



PECULIARITIES OF CRIME PREVENTION IN UKRAINE IN WARTIME

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ABSTRACT

The article "Peculiarities of Crime Prevention in Ukraine in Wartime" addresses the topical issue of combating crime in the context of the military conflict in Ukraine. The authors explore the peculiarities of social governance and the impact of armed conflict on crime in the country. The article provides an in-depth analysis of various aspects of preventing and combating crime during wartime, focusing on the effectiveness of crime prevention measures, the detection and solving of crimes, and the peculiarities of maintaining law and order and administering justice during martial law.

In particular, the article addresses the issues related to the genocide against the Ukrainian people. It analyzes the specific strategies and methods used to physically destroy and deprive Ukrainians of their national and cultural identity. The study attempts to define the role of the international community in recognizing and combating genocide in Ukraine and discusses possible ways for the Ukrainian state to respond to such criminal activities.

Furthermore, the article examines the multifaceted challenges faced by Ukraine in maintaining public safety and combating crime amidst the ongoing military conflict. It highlights the unique conditions under martial law that affect law enforcement practices and the administration of justice. The authors explore the effectiveness of various crime prevention strategies and propose recommendations for enhancing these measures to better address the current and future challenges.

The results of the study contribute to a better understanding of the complex issues

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confronting Ukraine in the context of military conflict. They provide valuable insights into the development of effective strategies for crime prevention and law enforcement in wartime situations. The article underscores the importance of international cooperation and support in addressing the issue of genocide and ensuring justice for the victims. By providing a comprehensive analysis of crime prevention in wartime Ukraine, the article aims to inform policymakers, law enforcement agencies, and the international community about the critical measures needed to combat crime and uphold justice during such challenging times.

Keywords: Ukraine, wartime, crime prevention, genocide, counteraction, national security, international community, identity, conflict, strategies, methods, international law.



PECULIARIDADES DA PREVENÇÃO AO CRIME NA UCRÂNIA EM
TEMPOS DE GUERRA

RESUMO

O artigo "Peculiarities of Crime Prevention in Ukraine in Wartime" (Peculiaridades da prevenção ao crime na Ucrânia em tempos de guerra) aborda a questão atual do combate ao crime no contexto do conflito militar na Ucrânia. Os autores exploram as peculiaridades da governança social e o impacto do conflito armado sobre o crime no país. O artigo fornece uma análise aprofundada de vários aspectos da prevenção e do combate ao crime em tempos de guerra, concentrando-se na eficácia das medidas de prevenção ao crime, na detecção e solução de crimes e nas peculiaridades da manutenção da lei e da ordem e da administração da justiça durante a lei marcial.

Em particular, o artigo aborda as questões relacionadas ao genocídio contra o povo ucraniano. Ele analisa as estratégias e os métodos específicos usados para destruir fisicamente e privar os ucranianos de sua identidade nacional e cultural. O estudo tenta definir o papel da comunidade internacional no reconhecimento e combate ao genocídio na Ucrânia e discute possíveis maneiras de o Estado ucraniano responder a essas atividades criminosas.

Além disso, o artigo examina os desafios multifacetados enfrentados pela Ucrânia na manutenção da segurança pública e no combate ao crime em meio ao conflito militar em andamento. Ele destaca as condições exclusivas da lei marcial que afetam as práticas de aplicação da lei e a administração da justiça. Os autores exploram a eficácia de várias estratégias de prevenção ao crime e propõem recomendações para aprimorar essas medidas a fim de enfrentar melhor os desafios atuais e futuros.

Os resultados do estudo contribuem para uma melhor compreensão das complexas questões enfrentadas pela Ucrânia no contexto do conflito militar. Eles fornecem percepções valiosas para o desenvolvimento de estratégias eficazes de prevenção ao crime e aplicação da lei em situações de guerra. O artigo ressalta a importância da cooperação e do apoio internacional para abordar a questão do genocídio e garantir justiça para as vítimas.

Ao fornecer uma análise abrangente da prevenção ao crime na Ucrânia em tempos de guerra, o artigo tem como objetivo informar os formuladores de políticas, as agências de aplicação da lei e a comunidade internacional sobre as medidas críticas necessárias para combater o crime e defender a justiça em tempos tão desafiadores.

Palavras-chave: Ucrânia, tempo de guerra, prevenção de crimes, genocídio, contra-ação, segurança nacional, comunidade internacional, identidade, conflito, estratégias, métodos, direito internacional.

1 INTRODUCTION

The beginning of the hybrid and later full-scale armed aggression of the Russian Federation against Ukraine has not only changed the requirements for the protection of Ukraine's independence and territorial integrity, the security of its population and critical infrastructure, but also affected the aspects related to combating crime. In this context, it is important to define the role of the Armed Forces of Ukraine in combating crime during martial law.



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According to the Constitution of Ukraine, the main goal of any state is to ensure the security of citizens and the territorial integrity of the country, to protect life and the inviolability of fundamental rights and freedoms. To achieve this goal, Ukraine develops strategies aimed at various spheres of society. Security strategies define the directions of state policy to protect human and civil rights and freedoms, as well as the interests of society and the state from criminal acts. According to the National Security Strategy of Ukraine "Human Security is the Security of the Country", crime threatens the rights and freedoms and legitimate interests of people, society and the state. The inconsistency and incompleteness of reforms, as well as corruption, impede the Ukrainian economy's recovery from the depression, make it impossible for it to grow sustainably and dynamically, increase its vulnerability to threats and foster the criminal environment.

The public need for security against criminal attacks is met through the activities of relevant actors that implement measures and strategies to prevent negative manifestations of crime, threats and risks, as well as to reduce the possibility of negative consequences. Public authorities, civil society organisations and individuals are the actors implementing security strategies. They focus their activities on the development and implementation of measures aimed at preventing, limiting and eliminating criminogenic phenomena that lead to crime, as well as at stopping their spread at different stages of criminal behaviour. They have the relevant rights, duties and are responsible for fulfilling these tasks (Stashys V.V., 2008).

The problems of crime prevention and deterrence have been studied in the works of domestic and foreign scholars, in particular: O. M. Bandurska, I. G. Bogatyrev, E. Gladkova, V. Golina, O.M. Dzhuzha, V. M. Kuts, V.V. Luneyev, A. A. Mitrofanov, V. M. Popovych, A.F. Zelinsky, and others. However, the issue of crime prevention in Ukraine in wartime has not been sufficiently studied.

The purpose of the article is to study the current state and peculiarities of crime prevention in Ukraine in wartime.

Martial law is a special legal regime which may be introduced in Ukraine throughout its territory or in some of its localities, in cases of armed aggression or threat of attack, threat to the state independence of Ukraine and its territorial integrity. Such a legal regime has the following features: granting additional powers to representatives of certain state bodies (in particular, for example, executive authorities, military command); the possibility of limiting constitutional rights and freedoms of citizens in exceptional cases and in accordance with the procedure established by law; the onset



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of a special period for mobilisation; the entry into force of certain provisions of the Criminal Code of Ukraine inherent in the martial law period, etc. (Kopylov E.V., 2023).

Martial law is a difficult stage in the life of a country. Under such conditions, society faces many challenges, including an increase in crime and disruption of public order. Preventing crime is an important part of ensuring security during this period.

2 METHODS

The method of system-structural analysis was used to establish the legal nature and place of the category of good faith in the system of principles of civil law and general principles of civil legislation. The structural-functional method made it possible to find out the components and functional purpose of the principle of good faith. The method of specific sociological research was used in the study of judicial practice and the identification of the law enforcement significance of the principle of good faith. The results of the dogmatic (logical) analysis were used in the formulation of conclusions and proposals in the article, taking into account the requirements for certainty, consistency, consistency and validity of judgments within the framework of general theoretical constructions.

3 RESULTS AND DISCUSSIONS

In its most general form, the term "counteraction" refers to actions directed against a specific action in order to prevent it. Some scholars, such as O. M. Bandurska, I. G. Bogatyrev, E. Gladkova, V. M. Kuts, A. A. Mitrofanov, V. M. Popovych and others, consider it appropriate to use the term "counteraction" to refer to the prevention of crime.

An analysis of existing approaches to understanding the term "crime prevention" shows that there are at least two main concepts of its interpretation - broad and narrow, based on different criteria, such as the scope of implementation (aspects of society, their impact), subjects of implementation (individual bodies or their system), and the directions and content of measures, including their scope and focus.

Thus, in a narrow sense, the term "crime prevention" is interpreted as one of the functions of the state, which is implemented in the process of implementing its policy. However, a broader approach to this concept is more popular. In particular, according to the broad approach, E. Gladkova understands "combating crime" as a variety of



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activities of relevant actors (state, non-state bodies and institutions, public formations, individuals) that interact as a system of heterogeneous measures aimed at finding ways, means and other opportunities to effectively influence crime in order to reduce its level.

From our point of view, the position of a broad approach to the definition of the term "counteraction to crime" is set out by V. M. Kuts, who considers it as a complex socio-legal phenomenon reflecting the theory and practice of specific socio-management activities, public and private initiatives, as well as criminal and judicial measures aimed at preventing and responding to criminal offences. According to the study, such counteraction should cover three levels: general social; special criminological; criminal and legal. It consists of social and administrative activities, including the implementation of public and private initiatives and criminal and legal efforts aimed at keeping crime at an acceptable level; its essence is the prevention of offences and legal response to them as interrelated security processes.

A significant contribution to the development of the concept of combating crime was made by O. M. Bandurka and O. M. Lytvynov, who identified the features of this concept, substantiated its structure, and revealed its content (Bandurka O.M., Lytvynov O.M., 2011). Considering the concept of combating crime as a set of measures aimed at reducing the level of unlawful acts and increasing the degree of protection of citizens, society and the State as a whole, these scholars include the following elements of the structure: a) object (relations that develop in the State, society and between individuals regarding the emergence and functioning of crime); b) subject (those elements without which it cannot exist and function, i.e. what is being fought against, confronted and prevented). While we support this position in general, we believe that it does not fully reflect the scope of the concept of crime prevention and propose to supplement the structure of this concept with such important elements as: c) subject; d) its purpose (goal).

In our opinion, the structure of the term "crime prevention" includes the following elements a) object - relations that develop in the state, society and between individuals regarding offences, crimes and criminality; b) subject - elements that make up the structure and determine the essence of crime; c) subjects - the state, its bodies and officials, in particular, bodies of special competence, as well as civil society institutions engaged in the above activities; d) goal - minimisation of crime, up to its complete elimination.



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The features of the term "counteraction to crime" are: a) it is an activity carried out by a certain range of subjects within their powers; b) it is aimed at combating crime as a negative social phenomenon; c) the purpose of such activity is to minimize and (or) eliminate the consequences of the crime phenomenon; d) the forms of such activity are prevention (prophylaxis, prevention) of crime and criminality by identifying and eliminating the preconditions and their immediate causes, as well as a set of special organisational and legal measures of law enforcement and operational nature (Kuryliuk Y., Khalimon S., Filippov S., 2021).

It is noteworthy that the study points out the importance of taking into account various aspects of combating crime, including different spheres of society and ways of interaction between different actors.

Based on this understanding, it is logical that V. I. Borisov and P. L. Fries state that the main element of every state legal mechanism for combating crime is a clearly defined criminal law strategy. At the same time, its key areas are determined on the basis of the objects of criminal law protection, which are grouped into categories and systematised with due regard to their importance for society. The analysis at the levels allows us to distinguish doctrinal, programmatic (systemic), legislative, law enforcement, law enforcement and scientific approaches to the criminal legal strategy (Borisov V.I., Fris P.L., 2013).

Thus, combating crime is a special integrated, multi-level object of social management, which consists of various forms of activity of relevant actors (state, non-state bodies and institutions, civil society groups and individuals) that interact in the form of a system of various measures aimed at finding ways and means and other opportunities for effective influence on crime in order to reduce the intensity of the processes of determining crime at all levels, neutralise the effects of its causes and conditions for limiting its occurrence. The purpose of counteraction is to minimise and/or eliminate the consequences of criminal activity. It can be carried out both through early (preventive) preventive activities aimed at identifying and subsequently eliminating the causes of unlawful (criminal) activity, and through combating aimed at detecting, preventing, stopping, solving and investigating crimes (Bandurka O.M., Lytvynov O.M., 2015).

The first concept of crime prevention to be expressed has its roots in the works of ancient philosophers such as Plato and Aristotle. According to them, effective legislation should prevent people from committing crimes. This idea was also developed by eighteenth-century enlighteners, including T. More, J.-J. Rousseau, I.



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Bentham, S. Montesquieu, Voltaire, C. Beccaria and others. They believed that law could be a powerful tool in resolving conflicts in society, proposing the creation of a rule-of-law state with the priority goal of preventing crime. In his famous treatise *On the Spirit of the Laws*, Montesquieu argued that a wise legislator pays more attention to preventing crime than to punishing it by improving the morality of society. It should also be noted that K. Marx and F. Engels in their works emphasised the expediency of preventing crimes rather than simply punishing them, and scientifically substantiated that in a socialist society, preventive activities should be the main means of combating crime.

Crime prevention is the most humane means of maintaining law and order and protecting the values enshrined in law. It also warns dangerous members of society against moral decline and prevents them from becoming criminals, thus avoiding the negative consequences of criminal punishment. Prevention of crime is the most effective means of counteracting this social phenomenon, since criminal law measures in the form of punishment are limited.

Summarising the above, we can draw the following conclusions: 1) crime prevention is a promising area of crime counteraction; 2) the rule of law is the basis of the crime prevention system; 3) crime prevention is understood as a unity of general social and special activities of the State and society; 4) public participation in crime prevention is mandatory; 5) the purpose of the crime prevention system is a significant reduction of quantitative and positive changes in the qualitative indicators of crime in Ukraine; 6) resource provision for crime prevention; 7) monitoring of crime and effectiveness of measures.

O. Klyuyev considers crime prevention to be the taking of necessary measures to prevent the commission of offences, identification of persons who are trying to commit offences, and taking certain measures against them in order to prevent the realisation of their unlawful intentions (Klyuyev O., 2005). According to Y.Y. Kondratiev, termination is a stage of crime prevention using operational capabilities to stop already started unlawful actions (Kondratiev Y.Y., 2004).

Prevention is aimed at identifying persons who are planning or preparing to commit a crime and taking appropriate measures to prevent the intention from developing into an illegal activity, and, accordingly, preparatory actions from becoming a crime. Activities to stop a crime are considered only at the stage of a crime that has been started but not yet completed (Kuryliuk Y., Nikiforenko V., Filippov S. et al., 2021).



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Thus, when it comes to preventive activities, it is important to take into account the social policy of society in its entirety, which is based on a scientific understanding of the objective laws of society and includes the activities of state bodies, public organisations and individuals, regulating various aspects of relations between society as a whole and its members. In this context, V. S. Batyrgareyeva notes that to focus only on state support for the fight against crime means to deliberately limit the capabilities of society to prevent crime. Thus, crime prevention is a real tool of counteraction, which involves the implementation of a whole system of carefully considered and interdependent measures, where public participation plays a significant role.

Crime prevention is a key component of an integrated system aimed at overcoming crime. This system includes a wide range of different measures, clearly defined levels and areas of activity of actors, their competence and the nature of the measures. For this system to be effective, it is necessary to classify preventive measures, i.e. to systematise them according to certain criteria or a classifier. There are different approaches to classification, in particular, by level, scale, content, subjects, objects, time and other aspects.

By level, measures are divided into general social, specialised criminological and individual measures. By scale, there are measures that are carried out in different territories or facilities. Depending on the groups of people, measures for different categories of the population are classified. By content, there are measures in different areas of activity (Petrechenko S., Kuryliuk Y., Yuryk O., 2021). By subjects, events are classified by the implementers of the event. Measures aimed at combating different types of crimes are classified by objects. By time, they are classified by duration and relevance.

This classification system helps to better understand and organise crime prevention activities, which contributes to the effectiveness of crime prevention and the security of society.

Thus, at the political and legal levels, Ukraine has declared that genocide has been committed and has been legally recorded within the national criminal justice system (there are 28 cases of genocide in the unified criminal proceedings under Article 442 of the Criminal Code of Ukraine). However, despite the fact that genocide is one of the most serious international crimes, there are no attempts to introduce a legal response mechanism in the field of international criminal justice, which is one of the key gaps in Ukraine's current criminal law policy.



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V. Sokurenko correctly notes, in our opinion, that the genocide committed by representatives of the aggressor country against the Ukrainian people does not fit perfectly into the standard international legal concept of this crime. Traditionally, genocide is seen as the physical destruction of a certain protected social group, but the current situation in Ukraine reflects a more complex picture (Sokurenko V. V., 2023). The events related to Russia's war against Ukraine are not limited to direct, military actions, but also include a variety of hybrid methods. Similarly, genocide has various forms of manifestation, including not only physical destruction, but also other forms of violence, psychological pressure, and the systematic restriction of human rights and fundamental freedoms. Thus, it is important to broaden the understanding of genocide, taking into account modern realities and new forms of crimes against humanity.

The genocide committed against the Ukrainian people by representatives of the Russian Federation is a systematic and persistent campaign of destruction and deprivation of the rights of national identity. This act manifests itself in various forms and includes not only physical destruction, but also cultural, educational and social uricide. Although the classical international legal concept of genocide is usually associated with physical acts of violence against certain ethnic or national groups, in this case genocide has a broader meaning and covers various types of oppression and actions aimed at undermining the self-identity of the Ukrainian people.

First and foremost, genocide is manifested in populism, which means the physical extermination and mass murder of Ukrainians who refuse to assimilate or lose their Ukrainian identity. This form of genocide is manifested through the policy and strategic planning of the aggressor state, which aims to destroy a particular ethnic or national group.

The second form, identity-cide, is the destruction of the national and cultural identity of Ukrainians through the systematic introduction of educational standards and cultural norms belonging to the aggressor state. This includes measures such as the ban on the use of the Ukrainian language, the destruction of Ukrainian-language materials and forced assimilation.

It is manifested through: a) systematic, systematic implementation of the Russian Federation's education standards in Ukrainian educational institutions in the temporarily occupied territories; b) prohibition of the use of the Ukrainian language and Ukrainian-language books, destruction of such books, immediate introduction of



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education in Russian and with a Russian ideological orientation; c) widespread political propaganda, political persecution in the temporarily occupied territories; d) the practice of illegal deprivation of liberty, transfer of Ukrainian citizens, especially children, to the territory of the Russian Federation).

Finally, urbanicide is the destruction of cities as socio-cultural centres that contribute to the preservation and development of Ukrainian identity. This includes not only the physical destruction of cities, but also cultural institutions that create a unique cultural landscape and ensure the preservation of identity. The situation of urban crime is illustrated by the example of Kharkiv, where not only buildings and infrastructure are being destroyed, but also higher education as such, art networks, creative communities, production associations, and entire communication systems through which the Ukrainian identity was formed and reproduced. There is no doubt that urbanisation as the deliberate destruction of cities is an element of the genocidal policy of the Russian Federation against the Ukrainian people (Sokurenko V. V., 2023).

According to the Criminal Code of Ukraine, genocide is an act intentionally committed with intent to destroy in whole or in part any national, ethnic, racial or religious group by taking the lives of members of such a group or causing them grievous bodily harm, creating living conditions for the group calculated to bring about its physical destruction in whole or in part, reducing or preventing childbearing in such a group, or by forcibly transferring children from one group to another. The events that have been taking place since 24 February last year show that the army of the Russian Federation is committing genocide against the Ukrainian people. The constant shelling of civilian targets, destruction of cultural and historical sites, mass murder and torture of civilians, rape, restriction of freedom of movement, abduction of children, forced transfer of thousands of Ukrainians to the Russian Federation and other illegal actions against peaceful Ukrainian citizens confirm the aggressor's intentions not only to seize Ukraine, but also to destroy the Ukrainian nation.

The Verkhovna Rada of Ukraine has recognised the actions of the armed forces of the Russian Federation, as well as the political and military leadership of Russia, during the full-scale war against Ukraine as genocide of the Ukrainian people. Thus, on 14 April 2022, the Verkhovna Rada of Ukraine adopted Resolution No. 2188-IX on the Statement of the Verkhovna Rada of Ukraine "On the Commitment of Genocide in Ukraine by the Russian Federation" and recognised the actions committed by the Armed Forces of the Russian Federation and its political and military leadership during the last phase of the armed aggression of the Russian Federation against Ukraine,

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which began on 24 February 2022, as genocide of the Ukrainian people. The VRU appealed to the United Nations, 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." In this document, the Council points out that acts of genocide in the actions of Russia are manifested in the commission of mass atrocities in Bucha, Borodyanka, Gostomel, Irpin, etc.

Therefore, we consider it expedient that Ukraine immediately ratify the Rome Statute of the International Criminal Court (ICC) and its Kampala Annexes. While we are aware of the political obstacles to the prompt implementation of this step, we believe that Ukraine's application to the ICC for recognition of its jurisdiction in the genocide case is fully justified and necessary.

It seems that the answer to the question of applying to the International Criminal Court (ICC) consists of a complex set of circumstances. The issue of crimes of aggression and crimes against humanity committed on the territory of Ukraine raises an important aspect: national law enforcement measures, even in the form of general preventive measures, are not always effective. This becomes especially relevant as these crimes can be considered international, as their consequences go beyond the borders of one state. Considering the scale and nature of these crimes, the ICC's intervention is needed to prevent and stop such offences. From the legal, criminological and political perspectives, this request is justified. However, by submitting an application to the ICC, Ukraine is effectively acknowledging its inability to conduct a proper investigation on its own territory. This has important implications in the context of international law, as under the Rome Statute, the ICC cannot accept cases if the country where the crimes occurred is unable or unwilling to investigate them.

4 CONCLUSIONS

In summary, the war in Ukraine has seen a significant increase in criminal activity, which is manifested not only in ordinary crimes, but also in the military and political sphere, such as crimes of aggression, war crimes and criminal offences against national security. Paradoxically, the war has not reduced, but rather strengthened Ukraine's borders, reducing the number of supporters of Russian propaganda. However, due to competitiveness and resentment, the depth of the gap between social



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groups has increased. This factor poses a significant obstacle to the administration of justice after the war in Ukraine, especially in the East and South. Taking this into account in the development of a national transitional justice strategy is critical to preventing hate crimes on political and ethnic grounds. Despite this, the key factor in the persistence of criminal threats to national security is the phenomenon of modern Russian fascism, which requires collective counteraction from all civilised nations of the world.

Therefore, criminal legislation is organically embedded in criminological legislation, forming part of it and tending to increase the number of purely preventive instruments (for example, restrictive measures applied to perpetrators of domestic violence, criminal law measures against legal entities, etc.)

To conclude the consideration of the issue of the victim in the context of the Russian-Ukrainian war, we make a generalisation and conclude that victimisation prevention should be considered as a factor in reducing the number of victims of crime not only during the Russian-Ukrainian war, but also in peacetime, which will help protect people from crime and avoid exposure to danger.

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