with the researcher's conclusions and note that this contradictory experience should be considered when formulating national legislation, especially comprehensive documents in the field of IP protection.

Thus, the issue of crimes against property, including crimes against intellectual property, is not new in academic circles. The above analysis of the studies on this issue has shown that the opinion on the need to unify or codify the legal provisions governing the criminal law protection of intellectual property is shared by many researchers.

Conclusions

Thus, this study performed a comparative analysis of the key current issues and regulatory approaches to combating crimes in the field of intellectual property as an example of the most relevant category of crimes against property. The study analysed the national regulations that form the basis for combating crimes against intellectual property in different countries of the world. This study also analysed the results of a survey conducted by WIPO in 2023 to collect information on the prosecution of IP crimes in its member states.

A comparative analysis of the world's best practices in combating property crimes has shown that countries with a long history of criminal law counteraction to intellectual property crimes, whose experience can be considered advanced, can be divided into two groups. The first group includes countries where IP is protected exclusively through the national criminal code. The second group of countries includes those where the relevant rules are consolidated in special laws, which often prescribe sanctions for IP infringement. Therewith, as society develops and intellectual

[1] Bulgaria Criminal Code. (1968, May). Retrieved from https://www.refworld.org/legal/legislation/natlegbod/1968/en/37489.
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[4] International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations. (1961, October). Retrieved from https://zakon.rada.gov.ua/laws/show/995_763#Text.
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property is increasingly used, the need for a unified system of legal protection of these rights becomes clear. The division of legal provisions among different legislative acts complicates their application in practice.

The study of the legislation of EU countries also showed that the systems of criminal law counteraction to crimes against intellectual property can be adversarial or inquisitorial. In the adversarial system, which is used primarily in common law countries, the court considers the case based on the evidence presented by the parties. The inquisitorial process of criminal prosecution is typical for continental law countries. In these countries, the court conducts an extensive pre-trial investigation and interrogations to establish the truth.

The analysis of the studies on the issues of crimes against property, including crimes against intellectual property, has shown that the opinion on the need to unify or codify the legal provisions governing criminal law protection of intellectual property is shared by many researchers. Prospects for future research may include finding ways to implement the recommendations propose in this study into the law enforcement practice of a particular country.

Acknowledgements

None.

Conflict of Interest

None.

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Протидія злочинам проти інтелектуальної власності: порівняльний аналіз передового світового досвіду

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Анотація
Актуальність обраної теми зумовлена тим, що економічний та науковий прогрес має наслідком зростання рівня злочинності проти права власності, зокрема найактуальнішої її форми – інтелектуальної. Важливим завданням правоохоронних органів стає подолання загроз інтелектуальній власності, використовуючи провідний світовий досвід у цій сфері. Метою статті є здійснення порівняльного аналізу світового досвіду протидії злочинам проти власності. За допомогою таких методів, як метод юридичної герменевтики, формально-юридичний, порівняльно-правовий метод і проблемний аналіз, окреслено проблеми, пов'язані із судовим переслідуванням злочинів проти інтелектуальної власності. Здійснено класифікацію країн за типом регламентації захисту інтелектуальної власності, окреслено головні проблеми в розслідуванні справ щодо інтелектуальної власності. Встановлено, що країни з тривалою історією кримінально-правової протидії злочинам проти інтелектуальної власності, досвід яких можна вважати передовим, поділяють на дві групи. До першої групи належать ті, у яких правовий захист інтелектуальної власності здійснюють виключно через національний кримінальний кодекс. До другої групи країн віднесено ті, де відповідні норми закріплено в спеціальних законах, які часто передбачають санкції за порушення інтелектуальної власності. З розвитком суспільства й активізацією використання інтелектуальної власності стає очевидною потреба створення єдиної системи правового захисту цих прав. Розподілення правових норм між різними законодавчими актами ускладнює їхнє застосування на практиці. На підставі здійсненого дослідження запропоновано рекомендації з удосконалення механізму протидії злочинності у сфері інтелектуальної власності. Здійснено аналіз результатів опитування, проведеного Всесвітньою організацією інтелектуальної власності у 2023 році, що мало на меті зібрати інформацію про переслідування злочинів проти інтелектуальної власності в державах-членах. Практична значущість дослідження полягає в тому, що запропоновані рекомендації може бути використано для вдосконалення національних механізмів протидії злочинності у сфері інтелектуальної власності

Ключові слова:
авторське право; промислова власність; порушення прав власності; захист прав власності; Світова організація торгівлі

UDC 341.4: 341.3
DOI: 10.56215/naia-chasopis/2.2024.84

Interaction of conventional law and the circumstances of society in wartime: The experience of the war between Ukraine and Russia

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Abstract
The relevance of this study lies in the need to understand the interaction between conventional law and the circumstances of society in wartime, especially in the context of modern conflicts. The purpose of this study was to identify this interaction and determine its impact on the current legal environment. To fulfil this purpose, various research methods were employed, including literature review, document analysis, empirical research, comparative analysis, and expert evaluation. These methods helped to systematise information and carry out a reasoned analysis of the interaction between legal norms and the circumstances of modern society in the context of military operations. The findings of this study show that the problem of implementing conventional law in the context of armed conflict is caused not only by different interpretations of its provisions, but also by systematic violations of international humanitarian law by the parties to the conflict. It is noted that some of these violations may be the result of a lack of clarity or contradictions in the texts of the conventions, as well as differences in national legislation. Specific examples were considered in the context of different types of conflicts, including armed conflicts and situations of occupation, where systematic violations of human rights and humanitarian standards are recorded. Specifically, the study investigated the attitude towards civilians, the circumstances of warfare, the treatment of prisoners of war, the provision of medical care in the conflict zone, humanitarian aid, access to education and food. The study also examined the manipulation of information and the legal framework by Russia. In view of the identified difficulties in implementing conventional law, the study proposed concrete ways to improve the international legal mechanism, namely by clarifying and harmonising the rules of international humanitarian law, ensuring more effective monitoring and accountability for violations, and engaging in dialogue with all stakeholders, neutral observers and partner countries to jointly find solutions. This allows formulating recommendations for international organisations, states, and human rights groups on further measures to ensure compliance with conventional law in the context of armed conflict and improve human rights protection

Keywords:
human rights; rehabilitation; international humanitarian law; martial law; judicial proceedings; military operations; media

Article's History:
Received: 06.02.2024
Revised: 01.05.2024
Accepted: 28.05.2024

Suggest Citation:
Galchynskyi, D. (2024). Interaction of conventional law and the circumstances of society in wartime: The experience of the war between Ukraine and Russia. *Law Journal of the National Academy of Internal Affairs*, 14(2), 84-94. doi: 10.56215/naia-chasopis/2.2024.84.

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Introduction

The relevance of the study of the interaction between conventional law and reality in the context of Russia's war against Ukraine lies in the fact that a comparison of theoretical background and practical developments may serve as an excellent basis for adjusting or revising existing international law and further developing it. Based on the principles of international humanitarian law, conventions and agreements prescribe the protection of civilians and prisoners of war. However, in practice, the war in the east of Ukraine has revealed serious violations of human rights and international humanitarian law by certain military formations, including illegal detention, physical violence, and torture. Convention law, specifically international humanitarian law, aims to ensure the protection of human rights and minimise the suffering of civilians during military conflicts. However, the practice of applying these rules sometimes deviates from theoretical principles, which casts doubt on the effectiveness of conventional law in real-life military conflicts. Formalising and analysing such violations, identifying patterns of their occurrence and comparing them with existing norms can help to develop effective mechanisms to counteract and minimise analogous cases in the future.

P. Grzebyk (2022) examines the escalation of Russia's aggression against Ukraine and notes that during the conflict, numerous cases of shelling of civilian objects and the use of prohibited means of warfare, such as booby traps and glue mines, were recorded. These weapons pose a serious threat to the lives and health of civilians, including children and minors. The placement of mines in civilian settlements and on evacuation routes violates the fundamental principles of international humanitarian law, namely the principles of non-precision and protection of civilians. These examples are just a few of the many incidents that demonstrate persistent violations of international humanitarian law in the conflict zone. These violations threaten the safety and well-being of the local population and underscore the need for increased international oversight and response to the conflict zone. The researcher concludes that Russia's aggression is absolutely unjustified and should be qualified as a provocation of war of aggression.

Studies on the above-mentioned topics are relevant during most wars of the 21st century, but for the present study, articles that consider the Ukraine-Russia war and modern examples of interaction and harmonisation of international humanitarian law with the reality of hostilities are of interest. Thus, O. Hnativ (2023) analysed the mechanism of operation of international treaties in general, as well as the content and problems of application of *jus cogens* rules. The study examined the practice of implementing the provisions of several international instruments, namely the Vienna Convention on the Law of Treaties, the Budapest Memorandum, and the Charter of the United Nations. Hnativ analysed the interaction of the Russian Federation with the international institutions of which it is a member. The researcher also examined the reactions of the most influential international organisations, such as the United Nations, the Council of Europe, the International Federation of Red Cross and Red Crescent Societies, the International Atomic Energy Agency, and the World Health Organization.

M. Lepskiy & N. Lepska (2023) investigate the transformation of global institutions, including NATO. According to the researchers, the war in Ukraine has demonstrated the incompetence of the world's major security institutions and identified challenges for their rapid transformation to effective reformatting. NATO has been actively involved in this process, which received a new format for the organisation's development after the Ramstein Summit on 26 April 2022. The researchers conclude that the modern solution to the issues of war and peace requires a transition from the concept of a "peace agenda" to the concept of "peacekeeping engineering". NATO's peacekeeping capabilities in resetting the interaction and transformation of UN peacekeeping determine the transition from non-systemic peacekeeping to the development of a peace engineering programme environment, which consists of military, political, diplomatic, political and economic, logistical, socio-humanitarian, environmental, and technological environments.

H.A.K. Salman (2023) examined the provisions of the Geneva Convention on the definition and status of prisoners of war (POW), their rights, and obligations of the various parties to the conflict in relation to them. Specifically, Salman analysed the changes introduced to the Geneva Convention, legal mechanisms and conventions on which various provisions on combatants (prisoners of war, deserters, traitors, and mercenaries) are based[1]. The researcher concluded that the granting of POW status is governed by two main principles: firstly, it is necessary to distinguish between combatants and civilians, and secondly, it is necessary to respect the rules and conventions of war if we want to protect the world from falling into anarchy. However, the absence of international accountability for violations of the rights of prisoners of war encourages the parties to the conflict to continue these violations. The next major step in ensuring compliance with international treaties is for countries to adopt national laws that follow international conventions and to monitor their implementation internationally.

The purpose of the present study was to analyse and systematise the available information and prepare

[1]Geneva Convention relative to the Treatment of Prisoners of War. (1949, August). Retrieved from https://zakon.rada.gov.ua/laws/show/995_153#Text.

recommendations for international organisations, states, and human rights groups on further measures to ensure compliance with the Convention in the context of armed conflict.

Materials and Methods

The methods used in this study are aimed at investigating the interaction between conventional law and the circumstances of society in wartime and are inherent in most humanitarian studies, namely: literature review to analyse scientific sources, including journal articles, books, reports, and statements of international organisations and other publications, to gain an understanding of the theoretical aspects of the interaction between conventional law and the realities of society in the context of Russia's war against Ukraine; document analysis in the review of international documents and regulations, such as the Geneva Conventions, their additional protocols, international treaties and agreements governing the behaviour of parties to the conflict, the status and protection of human rights; empirical research was conducted using empirical analysis methods, which involve collecting and analysing data from various sources, such as reports of human rights organisations, official government reports and other documents, combining them, formalising them, and further analysing them; comparative analysis of legal systems and practices of different countries in conflict to identify differences and similarities in the application of conventional law, international practice in similar situations, conclusions of monitoring missions and media coverage; content analysis was employed to analyse publications and information from official sources, narratives, and trends of information in the media and social networks. These methods were used to systematise, analyse, and interpret information to achieve an objective and comprehensive understanding of the interaction between conventional law and social reality in the context of the Russian-Ukrainian war.

An important part of the sources on the subject under study included statements and reports of international human rights organisations, such as Human Rights Watch (2023a; 2023b: 2023c), describing terror against civilians by Russia, the use of cluster munitions and super-heavy munitions to shell civilians and infrastructure, as well as evidence of targeted destruction and attacks on civilian objects in the city of Mariupol; Amnesty International (2023; 2024) on the observance and implementation of agreements and norms of international law in the occupied territories and in the area of hostilities, as well as the status and consequences for education, access to it, its quality, and the availability of qualified specialists in the occupied territories and in areas close to active hostilities. The study analysed the Human Rights Council report (2023) on the situation of civilians and the impact of the war on their lives, access to healthcare and human rights in the territories occupied by Russia. The Geneva Conventions[1] and their Additional Protocols[2] and their content were analysed to understand which provisions are violated by Russia. The study also considered a range of articles by Ukrainian and foreign researchers on conventional law, international humanitarian law, international organisations, and their behaviour in active hostilities, as well as on related topics, including rehabilitation of military personnel, use of new technologies in hostilities, daily life of civilians, and the role of the media in covering war/informing society.

Results

The need to develop international monitoring and enforcement mechanisms. The Geneva Conventions[3] and Additional Protocols[4] governing the conduct of the parties to armed conflicts establish the principles of humane treatment of prisoners of war, protection of civilians and neutrals, and prohibition of the use of certain weapons. However, despite the existence of such rules, military conflicts are often accompanied by systematic violations of international humanitarian law. For instance, according to Article 3 of the Geneva Conventions of 1949[5], which covers the humane treatment of POWs, no form of violence or threats against their life, health, honour, and dignity is permitted, which is contrary to international norms and standards. In turn, the Russian Federation and its military units systematically violate these norms by using prohibited weapons (Human Rights Watch, 2023b), deliberately destroying civilian infrastructure (Human Rights Watch, 2023a), and launching massive attacks on civilians (Human Rights Watch, 2023c) in violation of international law and human rights. In the context of the conflict between Ukraine and Russia, there are also numerous cases of violations of international norms and standards of humanitarian law (Kyrydon & Troyan, 2023). For instance, the shelling of civilian populated areas, the use of non-conventional means of warfare, and the unlawful

[1]The Geneva Conventions and their Commentaries. (1949, August). Retrieved from https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions.
[2]Additional Protocols to the Geneva Conventions of 1949. (1977, June). Retrieved from https://www.icrc.org/en/document/additional-protocols-geneva-conventions-1949-factsheet.
[3]The Geneva Conventions and their Commentaries. (1949, August). Retrieved from https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions.
[4]Additional Protocols to the Geneva Conventions of 1949. (1977, June). Retrieved from https://www.icrc.org/en/document/additional-protocols-geneva-conventions-1949-factsheet.
[5]Convention (III) Relative to the Treatment of Prisoners of War. Geneva. (1949, August). Retrieved from https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949.

detention and exploitation of POWs and civilians (Two-year update. Protection of civilians..., 2024). There are cases when the aggressor tries to justify its actions by referring to the lack of a clear definition of terms in international law or to internal political circumstances (Has Putin's war failed..., 2023). However, this does not justify the violation of the fundamental principles of humanitarian law, which prescribe the protection of the most vulnerable populations (Human Rights Council, 2023).

Another problem is the lack of effective mechanisms for monitoring and ensuring accountability for violations of international humanitarian law. Often, violators go unpunished due to the lack of international judicial bodies capable of considering such cases or insufficient political pressure on countries that violate rights. Thus, it is necessary to develop mechanisms of inevitable responsibility and effective control over the observance of international humanitarian law in the context of military conflicts. This may include consideration of the possibility of establishing ad hoc tribunals, such as the International Military Tribunal at Nuremberg (International Military Tribunal at Nuremberg, 2020) after World War II; international investigative mechanisms to investigate war crimes and human rights violations; and strengthening the role of international observers in monitoring the situation in the conflict zone (such as OSCE, UN SMM or PACE observers, or NATO peacekeepers). Such steps will help to record offences and bring the perpetrators to justice. The presence of observers in the conflict zone helps not only to monitor compliance with international standards, but also to investigate violations of human rights and humanitarian law. Such missions can to some extent protect civilians and assist in the delivery of humanitarian aid, specifically the peacekeeping missions of the International Committee of the Red Cross (ICRC), which are aimed at helping to organise prisoner of war exchanges and monitoring the implementation of the Geneva Convention (Hill-Cawthorne, 2023).

However, a key aspect of the development of international oversight mechanisms is to ensure their independence and objectivity. This means that monitoring and reporting mechanisms should have sufficient resources, legal status and opportunities to work independently, free from the influence of political, economic, and power interests. Specifically, Amnesty International's annual report (2023) notes that the war poses many challenges to objectivity, unbiasedness, and impartiality. It is also important to improve data collection and analysis mechanisms for the effective monitoring and enforcement of international law in conflict situations. This includes the development of innovative technologies, the use of modern data analysis techniques, and the promotion of innovation in monitoring and reporting, including investigations using modern technologies such as neural networks and open-source intelligence methodologies.

Cooperation between international and national control bodies and the implementation of conventional norms is an important component of the effective functioning of international mechanisms. The exchange of experience, training, and joint projects should contribute to the improvement of efficiency and the development of best practices in the field of control and enforcement. Specifically, the UN regularly addresses the current situation in Ukraine at the international level, as M. Lepskiy & N. Lepska (2023) consider the process of transformation of global institutions against the background of Russia's military aggression against Ukraine. Another important component of an effective response to military conflicts is the involvement of the public and human rights organisations in monitoring the situation and exposing human rights violations. Local and national civil society organisations can play a key role in collecting and analysing information on various violations, advocating for the rights of victims and drawing the attention of the international community to the situation in the conflict zone. An example of such cooperation is the monitoring missions of OSCE and MSF. Civil society and activist groups can play a key role in monitoring compliance with international law in conflict, and it is essential to engage them in monitoring, gathering information, and reporting violations, as well as in advocacy and mobilising public opinion on the need to uphold international standards. However, such involvement must be safe and guarantee protection, considering the aggressor country's disregard for international agreements. This implies the need to strengthen international legal protection for victims of conflicts, which may include the establishment of compensation mechanisms, support for access to justice and rehabilitation programmes for victims.

Status of civilians, medical care, and humanitarian aid in wartime. Civilians become the most vulnerable in times of war. International humanitarian law establishes an obligation to protect civilians from the effects of war and to provide access to medical care[1]. However, the reality of the war in the east of Ukraine has highlighted problems with access to healthcare due to limited access to healthcare facilities and hindrances to the delivery of humanitarian aid (Lundberg *et al*., 2019). An illustrative example is the situation in the city of Avdiivka, where access to medical facilities and the delivery of medical supplies was restricted due to the hostilities, leading to a crisis situation with the provision of medical care to the civilian population (Kozatsky, 2023). Usually, in a military conflict zone, civilians stay under the threat of physical and psychological danger. Civilians, especially children, the elderly and women, are particularly vulnerable to the threats of war.

[1]Convention (IV) Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949.

Often they are forced to leave their homes and seek refuge in refugee centres or even in hideouts. Furthermore, these people are forced to face problems with access to essential resources, such as food, water, medication, and even primary healthcare.

The escalation of the conflict often leads to the blocking of humanitarian routes and the blocking of humanitarian corridors, further exacerbating the situation with the provision of supplies, food, and medical care for the civilian population. Providing medical care in a conflict zone is often a difficult and dangerous task due to the limited availability of medical equipment, medication, and qualified medical professionals. Doctors and medical staff who stay on or near the frontline often come under fire, putting their lives at risk and making it difficult to provide medical care to the wounded and sick. An example of an analogous situation is the case of Swedish doctors in Mali (Lundberg *et al*., 2019). Therefore, humanitarian aid, including medical care, must be provided uninterrupted and unhindered, following the principles of international humanitarian law. This means ensuring the safety of humanitarian convoys, opening humanitarian corridors, and ensuring the neutrality of medical facilities. However, one of the key challenges in providing medical and humanitarian aid is the lack of continuous access to the conflict zone due to security restrictions and barriers. Continuous and unimpeded access to civilians is critical to ensuring their basic needs and safety. The main prospects are considered to be in overcoming humanitarian crises in the conflict zone by activating international humanitarian organisations, cooperating with government agencies and local communities, and making joint efforts to restore peaceful life for the civilian population.

Securing children's rights in wartime. Particular attention should be paid to the protection of children's rights in time of war. Children are the most vulnerable group affected by armed conflict, and they often become victims of violence, loss of parents, and family separation. It is necessary to develop special programmes and measures to protect the rights of children during armed conflicts, considering their special needs and interests.

It is important to pay attention to protecting children from all forms of violence, exploitation and trafficking, which are often exacerbated in conflict zones. Conditions of war often lead to an increase in child labour, where children are forced to work to help their families survive (Lidiia & Stasiuk, 2023). Measures should be taken to prevent this, including by ensuring access to education and family support that will enable parents to provide for their children without labour exploitation. This may include providing safe spaces for children, legal aid, and the development of a social support system. It is also important to develop and implement strategies to protect children from recruitment and exploitation in armed conflict. This can be achieved through information campaigns, teacher training, legal mechanisms, and monitoring systems to identify and protect vulnerable children both in the conflict zone and for displaced children (International Bureau for Children's Rights, 2010).

It is also imperative to provide access to psychological support and therapy for children who have experienced traumatic events as a result of war, if possible. According to an article by the ICRC, psychosocial support programmes can include individual counselling, group sessions, art therapy, and other methods aimed at improving children's mental health and helping them to overcome stress and anxiety. Accordingly, it is necessary to ensure free access to medical care and psychosocial support for children and their parents in time of war. This may include the establishment of specialised medical facilities that can provide care to affected children, as well as support from psychologists and social workers on-site or remotely (UNICEF, 2020).

It is important to develop and implement support programmes for internally displaced children and refugees who have fled war, including, as mentioned above, the provision of shelter, medical care, education, and psychosocial support. Specifically, K.V. Bondarenko (2022) notes that since the beginning of the Russian-Ukrainian war in 2014 and, especially, after 22 February 2022, the wave of internal and external migration has reached unprecedented levels. Ukraine loses its most talented, competitive, and economically active citizens to migration. Thus, as of 13 June 2022, starting from 24 February 2022, 7,514,460 people left Ukraine and only 2,479,398 returned, while 3,206,642 Ukrainians received temporary protection in the EU. As of 3 June 2022, 4,172,104 people were registered as IDPs. The specific feature of this wave of migration is that Ukrainian women with children are mostly seeking temporary protection in the EU, and their husbands may join them after the war ends. There is an extremely high risk that Ukraine will lose these young people. It is also important to bear in mind that in times of war, many families may experience economic hardship, which may affect the ability of parents to meet their basic needs and those of their children. It is essential to develop social assistance and economic support programmes for these families to avoid a sense of helplessness and lack of opportunities. This can include social work, benefits, and free maintenance or provision of housing and basic necessities. One of the main recommendations is to ensure that children have immediate access to quality education, even in the conflict zone, through a mixed format of education. This includes creating safe schools and children's centres, training teachers to work with children who have experienced war-related trauma, providing psychological support, and enabling them to receive education remotely.

Effective protection of children's rights in wartime requires joint efforts and coordination by international and civil society organisations, government agencies, and the public. It is important to develop mechanisms for cooperation and information exchange to effectively

respond to the needs of children in war and ensure that they are adequately protected and supported.

The role of media and information platforms in conducting an objective information policy. Media and information platforms play an important role in shaping global opinion on conflicts and human rights protection. Objective and independent coverage of events in the conflict zone is an essential aspect of ensuring transparency and openness in conflict resolution. T. Plazova *et al*. (2024) note that the arsenal of Russian information warfare tools is wide and diverse. Russia's information warfare uses conventional tools, such as the media, troll factories, bot factories, and fake news, as well as modern technologies, such as deepfake. This arsenal is constantly evolving and adapting to the technological advancement. The Kremlin's key purpose in its information warfare is to destabilise Ukraine from within. The key strategy is to create the impression that Ukraine is closely linked to Russia as a "Eurasian" state. This includes not only the spread of disinformation, but also the use of social media and other platforms to shape certain narratives. Media and users are becoming victims of information warfare. Attacks on the media, including the dissemination of false information, are becoming a widespread phenomenon. Social media and media users are exposed to influences that can distort public opinion and create the impression of a false reality. Cyber operations are a specific feature of information warfare. State-backed hacker groups are actively engaged in cyber espionage, trying to infiltrate government networks, media organisations, and critical infrastructure. Not only does this provide access to confidential information, but it can also disrupt communication channels and threaten data integrity. At the same time, Russia's information warfare goes beyond Ukraine. Russia is actively influencing public opinion in European countries, the United States, and beyond. The concept of "influence operations" uses social media platforms to spread certain narratives and sow hatred. Furthermore, the media can perform the function of monitoring the observance of human rights and humanitarian law in time of war, which contributes to the responsibility of the aggressor country to the international community.

Therefore, one of the key tasks is to ensure the objectivity and independence of media and information platforms. It is essential for journalists and editors to adhere to professional standards, avoid the influence of political or commercial interests, and provide objective information about events in the conflict zones. Unfortunately, this issue is relevant to both sides of the conflict. Media and information platforms should provide factual and reliable information about events in the conflict zones. They should check the sources of information, avoiding the spread of unconfirmed rumours, or manipulative information that could lead to a distortion of reality. For this, the media should use multiple sources and perspectives in their reporting on events in conflict zones, including international ones. This includes involving different parties to the conflict, experts, witnesses, and journalists to get a complete and most objective picture of the events.

Russian state media often deliberately distort facts, present deliberately false information, and manipulate public opinion, and therefore it is critical that the media adhere to ethical standards of journalism in their work, namely: avoid sensationalism, protect people's rights and dignity, and respect privacy (except where it is critical to uncovering corruption schemes and high treason). Therefore, another significant aspect is to increase the level of public literacy and critical thinking. Media and information platforms can contribute to this by providing information materials that help audiences analyse and understand complex situations in conflict zones. They should also actively engage with the public, accommodating their opinions, questions, and reasonable requests for information. This can be achieved by publishing readers' letters, organising open discussions, or creating opportunities for public comment. However, it is important to bear in mind that such events and actions can easily be used for propaganda. To prevent this, an essential element of an objective information policy is the development of fact-checking programmes aimed at verifying the accuracy of information received by the media. Amnesty International (2024) in its annual report notes the need to partially change the methods and tools for verifying information and fact-checking, which further indicates the need for changes in the international approach of the media. This will help prevent the spread of fake news and manipulative information. It is also important to create educational programmes for journalists aimed at improving their professional competence in ethics, objectivity, and independence. Programmes can include trainings, master classes, and specialised courses.

Media and information platforms can introduce innovative formats for presenting information, such as video reports, animations, interactive infographics, etc. This will make the information more accessible and understandable for different audiences. It is therefore vital to support the development of community media, which often act as platforms for alternative and independent information. This will help to ensure diversity and objectivity in the information space, which can help to counteract and combat enemy propaganda.

Judiciary and public order. The judiciary also plays a key role in ensuring justice and maintaining public order during wartime. However, in the context of the conflict between Ukraine and Russia, there have been cases of irregularities in the judicial process and unfair court decisions that have undermined trust in justice and the legal system (Alston, 2023). The conditions of military conflict pose complex challenges for the judiciary and law enforcement agencies both locally and internationally. Basic principles of justice, such as

the right to a fair trial, the presumption of innocence, and access to adequate legal protection, are often violated due to the lack of international oversight. This leads to systematic human rights violations, including the illegal detention of civilians and POWs, poor conditions of detention, torture, and inaction in the investigation of crimes in the occupied territories.

Generally, it is important to emphasise that in military conflicts, compliance with international norms and standards of humanitarian law is critical. Continuous monitoring and reporting of human rights and international humanitarian law violations are key to ensuring justice and protecting populations in wartime (Rodríguez Reveggino & Becerra-Bolaños, 2022). In the context of armed conflict, there is often a prominent degree of politicisation of trials and interference in the work of the courts by armed groups. This threatens the independence of the judiciary and the stability of the legal order (Hnativ, 2023)

Often, ensuring public order in a conflict zone requires increased coordination between law enforcement agencies, military units, and the public (Tammi, 2023). However, unlike in peaceful conditions, in wartime, the effectiveness of the police and law enforcement agencies is often limited, and their work is complicated by the danger to life and health. Undoubtedly, ensuring the safety of citizens and protecting their rights in time of war requires the government and international partners to take active measures to monitor, assist, and promote the implementation of laws and international human rights standards. However, one of the biggest challenges is to restore trust in the judiciary and law enforcement agencies. This can be achieved through reforms aimed at increasing transparency, efficiency, and accountability to citizens (Cioffi & Cecannecchia, 2023). Appointing judges and police officers in a transparent and competitive manner, providing adequate training and supervision, as well as state support for human rights bodies and social control, can contribute to the establishment of the rule of law and stability in the de-occupied territories.

Creating mechanisms for rehabilitation and recovery. After the end of a military conflict, there is a need to create mechanisms for rehabilitation, re-socialisation, and recovery. This applies not only to the physical but also to the psychological rehabilitation of victims, including military personnel, volunteers, POWs, civilians, and children who witnessed or took part in hostilities. International humanitarian organisations, governments, and civil society organisations can work together to provide comprehensive support and assistance to those affected.

One of the main recommendations is to ensure access to comprehensive psychosocial support for survivors (International Medical Corps, 2017). This includes consultations with a psychologist, psychotherapist, and the development of support programmes to overcome stress and trauma, specifically for veterans, children, and victims of violence (Lathia *et al*., 2020). Rehabilitation and treatment programmes for people injured in the conflict should also be launched. This can include physical therapy, reintegration into society, and vocational training for those who have lost their health. It is important to create specialised recovery centres. Such centres can focus on providing access to healthcare, education, vocational rehabilitation, and psychosocial support (UNICEF, 2020).

One of the strategic objectives will be to provide support in restoring housing conditions for those who lost their homes due to the conflict. This includes reconstruction of destroyed buildings, provision of temporary housing, and financial support in securing the necessary resources. An essential aspect is to support the restoration of social and economic stability for affected groups. This may include the development of vocational rehabilitation programmes, microcredit for entrepreneurship, and other measures aimed at strengthening the economic potential of communities.

The response and support of the international community will be important for the implementation of these programmes. Most international organisations, including the UN, the ICRC, and other international human rights organisations, are actively involved in ensuring the protection of human rights and providing humanitarian aid in the affected regions. However, a more proactive and coordinated response from the international community is needed to ensure effective support and protection of the war-affected population (Sotiroski, 2023; Tammi, 2023).

In the conflict zone, diplomatic efforts and peacekeeping initiatives need to be further intensified to facilitate conflict resolution and ensure stability. This may include the exchange of prisoners of war, the involvement of international mediators, joint declarations, and the assistance of our allies. International civil organisations, government agencies, and international organisations should cooperate to ensure human rights and protect civilians in the conflict zone. This means implementing international human rights standards and ensuring the safety of citizens, especially vulnerable groups such as children, women, and people with disabilities. It is also important to consolidate the status of Ukraine as a country defending itself from military aggression by Russia at the international legal level (Dill, 2023).

After the active phase of hostilities is over and the territories are liberated, it is important to provide humanitarian aid to the victims and rebuild the infrastructure. Rehabilitation and reconstruction programmes will help rebuild destroyed towns and villages and support affected communities. International organisations, governments, and civil organisations should cooperate and share experiences on effective strategies for responding to conflicts and preventing the breakdown of peace and stability.

Discussion

At the global level, the issue of the interaction between conventional law and the realities of society in time of war is central to numerous discussions and debates. International organisations working in the field of human rights and humanitarian law are actively investigating this issue and developing strategies to address it, but the reality of Russia's war against Ukraine shows that international humanitarian and conventional law is often unable to respond to the challenges posed. One of the principal areas of discussion is the role of the international community in protecting human rights and ensuring the implementation of conventional law in conflict situations. Various states and international organisations are actively discussing possible ways of cooperation and joint measures to ensure the protection of human rights and international humanitarian law during conflicts. P. Alston (2023) examines the change in the international judicial process and its shift from general problems to the prosecution of concrete perpetrators. The researcher concludes that the modern judicial system to a certain extent detaches itself from the root of the problem and focuses on its "symptoms". Alston also suggests that human rights violations should be considered not only as individual cases, but also as a set of interconnected precedents, which will allow for a clearer and more understandable picture of the causes of such violations. This opinion can be agreed with, since a comprehensive understanding of the causes of violations of the convention law in the context of the Russian-Ukrainian war, as well as the development of a legal framework (an array of recorded offences and court decisions) can help bring Russia to international responsibility.

The issue of the effectiveness of international control and monitoring mechanisms in time of war is also relevant. Discussions on improving such mechanisms, as well as on developing new strategies for monitoring the implementation of conventional law, take place at international conferences, summits, meetings, and other international forums. The general discussion of the problem also stimulates the activity of research groups and experts in the field of law, which contributes to the development of new approaches and the development of specific recommendations for addressing this complex issue. M. Lepskiy & N. Lepska (2023) examine the transformation of global institutions, including NATO. According to the researchers, the war in Ukraine has demonstrated the incompetence of the world's major security institutions and identified challenges for their rapid transformation to effective reformatting. NATO has been actively involved in such transformation, having formed a new development format for itself after the summit on 26 April 2022 in Ramstein. The researchers conclude that the modern solution to the issues of war and peace requires a transition from the concept of a "peace agenda" to the concept of "peacekeeping engineering". Specifically, it is noted that NATO's peacekeeping capabilities in resetting the interaction and transformation of UN peacekeeping determine the transition from non-systemic peacekeeping to the development of a peace engineering programme environment, which consists of military, political, diplomatic, political and economic, logistical, socio-humanitarian, environmental, and technological environments. The cited study also notes the practice of analysing incidents of human rights and humanitarian law violations in various conflict zones. For instance, it covers situations with violations of the rights of civilians and prisoners of war, as well as cases of insufficient medical care and humanitarian aid. Admittedly, such a transformation is a natural consequence of the inability of some associations and organisations to conduct their activities adequately and according to their functions/tasks (Al-Kassimi, 2023). Russia's war against Ukraine is a modern warfare employing the latest technology (Fowmina & Rabbiraj, 2023), mercenaries (Gunawan *et al*., 2024), and a great deal of manipulation, corruption, and media involvement to portray the situation in a light that suits Russia and its allies. That is why the evolution and revision of basic norms and requirements is a necessary step for the strengthening, development, and effective operation of international organisations.

The issue of ensuring children's rights in time of war is of particular interest and discussion by international civil organisations, human rights institutions, and activist groups. Determining the most effective ways to protect and rehabilitate children affected by war is one of the most urgent tasks. Furthermore, the discussion of the problem helps to raise awareness of the need to develop international standards and control mechanisms governing activities in conflict situations. The results of these discussions can have a considerable impact on the policy-making of states, international organisations, and human rights organisations in the field of human rights and humanitarian law in war and conflict. L. Hill-Cawthorne (2023) addresses the issue of non-compliance with the Geneva Convention during hostilities. Specifically, the researcher notes that different interpretations of the articles of the Convention may lead to manipulation of civilians and POWs by the parties to the conflict, and recommends that unambiguous rules of interpretation and interaction be developed for all countries. It is difficult to agree with the researcher and their conclusion, because legislation should be flexible and prevent attempts to abuse laws at all levels (international, state, and local). In the case of the illegal transfer of children to Russia, the "legal" substantiation was international humanitarian law itself, namely the IV Geneva Convention[1]. Therefore, only strict international control and verification of the letter of the law to

[1]Convention (IV) Relative to the Protection of Civilian Persons in Time of War. (1949, August). Retrieved from https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949.

its content can be considered a truly effective method of observing and implementing conventional law.

At the global level, the role of media and information platforms in ensuring an objective information policy in times of conflict is also important. T. Plazova *et al*. (2024) examines the problem of using a hybrid approach to manipulating public opinion by Russian state media, which leads to a substantial distortion of the objective situation and the state of affairs in violation of human rights, international agreements, and international humanitarian law. Therefore, access to objective and reliable information is a key factor in shaping global opinion and reaction to conflict situations.

Recent events and research also highlight the need to develop rehabilitation and recovery mechanisms for those affected by war and conflict. An effective rehabilitation system is key to restoring the physical and mental health of victims and helping them return to a full life.

In summary, the discussion of the issue at the global level demonstrates the general interest and efforts of the community to address the complex issues related to war and conflict. Interaction between states, international organisations, civil society institutions, and the expert community is a crucial element in ensuring peace, stability, and the protection of human rights around the world.

Conclusions

In the context of modern wars and conflicts, it is important to consider the interaction of conventional law and the realities of society not only in terms of their impact on the legal environment, but also in terms of the challenges faced by the international community and individual countries. The study found that the conditions of war pose complex legal and ethical challenges to the effective application of conventional law and to the performance of international obligations and agreements. This situation is conditioned by the fact that the circumstances of society in time of war differ considerably from conventional ideas about the observance of rights and obligations in peacetime and are complicated by active hostilities and, often, by the aggressive influence of the media on public opinion and coverage of reality.

The study also showed that human rights, including children's rights, are being violated in the war due to inhumane treatment by Russian military forces, obstruction and/or impediment of access to medical services and humanitarian supplies, and acts of violence against civilians, which is a direct violation of Protocol I, 4th provision of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1977. Prisoners of war captured by Russia are also at risk and are held in appalling conditions and subjected to torture, which is a violation of Article 3 of the Geneva Convention relative to the Treatment of Prisoners of War. Problems with the status of civilians, medical care, and humanitarian aid arise from the limited availability of resources and obstacles to accessing them in conflict zones, as evidenced by numerous reports by international organisations. This situation has critical negative consequences for the demographic, cultural, ethnic, and legal situation in Ukraine, as it complicates the interaction of legal and human rights organisations with the population, and often even threatens the physical life of civilians.

Considering the above, one of the key conclusions is the need for further, comprehensive development of international mechanisms for monitoring and enforcement of conventional law on the territory of Ukraine in the context of the Russian-Ukrainian war. This includes improving monitoring mechanisms, providing international support for the protection of human rights, and strengthening international cooperation in the investigation of human rights violations. The ways to implement these measures and their problematic aspects will require a thorough scientific investigation.

Acknowledgements

None.

Conflict of Interest

None.

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Взаємодія конвенційного права та реалій суспільства в умовах війни: досвід війни України та Росії

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Анотація
Актуальність роботи полягає в необхідності розуміння взаємодії конвенційного права та реалій суспільства в умовах війни, передусім у контексті сучасних конфліктів. Метою роботи є виявлення цієї взаємодії та визначення її впливу на сучасне правове середовище. Для досягнення мети використано різноманітні методи дослідження, зокрема: літературний огляд, аналіз документів, емпіричні дослідження, порівняльний аналіз та експертну оцінку. Ці методи надали можливість систематизувати інформацію та здійснити обґрунтований аналіз взаємодії правових норм і реалій сучасного суспільства в контексті воєнних дій. Результати дослідження засвідчують, що проблема впровадження конвенційного права в умовах воєнного конфлікту спричинена не лише різними інтерпретаціями його норм, а й систематичним порушенням міжнародного гуманітарного права з боку сторін конфлікту. Зазначено, що деякі з цих порушень можуть бути наслідком недостатньої чіткості чи суперечностей у текстах конвенцій, а також розбіжностей у національних законодавствах. Специфічні приклади розглянуто в контексті різних видів конфліктів, зокрема збройних конфліктів і ситуацій окупації, де фіксують систематичні порушення прав людини та гуманітарних стандартів. Зокрема, досліджено ставлення до цивільного населення, обставини ведення війни, поводження з військовополоненими, надання медичної допомоги в зоні конфлікту, гуманітарне забезпечення, доступ до освіти та їжі. Також розглянуто маніпуляцію інформацією та правовою базою з боку Росії. У зв'язку з виявленими складнощами впровадження конвенційного права запропоновано конкретні шляхи вдосконалення міжнародного правового механізму, а саме шляхом уточнення та узгодження норм міжнародного гуманітарного права, забезпечення ефективнішого моніторингу й відповідальності за порушення, а також залучення до діалогу всіх зацікавлених сторін, нейтральних спостерігачів і країн-партнерів для спільного пошуку рішень. Це дає змогу сформулювати рекомендації для міжнародних організацій, держав і правозахисних груп щодо подальших заходів із забезпечення дотримання конвенційного права в умовах воєнного конфлікту та покращення захисту прав людини

Ключові слова:
права людини; реабілітація; міжнародне гуманітарне право; воєнний стан; судочинство; воєнні дії; медіа

UDC 343.97:343.575
DOI: 10.56215/naia-chasopis/2.2024.95

Intelligence cycle as the basis of analytical activity in combating drug-related crime

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Abstract
The relevance of the research topic is related to the fact that in order to effectively address the problem of drug crime, it is necessary to develop and implement strategies based on the best practices, supported by scientific research, that optimise the use of law enforcement resources and limit the harm caused by drug trafficking. The purpose of this paper is to study the latest trends in the use of the intelligence cycle in the fight against crime, to create and describe a model of its application in the field of combating drug-related crime. To achieve the purpose of the research, the following scientific methods were used: terminological, systemic and structural, analysis, comparative analysis, modelling, formal and logical, generalisation, and expert evaluation. It is proved that for the effective and efficient organisation of analytical activities in the field of combating drug-related crime, a thorough understanding of and strict adherence to the stages of the intelligence cycle, which underlies criminal analysis, is crucial. It is concluded that the intelligence cycle is a flexible dynamic process that requires analysts to think critically and creatively, to respond meaningfully to new information, and to move through the stages of the intelligence cycle. The intelligence cycle was analysed, the analyst's activities at each of the stages, specifically, during defining (setting) tasks and planning; collecting and evaluating data; generalising, systemising, and processing; analysing; preparing a report and submitting it to the customer; and receiving feedback, were highlighted. The findings of the study showed that the intelligence cycle is a universal tool that allows streamlining any activity related to information analysis, ensuring quality control and high-quality results of analytical work, specifically in the field of combating drug-related crime. The list of possible tasks of analytical work in the field of combating illicit trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, and summarised potential sources of information necessary for analysis, were summarised. The results of this study will be useful for heads of units involved in combating drug-related crime, employees who, according to their functional responsibilities, iimplement criminal analysis in combating drug-related crime, and scholars who research these issues

Keywords:
criminal analysis; drugs; drug trafficking; analytical research; drug smuggling; data analysis

Introduction

From theoretical and practical standpoints, the significance of the subject under study is conditioned by the current state of drug addiction in society and the clear insufficiency of efforts to combat drug-related crime. International drug trafficking is a highly profitable criminal business that transcends geographical boundaries

Article's History:
Received: 22.01.2024
Revised: 25.04.2024
Accepted: 28.05.2024

Suggest Citation:
Ovsianiuk, D. (2024). Intelligence cycle as the basis of analytical activity in combating drug-related crime. *Law Journal of the National Academy of Internal Affairs*, 14(2), 95-104. doi: 10.56215/naia-chasopis/2.2024.95.

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and is largely controlled by highly organised criminal groups that are flexible in their methods of operation, adaptable to countermeasures, and do not economise on technical equipment and corrupt connections. Drug trafficking poses a serious threat to the state, public health, security, law and order, public administration, and sustainable development. These challenges to global stability require an asymmetric response from law enforcement agencies, which may include the implementation of strategies based on the best practices and supported by research. In leading law enforcement agencies, well-organised analytical activities are a practice that increases the effectiveness of law enforcement, saves resources, and helps to develop sound strategies, tactical approaches, processes, and practices to effectively combat crime.

Ukrainian researchers have investigated certain aspects of the subject under study. I.A. Fedchak (2021) studied the characteristics of the stages of the intelligence cycle and concluded that this cycle is a dynamic process where different phases are closely intertwined and form a chain of actions or procedures leading to the most accurate and reasonable conclusion from the information available. S.M. Kniaziev (2018) researched the place of intelligence analytics in the updated model of organisation of operational units and proved that analytics, which is a process that involves planning and directing, collecting, evaluating, comparing, analysing, disseminating, and re-evaluating information, plays a critical role, as it is a reliable tool for detecting illegal activities. Among other things, its use makes it possible to put forward reasonable hypotheses in predicting potential criminal manifestations. Ya.V. Stupnyk *et al*. (2021) studied the criminological aspect of information and analytical support for drug crime. The researchers found that information support is a prerequisite for the effectiveness of any social system, including the system of combating drug-related crime. Yu.D. Bukovskyi (2023) researched the legal and organisational foundations of information and analytical activities of the units for combating drug-related crime of the National Police of Ukraine and concluded that information and analytical activities occupy a prominent place and constitute a set of organisational, legal, and technological means that ensure the intelligence cycle. Therewith, in the reviewed studies, the analytical cycle is described in general terms, which does not reveal its significance in ensuring high-quality information and analytical support for combating drug-related crime.

The studies of foreign researchers were also analysed. J. Belur & S. Johnson (2018) examined how criminal analysis has been integrated into UK police practice and concluded that criminal analysis is recognised as central to everyday policing. Therewith, a general lack of understanding among police officers as to how analysts operate leads to an underutilisation of their skills. C. Lewandowski *et al*. (2018) examined the usefulness of Fusion centres (centres designed to facilitate federal information sharing between agencies such as the Federal Bureau of Investigation, the U.S. Department of Homeland Security, the U.S. Department of Justice, and state, local, and tribal law enforcement) in improving intelligence-driven policing. The researchers note that fusion centres play a central role in the intelligence cycle as their mission is to collect, analyse, and disseminate information and intelligence, and conclude that partnering with a fusion centre in the region can help facilitate or enhance an intelligence-driven policing approach. S. Back & R.T. Guerette (2021) investigated the impact of improving criminal analysis capabilities in a US city police department on its practice and concluded that there was a clear improvement in the integrated use of the information received. The researchers noted that analysis plays a central role in modern police practice and noted the lack of scientific attention to this topic.

A preliminary review of scientific developments on the subject under study suggested that despite the scientific achievements of some researchers regarding the use of the intelligence cycle in criminal analysis, no attention has been paid to the problem of its use in combating drug-related crime. Scientific publications only outline certain provisions of the use of criminal analysis by the police in combating crime, which emphasises the relevance of the subject under study.

The purpose of this study was to investigate the latest scientific developments regarding the use of the intelligence cycle in criminal analysis and to develop an algorithm for its application to improve the effectiveness of combating drug-related crime. Considering the purpose, the objectives of the study were as follows: to develop a step-by-step algorithm for the application of criminal analysis in the field of combating drug-related crime, describing the stages of the intelligence cycle; to define the objectives of criminal analysis in the field of illicit drug trafficking (IDT); to summarise information on potential sources of information that can be used.

Materials and Methods

The range of strategic documents that indicate the current state of affairs with regard to drug-related crime, counteraction to it in the world, and the significance of the analytical component were examined. The EU Strategy to Tackle Organised Crime[1] was analysed, which defines strategic directions to ensure the protection of citizens and the economy, including the fight against drug trafficking. Communication on the EU roadmap

[1]Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions No. COM/2021/170 final "On the EU Strategy to Tackle Organised Crime 2021-2025". (2021, April). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0170.

to fight drug trafficking and organised crime[1], identifies the fight against these phenomena as a priority and defines key actions, including analytical ones; EU Drug Strategy 2021-2025 provides an overall political framework and policy priorities, including strengthening and enhancing capacities in information gathering, monitoring, evaluation, modelling and analysis[2]. The study analysed NATO's Glossary of Terms and Definitions, which provides definitions of the intelligence cycle and its elements used by the Alliance[3]. The OSCE Guidelines on Intelligence-led Policing, which describes a modern approach to identifying and planning responses to growing transnational threats, also describes the intelligence cycle for policing purposes (OSCE, 2017). The provisions of the National Drug Control Strategy[4], which emphasises the need to develop more effective data collection and analysis systems, were examine d.

A range of scientific methods were used for the researched. The terminological method was used to clarify the terminology on the subject of the study. The systemic and structural method was used to identify and describe the successive stages of the intelligence cycle as an integral structure. The analysis method helped to investigate individual parts of the intelligence cycle. The method of comparative analysis was instrumental in evaluating various approaches to the utilization of the intelligence cycle and determining the optimal model for addressing drug-related crime. The modelling method helped to simulate the use of the intelligence cycle for the purposes of countering drug crime. The formal logical method was used to clarify in detail the content of the issues raised and to describe the organisation of analytical activities in the field of combating drug-related crime. The method of generalisation is used to form a list of possible sources of information in analytical studies of IDT and the purposes of their conduct. To determine whether the needs of analysts in the field under study are met, a model of the intelligence cycle was proposed.

The method of expert evaluation was used to form an exhaustive list of possible sources of information and the purposes of their conduct. The survey was conducted in January 2024 anonymously online using the Google Forms tool. The anonymity of the experts was ensured by the absence of fields in the form that would require the entry of identifying information, and the respondents were informed of the purpose of the survey and all the risks. This stage of the research was conducted following the principles of the 1975 Helsinki Declaration[5]. The experts were asked to read the sequential list of stages of the intelligence cycle, the list of sources used, and possible purposes of analysis in the field of IDT, to agree or disagree with the points provided, and to supplement them if necessary. The list of targets and sources was compiled according to the practices of working in senior positions that included the function of applying criminal analysis in the Departments of Countering Drug Crime and Criminal Analysis of the National Police of Ukraine. Considering the small number of employees of specialised units with experience in applying criminal analysis in the field of IDT, the expert group consisted of 14 experts from Ukraine. The method helped to confirm that the list of possible targets and sources of information provided covers the vast majority of research cases, and the proposed model of the intelligence cycle meets the needs of analysts in the field of countering drug crime.

Results and Discussion

The issue of combating drug crime and the search for ways to increase the effectiveness of this fight has been important for decades. There is no reason to believe that this problem will become less relevant in the near future. Hidden from the public eye due to the opaque nature of its activities, organised crime poses a considerable threat to European citizens, businesses, and public institutions, as well as to the economy as a whole[6]. Drug trafficking is one of the most serious security threats facing the EU, a joint analysis by Europol and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) found that drug trafficking is one of the principal activities of organised crime, and is estimated to account for around one fifth of global criminal proceeds[7]. The priority should be to strengthen and

[1]Communication from the Commission to the European Parliament and the Council No. COM(2023) 641 final "On the EU Roadmap to Fight Drug Trafficking and Organised Crime". (2023, October). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0641.

[2]EU Drugs Strategy 2021-2025. (2021, March). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XG0324%2801%29&qid=1710526500407.

[3]AAP-06: NATO Glossary of Terms and Definitions. (2021, December). Retrieved from https://standard.di.mod.bg/pls/mstd/MSTD.blob_upload_download_routines.download_blob?p_id=281&p_table_name=d_ref_documents&p_file_name_column_name=file_name&p_mime_type_column_name=mime_type&p_blob_column_name=contents&p_app_id=600.

[4]National Drug Control Strategy. (2022, April). Retrieved from https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf.

[5]The Declaration of Helsinki. (1975, October). Retrieved from https://www.wma.net/what-we-do/medical-ethics/declaration-of-helsinki/doh-oct1975/.

[6]Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions No. COM/2021/170 final "On the EU Strategy to Tackle Organised Crime 2021-2025". (2021, April). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0170.

[7]Communication from the Commission to the European Parliament and the Council No. COM(2023) 641 final "On the EU Roadmap to Fight Drug Trafficking and Organised Crime". (2023, October). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0641

expand capacities in information collection, monitoring, evaluation, modelling, and analysis, and to encourage greater sharing and use of results on different aspects of the drug phenomenon and response[1].

Prompt and accurate intelligence analysis is key to understanding the inner workings and driving factors of criminal phenomena and criminal organisations (Criminal intelligence analysis, n.d.). The implementation of criminal analysis allows establishing or predicting relationships between accumulated facts, which allows constructing, testing, and excluding investigative versions (Yanitski, 2009). Foreign law enforcement agencies have long used criminal analysis in their work (Bilous *et al*., 2021). Effective drug policy development requires prompt and accurate data covering the full range of trends and activities[2].

One of the key factors that ensures the quality of analytical activities is the knowledge, skills, and experience of the employees who carry out criminal analysis. Analyst who conducts criminal analysis in the field of drug trafficking should have a thorough understanding of the general issues of drug crime and criminal behaviour, information on global drug trafficking routes, and general information on global trends. They should understand the structure of the drug market, be well-versed in legislation, general statistical information on drug-related crimes and its dynamics, know the specifics of detecting and documenting criminal activity, and know how to manufacture, sell, and conceal narcotic drugs, psychotropic substances, their analogues and precursors.

It is essential that analysts continue to update their knowledge and improve their skills throughout their careers. The agency responsible for countering drug crime needs to have a vision of the competencies that an analyst should have. The profile of the intelligence executive in general and the intelligence analyst in particular can contribute to the development of new areas of study and research, as well as new professional careers (Muñoz-Cañavate & Díaz-Delgado, 2021).

A key aspect of successful and efficient organisation of analytical activities and its basis is a profound understanding and meaningful adherence to the stages of the dynamic intelligence cycle, which should be considered the foundation of criminal analysis. The model of a six-stage cycle, as presented in Figure 1, best meets the needs of analytical activities in the field of combating drug trafficking, which includes the following consecutive dynamic phases: defining (setting) tasks and planning; collecting and evaluating data; generalising, systemising, and processing; analysis; preparing a report and submitting it to the customer; and feedback. The dotted arrow between the "analysis" and "data collection and evaluation" stages in Figure 1 indicates that additional data collection is often necessary during the analysis stage, particularly when testing hypotheses.

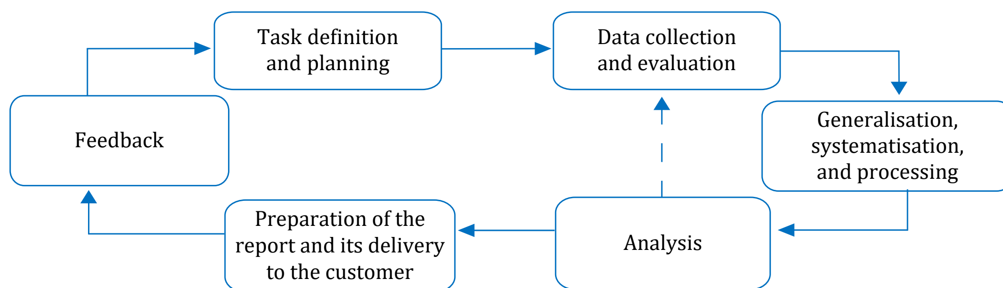

Figure 1. Intelligence cycle
Source: developed by the author of this study

To ensure the best results of analytical work and save resources, it is crucial that the analyst communicates with the customer of the analysis on an ongoing basis. At all stages of the cycle, close cooperation between analysts and customers (officials, investigators, managers) should be ensured, including regular meetings to ensure that the analysis is tailored to the customer's needs (OSCE, 2017).

To understand the intelligence process in the field of combating drug-related crime, it is advisable to characterise its main components as separate and specific stages. At the first stage of the task definition and planning cycle, it is necessary to determine the goals and objectives of the analysis and develop a relevant action plan. At this stage, the customer defines the tasks and objectives of the study and prioritises them, determines all the client's expectations for the results and deadlines. Therewith, the customer transfers the available information that is important for the criminal analysis and achievement of its goals.

[1]EU Drugs Strategy 2021-2025. (2021, March). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XG0324%2801%29&qid=1710526500407.
[2]National Drug Control Strategy. (2022, April). Retrieved from https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf.

The objectives of criminal analysis in the area of combating IDT include the following: determining the nature of the criminal activity; identifying assets and property that can be seized; establishing corruption links; establishing the motives and goals of the person(s) involved; clarifying business interests; collecting background information on the persons involved and their connections; Identification of the offender and their connections; determination of the structure of the criminal group; clarification of the spheres of influence of the criminal group; establishment of criminal roles; identification of places of production and storage of drugs; identification of sources of precursor supply; establishment of smuggling channels; establishing payment methods, logistics elements; analysing the activities carried out and developing proposals; identifying accomplices or witnesses; reconstructing the sequence of actions of the defendants in a certain period; comparative analysis of data; searching for evidential information; searching for links between data; reconstructing the course of the offence. Often, the results of intelligence analysis form the basis for or become part of tactical analysis, specifically in cases of analytical support for the development of organised criminal groups, and it is often necessary to analyse intelligence during tactical analysis.

The objectives of tactical criminal analysis may include: analysis of drug crimes by the method of sale; analysis of drug smuggling routes; analysis of certain types of drug crimes; analysis of the state of drug crime in a particular territory; determination of the list of typical methods of concealing drugs; determination of the scale of criminal activity of a criminal group; determining the scale of distribution of a particular type of drug; determining the list of methods of commission and calculation; determining the structure of the drug market; identifying typical patterns of criminal activity; identifying patterns and trends in crime; tracking the emergence of new patterns, methods of distribution; establishing the profile of the crime and the criminal; identifying and predicting changes in drug crime; crime forecasting.

After reviewing the materials provided by the customer, the analyst determines whether the data is sufficient to achieve the goals and objectives or expresses the need to obtain additional information that falls within the customer's competence. Considering the tasks, priorities, and deadlines, the analyst develops a preliminary criminal analysis plan that indicates the ways to achieve the goals, serves as a guide and checklist in the analytical work and is supplemented during the subsequent stages of the cycle.

The next stage involves collecting, storing, and evaluating data. Before initiating the data collection process, it is important to determine the amount of data required and its sources to perform the tasks effectively. The process of data collection in the context of the intelligence cycle of drug trafficking analysis is an interesting, complex, and multifaceted task that requires detailed planning, quality assurance, and maximum reliability of data, as well as compliance with the established goals and objectives of the analysis.

The process of data collection in the analytical cycle of drug trafficking crime analysis can include a wide range of data sources, namely: materials of criminal proceedings and operational developments, information on customs clearance, court registry data, information obtained from interviews with drug traffickers, open source data, information from employees countering drug-related crime, information from intelligence sources and anonymous sources, technical data, information obtained from international partners, intelligence data, information obtained as a result of covert investigative (detective) actions or operational and technical measures, financial records, telephony and video surveillance data, information from the criminal executive service, etc.

A relatively new source of information is the use of data from water monitoring programmes, which can provide information on drug use in a particular region. Chemical analysis of domestic wastewater can reveal the presence of illicit drugs that are either consumed by the public or directly discharged into the sewerage system. The resulting chemical profiles can then be used to track production sites within the respective sewerage basin (Emke *et al*., 2018). Based on this information, it is possible to observe changes in patterns of illicit drug consumption, transportation processes and chemical, photochemical, and biological transformations of dangerous drugs. The proposed procedure can be used as a tool to track and assess drug use among the population in real time (Sulej-Suchomska *et al*., 2020). When wastewater monitoring results are interpreted in combination with other data sources, such as seizure data, hospitalisation data, drug-related mortality and treatment data, very comprehensive results can be obtained for a selected region (Kuloglu *et al*., 2021). Notably, international cooperation in cases related to the smuggling of narcotic drugs, psychotropic substances, their analogues and precursors plays a key role at the stage of information gathering and allows for a broader picture of the events under investigation.

The choice of data sources depends on the goals and objectives of the analysis, as well as resources and capabilities, and its success depends on having access to sufficient relevant information (Criminal analysis and risk..., 2016). Each of the above sources can be potentially valuable for analytical research, both in the context of intelligence analysis and tactical analysis. However, the quality and reliability of the information may vary substantially. Therefore, it is necessary to maintain a critical mindset and use a variety of sources and verification methods to ensure the accuracy and completeness of the data collected. In tactical analysis, the following sources of information can be considered: statistical

information, information from NGOs and international organisations, and data from healthcare facilities.

To ensure tactical analysis and monitoring of drug trafficking, it is necessary to continuously collect and summarise structured data with details by type of drug, geolocation, and visualisation using GIS (Geographic Information Systems). Specifically, it is important to collect information on: arrests for large-scale trafficking; Internet resources used for trafficking; detection of illegal crops of drug-containing plants; smuggling facts; detected drug laboratories; significant seizures of narcotic drugs and psychotropic substances outside the country; theft of considerable quantities of precursors; emergence of new psychoactive substances; deaths from the use of new psychoactive substances; connections in Ukraine of those detained for smuggling outside the country, as well as the facts of detention of Ukrainian citizens abroad for grave drug offences.

The process of data evaluation in the analytical cycle of drug trafficking crime analysis is the process of determining the value of information elements in terms of validity, reliability, and relevance. The result of such an assessment should be a conclusion on the relevance of the information to the goals and objectives. The assessment can help identify data gaps and strengths and guide further data collection.

At the next stage of the cycle, the collected information is summarised, systematised, and processed. The systematisation stage involves the organised structuring and processing of the collected information, considering the goals, objectives, priorities, and importance, converting the collected data into a format suitable for analysis, and ensuring that the stored information is available for analysis. During the research, the distinction between the processing and analysis stages is not always clear, as they are closely intertwined, forming a single process aimed at gaining a comprehensive understanding of the subject under study. Notably, NATO defines intelligence as a product derived from the targeted collection and processing of information about the environment, capabilities, and intentions of actors to identify threats and offer opportunities for use by decision makers[1].

The work of a criminal analyst largely involves assembling an information puzzle from many different sets. After summarising, systemising, processing, and prioritising the information, the analyst will have a convenient array for detailed analysis. The analysis stage involves identifying and studying the meaning, context, and principal characteristics of the available information. Data analysis helps to identify information gaps, determine the strengths and weaknesses of the data, and identify areas for further research. The key purpose of the analysis phase is to obtain meaningful information from the source data, transform it into new knowledge that will contribute to achieving the goals of the analytical study, completing the tasks set by the customer, and providing practical recommendations for combating crime. Analysis can be described as the careful examination of information to identify its meaning and main characteristics (United Nations, 2011). According to J. Stromer-Galley *et al*. (2020), supporting analytical reasoning in the context of intelligence can bring more benefits if approaches focus on reasoning processes in a flexible, report-oriented format. According to S. Lefebvre (2021), analysts must watch out for cognitive biases, misinformation, and deception, consider the reliability of information, and identify information gaps that may still exist.

The choice of a tool for analysis should be based on the suitability of its functionality for the tasks and goals set. For most of the analysis and visualisation tasks within the framework of operational data analysis and tactical analysis, i2 Analyst's Notebook and MS Excel software can be used. At the same time, GIS skills are important for providing geospatial visualisation in tactical analysis. When the results of the analysis are directly related to and relevant to the investigation's objectives/issue, the analysis becomes valuable as an operational tool (OSCE, 2017). It is worth remembering that each analysis is unique and requires a different approach. Concrete analysis is based on the system of judgement analysis, according to which the following principles should be used: from the detailed to the general; from the complex to the simple; from the effect to the causes; from theses to their foundations (Fedchak, 2021).

The analysis process consists of two stages – data integration and interpretation. Data integration is a complex process of combining information from different sources to improve its perception, identify patterns, formulate hypotheses, and draw reasonable conclusions. Hypotheses help to identify gaps in operational information, to better guide further data collection and to draw accurate conclusions, forecasts, and estimates (OSCE, 2017). During data integration, visualisation of information, such as building relationship diagrams and timelines, helps investigators to better understand the data, identify gaps, key players, the structure of an organised criminal group and gain insight into their activities. Other tools that can be used to display information, ensure its best perception and analysis are as follows: flow charts, activity charts, financial profiling (United Nations, 2011), and geospatial analysis – a powerful tool used to visualise and analyse geo-referenced data, which helps researchers to study drug

[1]AAP-06: NATO Glossary of Terms and Definitions. (2021, December). Retrieved from https://standard.di.mod.bg/pls/mstd/MSTD.blob_upload_download_routines.download_blob?p_id=281&p_table_name=d_ref_documents&p_file_name_column_name=file_name&p_mime_type_column_name=mime_type&p_blob_column_name=contents&p_app_id=600.

trafficking routes, logistics, hotspots, and plan operations to counter drug crime.

The most creative part of analytical research is interpretation. At the stage of interpretation, the analyst tests the initial hypotheses, which may lead to confirmation, modification, or refutation of previously developed assumptions, establishes cause-and-effect relationships and draws reasonable conclusions. Data interpretation is not limited to describing or explaining information; it is an active, dynamic process that requires a profound understanding of the context, critical thinking, creativity, and flexibility. J.A.M. Sánchez (2018) concludes that an analyst should approach their work with an open and innovative mindset, free from preconceived ideas, prejudices, and expectations.

Any comparison, explicitly or implicitly, is based on interpretation (Wagenaar *et al*. 2022). Data interpretation is considered a process of creating meaning. This requires attention to the purpose of the data analysis, the types of questions that are being asked and who is asking them, and the types of data that are needed or available (Maxwell, 2021). The results of the analysis are usually drafted in the form of an analytical report, which includes conclusions, a detailed description of the research conducted, substantiated answers to the questions posed by the client, important information that was not covered by the goals and objectives of the analysis, as well as suggestions and recommendations of the criminal analyst. Conclusions should be listed at the beginning of the analytical report.

Effective communication with the customer throughout the analytical process is key to delivering results that meet their needs. It is important that threat-based intelligence is transmitted in real time (Trim & Lee, 2022). The customer should inform the analyst of all key changes and additional information received on the matters concerning the investigation. The cycle for major cases typically lasts several rounds of feedback and new information before any final product takes shape (Bland *et al*., 2022). A. Williamson (2021) notes that without cooperation and collaboration, opportunities for crime prevention can be lost, and proactivity is hampered by a lack of intelligence sharing. It is advisable to add high-quality visualisation to the analytical report in the form of charts, graphs, maps, depending on the goals, objectives, and results of the analytical study.

An equally important stage of the cycle is receiving feedback from the customer, as it helps to improve the quality of tasks and professional development. Analysts and their managers should be aware of the compliance of the analytical research results with the customer's expectations, as well as know how the recommendations provided affect the decision-making process and planning of further actions. Additionally, analysts should receive feedback on opportunities to improve the quality of their work. This also applies to customers, who should be open to analysts' suggestions for further improvement of cooperation.

According to F.J. Haberl (2023), intelligence gathering has always been an important asset for governments in both peacetime and wartime. T. Shakoor (2023) notes that the intelligence cycle has been a standard model for intelligence processes and national intelligence doctrines in the United States and Europe. The intelligence cycle is widely used in intelligence, counterintelligence, and law enforcement activities. A. Villalón-Huerta *et al*. (2022) propose to use the intelligence cycle as a basis even in countering cyber threats, as they believe that detecting hostile operations is a counterintelligence activity, and therefore should be structured and analysed in the same way.

C.R. Moran *et al*. (2023) believe that the intelligence cycle has never been a perfect conceptual tool. C. Payá-Santos & J.M.L. Luque Juárez (2021) argue that the intelligence cycle has been improved by giving it specialisations according to the origin of the data, depending on whether it comes from people (HumInt), images (ImInt), signals (SigInt), or open sources (OsInt). In relation to this discussion, the intelligence cycle is a broader model that encompasses all the "Ints" used depending on the tasks and purpose of the study and is a useful structured guide for effective analytical activities.

There are different opinions regarding the number of stages of the intelligence cycle, which is caused by the tasks and specific features of the activities of the subjects of analytical work. For example, NATO defines the intelligence cycle as a sequence of four actions through which information is obtained, collected, transformed into intelligence, and provided to users[1]. Therewith, considering the tasks of combating drug-related crime, it is more expedient to adhere to a cycle of six stages that meets the needs of law enforcement agencies that counter drug trafficking. Such a cycle is used by many law enforcement agencies, including the International Association of Law Enforcement Analysts, which also identifies the following stages of the intelligence cycle: planning and direction, collection, processing and synthesis, analysis, dissemination, and reassessment, including feedback (IALEIA, 2024). This vision corresponds to the structure of the research process proposed in the study.

According to C.R. Moran *et al*. (2023), the cycle will require further revision of the concept in the context of modern technologies. There are concerns about cycle times and whether effective oversight and human control are sustainable in the context of complex

[1]AAP-06: NATO Glossary of Terms and Definitions. (2021, December). Retrieved from https://standard.di.mod.bg/pls/mstd/MSTD.blob_upload_download_routines.download_blob?p_id=281&p_table_name=d_ref_documents&p_file_name_column_name=file_name&p_mime_type_column_name=mime_type&p_blob_column_name=contents&p_app_id=600.

automation processes enabled by AI and the increasing involvement of technical staff. This cycle will require to be redefined as artificial intelligence converges with cloud computing, the Internet of Things, and robotics. Notably, all this will not affect the structure of the intelligence cycle in analytical studies of drug-related crime in the near future, although it may accelerate and automate the stages of data collection and evaluation, as well as generalisation, systematisation, and processing.

Although the intelligence cycle is researched and described in a clear sequence of six stages in the study, we may agree with I. Fedchak (2021) that these components are interconnected and should ultimately be considered as a system. The intelligence cycle is not a static sequence of six steps, but rather a dynamic process where the different phases are closely linked and interact with each other, requiring analysts to move back and forth within the cycle (OSCE, 2017).

Thus, the intelligence cycle is a universal model of analytical activity in various fields, and depending on the field, the cycle may have specific features. The study has confirmed the author's statement that the proposed six-stage, dynamic intelligence cycle optimally meets the needs of analytical activities in the field of combating drug-related crime. Modern technologies will not affect the cycle model in the near future but may improve its separate stages.

Conclusions

The effective use of criminal analysis methods and tools helps not only to detect and seize drugs and apprehend individual criminals, but also to expose large-scale criminal networks, money laundering means, and international logistics. High-quality intelligence analysis and tactical criminal analysis are essential to ensure a thorough understanding of criminal processes and effective counteraction to drug-related crime, planning, response to drug trafficking challenges, forecasting and rational allocation of valuable law enforcement resources. The intelligence cycle underlies analytical activity and is necessary for planning and implementing law enforcement efforts to combat drug-related crime. The cycle is not a fixed sequence of steps, but a flexible and dynamic process that requires analysts to think critically and creatively, to respond to new information in a meaningful way and to move through the stages of the intelligence cycle. It is important to understand that these stages are not rigidly fixed, but can be performed in an iterative manner, with a transition back to the previous stages as new information is obtained. Furthermore, deadlines should be considered and flexibility in planning should be maintained to adapt quickly to changes. It is worth remembering that every analysis in the field of countering drug crime is unique and requires a non-standardised approach.

Often, the results of intelligence analysis form the basis for or become part of tactical analysis, specifically when it comes to analytical support for the development of organised crime groups. To ensure tactical analysis and monitoring of the operational situation in the field of drug trafficking, it is necessary to continuously collect and summarise structured data with details by type of drug, geolocation, and visualisation, including through GIS. The quality and relevance of the data collected and analysed are key factors in determining the accuracy and effectiveness of the analysis, as well as the efficiency of measures aimed at combating drug crime and reducing the harm caused by drug trafficking. It is significant to emphasise that the effective fight against illicit drug trafficking requires constant efforts, including in terms of information gathering and analysis, as well as active cooperation between law enforcement agencies, international organisations, and the private sector. The intelligence cycle is a universal tool that allows streamlining any activity related to information analysis, ensuring quality control and high-quality results of analytical work, specifically in the field of combating drug-related crime.

The findings of this study allow identifying areas for further research in this area, specifically, to improve certain elements of the intelligence cycle, to find the best analytical tools and methods, and to identify prospects for the use of AI at different stages of the intelligence cycle.

Acknowledgements

The authors of this study would like to express their sincere gratitude to Andrii Kikhtenko, former Head of the Department for Combating Drug Crimes of the National Police of Ukraine, for his practical assistance and recommendations.

Conflict of Interest

The authors of this study declare no conflict of interest.

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Розвідувальний цикл як основа аналітичної діяльності в протидії наркозлочинності

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Анотація
Актуальність тематики дослідження зумовлена тим, що для ефективного розв'язання проблеми наркозлочинності потрібно розробляти та впроваджувати стратегії, які ґрунтуються на найкращих практиках, підкріплених науковими дослідженнями, що оптимізують використання ресурсів правоохоронних органів й обмежують шкоду, яку спричиняє незаконний обіг наркотиків. Метою роботи є дослідження останніх тенденцій щодо застосування циклу розвідки в боротьбі зі злочинністю, створення та опис моделі його застосування у сфері протидії наркозлочинності. Для досягнення мети наукового дослідження використано такі наукові методи: термінологічний, системно-структурний, аналізу, порівняльного аналізу, моделювання, формально-логічний, узагальнення та експертної оцінки. Доведено, що для ефективної та результативної організації аналітичної діяльності у сфері протидії наркозлочинності вкрай важливими є ґрунтовне розуміння та чітке дотримання етапів розвідувального циклу, який є основою кримінального аналізу. Сформульовано висновок, що розвідувальний цикл – це гнучкий динамічний процес, що вимагає від аналітиків критичного і творчого мислення, уміння осмислено реагувати на нову інформацію та переміщатися етапами розвідувального циклу. Проаналізовано розвідувальний цикл, висвітлено діяльність аналітика на кожному з його етапів, зокрема під час: визначення (постановки) завдань і планування; збору й оцінки даних; узагальнення, систематизації та обробки; аналізу; підготовки звіту та його передачі замовнику; отримання зворотного зв'язку. Результати дослідження засвідчили, що розвідувальний цикл є універсальним інструментом, який дає змогу впорядкувати будь-яку діяльність, пов'язану з аналізом інформації, забезпечити контроль якості та високі результати аналітичної роботи, зокрема у сфері протидії наркозлочинності. Під час дослідження розроблено перелік можливих завдань аналітичної роботи у сфері протидії незаконному обігу наркотичних засобів, психотропних речовин, їх аналогів і прекурсорів, а також узагальнено потенційні джерела необхідної для аналізу інформації. Результати дослідження стануть у нагоді керівникам підрозділів, що здійснюють боротьбу з наркозлочинністю, працівникам, які відповідно до функціональних обов'язків застосовують кримінальний аналіз у протидії наркозлочинності, і науковцям, які досліджують окреслену проблематику

Ключові слова:
кримінальний аналіз; наркотики; торгівля наркотиками; аналітичне дослідження; контрабанда наркотиків; аналіз даних

ЮРИДИЧНИЙ ЧАСОПИС
НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ

Науковий журнал

Том 14, № 2, 2024

Заснований 2011 року. Виходить чотири рази на рік

Оригінал-макет видання виготовлено у відділі підготовки навчально-наукових видань
Національної академії внутрішніх справ

Відповідальний редактор:
О. Короткий

Редагування англомовних текстів:
К. Касьянов, Є. Заворотько

Комп'ютерна верстка:
О. Глінченко

Підписано до друку 28 травня 2024 р. Формат 60*84/8
Умов. друк. арк. 12,4
Наклад 50 прим.

Адреса видавництва:
Національна академія внутрішніх справ
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LAW JOURNAL
OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS

Scientific Journal

Volume 14, No. 2, 2024

Founded in 2011. Published four times per year

The original layout of the publication is made in the Department of Preparation of Educational and Scientific Publications of National Academy of Internal Affairs

Managing Editor:
O. Korotkyi

Editing English-language texts:
K. Kasianov, Ye. Zavorotko

Desktop publishing:
O. Glinchenko

Signed for print of May 28, 2024. Format 60*84/8
Conventional printed pages 12.4
Circulation 50 copies

Editors office address:
National Academy of Internal Affairs
03035, 1 Solomianska Sq., Kyiv, Ukraine
Tel.: +38 (044) 520-08-47
E-mail: info@lawjournal.com.ua
https://lawjournal.com.ua/en