

Criminal Liability for Establishing the Criminal Impact of Russia's Armed Aggression against Ukraine*

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Abstract

Russia's aggression against Ukraine emphasised the question of criminal accountability for acts committed during the war. The research aims to study international legal norms regarding avoiding criminal penalties for developing criminal influence on Russian military operations against Ukraine. Implementing such a task involves using the scientific method of content analysis to review legal sources and specialised literature and compare existing practices and innovations in the legal sphere. The results noted that Russia's armed aggression created favourable conditions for activating criminal groups that use the unstable situation to establish their influence. Under such circumstances, establishing criminal influence has a tangible negative impact on stabilising the existing situation. To counteract such negative phenomena at the national level, there is talk of strengthening criminal responsibility for committed offences, strengthening coordination actions between law enforcement agencies, strengthening institutional capacity, and intensifying international support. Besides, the experience of some European and Asian countries, where a criminal punishment is prepared just for admitting one belongs to the criminal world. The conclusions indicate that applying such experience, however, requires caution since, in martial law, it is important to counter also other manifestations of criminal influence – corruption and abuse.

Keywords: Organized Crime; Russian Aggression; Legal Experience; Comparison; Criminal Influence

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A. INTRODUCTION

The issue of criminal liability for the exercise of criminal influence under martial law has become particularly relevant because of the growing consequences of Russian armed aggression against Ukraine. In 2022, the territory where crimes were committed significantly increased due to the advance of Russian troops, which created a specific vacuum of legal protection in those territories that were occupied by the Russian military. It became impossible to bring them to justice, and control over the crimes of Russian soldiers weakened. Such a practice may repeat itself in the future, so the importance of considering such an issue is growing.

The relevance of the proposed study is also due to the challenges of ensuring law and order and the implementation of impartial justice in the conditions of the deployment and long-term course of the hot war phase, as well as for the further strengthening of national security and overcoming the challenges of the future post-war legal reconstruction, filling the vacuum of law. In addition, the topic of criminal influence covers not only certain internal aspects of criminal legislation but also some international legal elements of its regulation, which will require a comprehensive review, analysis of the causes of legal conflicts and the formation of the necessary legal mechanisms for further functioning in this direction.

The military aggression of the Russian Federation against Ukraine caused significant socio-economic and political transformations and a tangible humanitarian crisis and created conditions for increasing the activity of criminal elements and organised criminal structures that aim to use the current uncertain situation for their benefit. To counteract such a situation, it is crucial to consider the international aspect of the creation of legislative norms and to investigate international legal standards and mechanisms of counteraction to such manifestations, which regulate the issue of criminal responsibility for the exercise of criminal influence. The proposed research also aims to study the existing legal tools suitable for fighting against such a phenomenon at the national and international levels. The article is designed to consider individual legal acts, decisions of global institutions and other international law sources related to criminal responsibility for criminal influence.

The study also provides specific recommendations on improving the state of national legislation in such a sensitive area, considering the best existing global practical experience, including other countries that are or have been in a state of war or civil armed conflict. Therefore, the attention in the proposed article is primarily focused on providing a deep and comprehensive

understanding of the problems that exert criminal influence in the field of armed aggression. It is also relevant to consider models of effective legal mechanisms to combat such a phenomenon, which will make it possible to strengthen the national security of Ukraine and generate new data regarding its legal order.

Literature Review

The researchers considered some aspects of legal practices regarding introducing and strengthening criminal liability in times of instability. Szontagh (2021) analysed the possibility of applying dialogue between victims and criminals. His original view will require further analysis, as the research is essential for understanding how different justice systems can better respond to hate crimes, providing greater justice. Pylypenko, Pylypyshyn and Radanovych (2021) traced the peculiarities of preserving human rights during military conflicts, emphasising the importance of the implementation of international standards into the national legislation of Ukraine. Rezvorovych (2022) traced the formation of legal nihilism in Ukraine, the primary means against which he considers raising the level of legal awareness of the population. Sayed (2023) investigated the influence of cultural factors in the interaction of representatives of different ethnic groups using the example of business cooperation. Matviichuk et al. (2022) traced the importance of further developing the concept of respect for human rights even in crises. Mysnyk (2022) examined judicial functions during wartime. Leheza et al. (2022) traced the methodological approaches to developing the principles of law in times of adaptation of national legal systems to global challenges. Kobrusieva et al. (2021) studied separate international standards regarding mechanisms for protecting the rights of war victims in Ukraine. Buha, et.al. (2022) investigated the social manifestations and frauds accompanying the war in Ukraine. Bukhanevych et al. (2021) investigated legal mechanisms for ensuring security and law and order in crisis conditions.

The article aims to analyze international legal standards regarding the avoidance of criminal liability for developing criminal influence on Russian military aggression against Ukraine. The main research questions are: What is the theoretical basis for studying the specified problem? What are the mechanisms of combating criminal influence in the context of Russian aggression? What is the international experience of countering criminal influence?

B. METHODS

This study used a qualitative approach that involved a step-by-step collection of research materials and their subsequent critical analysis. First, we selected a scientific and metric database to search for scientific literature: Google Scholar and Index Copernicus. The article's authors did not limit themselves to specific types of research: monographs, articles, conference materials, etc., were considered.

However, this result is limited by the timeframe: the works from 2014 to 2024 were considered. Therefore, 521 results were immediately eliminated. After that, based on a brief analysis of the titles, the papers unrelated to the research problem (another 321 papers) were also not selected. After that, the following criteria for including the literature were applied: 1). The study characterises the key trends in military international law; 2). The study describes the theoretical aspects of criminal liability for crimes in war; 3). The paper characterises the issues of research on crimes in war; 4). The paper represents the impact of war on the legal and social field; 5). The study provides an overview of international law in the context of liability for crimes in war; 6). The paper describes the ways and methods of research implementation; 7). The article characterises the research approach to the study of the problem; 8). Date range: 2014-2024. Therefore, 30 relevant works were selected for the study (See Table 1).

The chosen materials were processed using synthesis and analysis. In particular, the main subject of the study was initially divided into smaller parts (criminal liability for crimes in war based on the national context and criminal liability for crimes based on international law). Subsequently, these parts were combined using synthesis to study the topic further. The author also used the comparison method to compare the results obtained with the achievements of other scholars.

C. RESULT AND DISCUSSION

Criminal influence can be considered as a systematic, organised and purposeful means of interference in the work of state authorities, local self-government bodies, individual enterprises or institutions, and other organisations for the realisation of various criminal-type goals. Among such actions, the following are first listed: bribery, blackmail, threats, and violence ([Sinkevych et al., 2024](#)). However, in martial law and general instability conditions, other opportunities may be used, such as kidnapping, fraud, abuse

related to international payments, or the provision of funds for reconstruction. The proposed list is not complete because, during the vacuum of application of legal relations, other illegal methods for influencing decision-making may also appear. According to the Criminal Code of Ukraine, establishing criminal influence is criminal. Articles of the Law of Ukraine provide for responsibility for creating or managing a criminal organisation and participation in it, including establishing criminal influence ([Verkhovna Rada of Ukraine, 2018](#)). Moreover, changes to the criminal legislation adopted in the context of the armed conflict aim to strengthen responsibility for such acts and ensure an effective fight against organised crime.

Russia's armed aggression has created favourable conditions for the activation of criminal groups that use the unstable situation to establish their influence. This includes illegal arms trade, smuggling, kidnapping, extortion and other forms of organised crime. Establishing criminal influence in armed conflict is particularly dangerous, as it undermines state institutions, destabilises society, and threatens national security (See Table 2).

Table 2- Legal mechanisms for combating criminal influence

| Mechanism | Description | Literature |
|--|--|---|
| Strengthening criminal liability for committed offenses | Legislators should ensure adequate responsibility for establishing criminal influence and criminal actions to provide regulatory acts for more severe punishments for those who would resort to such actions during martial law. Besides, it is significant to take into account that the strengthening of supervision and responsibility should not involve the violation of fundamental human rights. Possible legislative initiatives should not turn into persecution or abuse of power, punishment of the innocent, etc. | Predmestnikov et al. (2023); Hruzevskiy (2023) |
| Strengthening of coordination actions between law enforcement agencies | Establishing new levels of cooperation between different law enforcement agencies at the national level is a critical element of combating crime in any situation. It is equally important to establish cooperation at the international level, which will make it possible to search for persons involved in crimes in Ukraine who, however, managed to cross its state borders. In addition, an urgent direction is the fight against organised crime, which operates internationally and therefore requires an international level of countermeasures. The latter aspect also considers the updated legal framework against such international threats. | Leheza et al. (2024); Asgarova (2022) |
| Strengthening of institutional capacity | Increasing the practical work of law enforcement agencies and the judicial system through training, providing modern technologies, and providing the necessary financial support. An important element is the fight against corruption schemes that greatly influence Ukraine's judicial process. | Antoni et al. (2020). Bogush (2024) |

| | | |
|---|--|------------------------|
| <p>International support and cooperation</p> | <p>Legislative norms regarding the international community's involvement in forming support for Ukraine in the fight against organised crime should focus on the free flow of information, the exchange of experience, and the possibility of conducting an international investigation.</p> | <p>Drozdvov (2022)</p> |
|---|--|------------------------|

Source: Author's development

The establishment of criminal influence during martial law and in conditions of armed Russian aggression against Ukraine poses a serious challenge also to international national security, particularly in the field of law and order. Effective countermeasures against such phenomena require considering the possibility of strengthening the norms of criminal responsibility, institutional improvement of coordination in the actions of law enforcement agencies, and deepening of institutional elements in the field of international cooperation. Such complex solutions, coordinated at the domestic and international legislative levels, should ensure effective countermeasures against criminal influences, contributing to establishing social stability in Ukraine as an element of internal security of the entire Central-Eastern Europe.

Bringing perpetrators to justice requires well-established cooperation with international organisations and courts with significant war crime trial experience ([Kyrychenko et al., 2024](#)). For Ukraine, an important aspect is the establishment of cooperation with the International Criminal Court and other international legal bodies, which will make it possible to ensure the objective consideration of such cases.

During the formation of the legislative framework in the future, it is worth remembering that bringing the guilty to criminal responsibility for crimes committed during the martial law in Ukraine is not only a matter of justice but also an important stage in the process of establishing peace and stability in the region and the world in general ([SZPAK, 2017](#)). Such a process can also influence international relations and protect human rights in conflict. One of the fundamental principles of modern international law is attention to the observance of state sovereignty, a policy of non-interference in the internal affairs of other countries, a refusal to use force or the use of threats in the conduct of international relations, an emphasis on peaceful initiatives to resolve international disputes exclusively by peaceful means.

The UN demonstrates significant activity in combating organised crime and criminal influences. A whole complex of international legal acts is directed against these phenomena. First of all, we are talking about the Naples Political

Declaration and the Global Plan of Action against Organized Transnational Crime (1994), the UN Convention against Transnational Organized Crime (approved by the UN General Assembly on November 15, 2000, and ratified by the Law of Ukraine dated February 4, 2004, No. 1433-IV), etc. (Yasuhiro Ueki, 2023). A similar active policy is also pursued by the European Union, within which the Plan of Actions to Combat Organized Crime has been in effect since 1997 and at the beginning of the XXI century and adopted the Strategy of the European Union at the beginning of the new millennium for combating and controlling organised crime (Kolinko et al., 2019). In general, international structures actively oppose organised crime, which is carried out due to the fixation of certain forms, the detection of criminal offences and the creation of recommendations for the establishment of criminal liability for their commission, the planning of a complex of actions of the international community during the investigation, the implementation of procedural actions at the interstate level, the adoption of strategies and programs, implementation of measures at the international and national levels.

Among the countries, the experience of Georgia as a post-Soviet state is relevant. Numerous laws have been passed to counter criminal influences and punish people for admitting to belonging to the criminal world. Also, supporting a community of thieves, addressing thieves, etc., is punishable by law. The formation of such legal structures made it possible to reduce the pressure of "criminal elites" on conducting economic processes and political influences in the country (Svianadze, 2022). Similar was the experience of the Italian Republic, where, to counter mafia-type associations that function based on common family ties, severe criminal penalties were proposed even for participation in a mafia structure that includes several people. In Asia, this form of countering the criminal world was proposed by the governments of Japan and China, in which traditional criminal groups also function. (KIRS, 2021)

Such experience may also become relevant for Ukraine since the criminal influence of Russian criminality may increase against the background of the Russian invasion. Therefore, it is also possible to impose a criminal penalty for belonging to it. However, in military aggression, an important aspect of ensuring legislative regulation for establishing criminal influence is the further observance of the citizens' constitutional rights, established in line with the principles of a just and democratic society. Certain limitations on citizens' daily activities are indicated by the criteria for the operation of jurisprudence during martial law, although these limits should not eliminate such unalienable rights as Article 24: equality of citizens before the law; Article 27: guarantee of the right to life; Article 28: right to respect for human dignity; Article 29: adherence

to personal integrity limits; Article 47: right to housing; Article 51: equal rights of children; Article 52: equal rights of spouses in marriage and family; Article 55: right to judicial protection, etc. ([Verkhovna Rada of Ukraine, 1996](#))

Therefore, the main goal of the proposed article was to analyse criminal responsibility for establishing criminal influence in the context of armed aggression against Ukraine and determine the legal mechanisms for combating this phenomenon with an emphasis on international experience. During the examination of this issue, it was established that the Russian armed aggression against Ukraine, which began in 2014 with the annexation of Crimea and entered a new open phase in 2022, caused numerous challenges to national security and law and order at the regional and global levels. The proposed results indicate that establishing criminal influence has a significant negative impact on stabilising the existing situation and does not contribute to the restoration and normal functioning of state institutions. This version is actively supported by other researchers, who indicate that in conditions of military instability, the increase in criminal influence on society is highly noticeable ([Horbalinskiy et.al., 2023](#)). For example, manifestations of such influence can be spontaneous or purposeful. At the legislative level, fighting against both manifestations is important. However, when the spontaneous can be implemented nationally, fighting against organised crime requires international efforts.

The proposed results update important elements of combating criminal influence at the national level. It is about strengthening criminal responsibility for committed offences, coordination actions between law enforcement agencies, institutional capacity, international support and cooperation. Not all researchers note the possibility of such steps, motivating the corresponding changes to the legal framework by complexity (considering the Ukrainian corruption component) ([Beikun & Pryimak, 2021](#)). Besides, it is worth agreeing with those scientists who claim that striving to limit criminal influences is a modern necessity ([Bodnár, 2021](#)). In addition, in war conditions, the role of the Russian criminal world may grow due to pressure on economic and political processes. For this reason, the existing experience of other countries can be helpful. In particular, the decisions made regarding the fight against organised crime in Georgia, Italy, and Asian countries were analysed. Based on this, it was established that a reasonably effective way is to establish criminal liability only for your recognition of belonging to the criminal world. Other scientists have also reached this conclusion ([LIN, 2024](#)), indicating the relevance of such a method.

At the same time, it is important at the legislative stage to also counter manifestations of violations of people's fundamental rights since abuses are possible in times of war. Therefore, further improvements in the legal framework will require careful movement so that truly guilty persons are brought under punishment. For this, it is recommended that the results strengthen responsibility for wrongful accusations, obtaining testimony under physical coercion, etc. As some researchers emphasise, it is crucial to counteract corruption schemes, traditionally considered a Ukrainian problem ([MYSNYK, 2022](#)). Due to the formation of relevant terms in legislative decisions, it is possible to avoid confusion about which criminal elements can be used.

The proposed results are based on the methodology used. First, it is worth pointing out the possible shortcomings and limitations inherent in the research methodology. Attention was focused on English-language publications published in recent years. This approach, on the one hand, is justified, as it makes it possible to establish the current state of research on the problem. On the other hand, a scenario is also possible in which certain relevant opinions formulated in publications of an earlier period were left out of the study. Although such a possibility exists, in general, the proposed methodology withstands criticism since Russian aggression against Ukraine began in 2014, so starting the research problem from then is worth starting.

D. CONCLUSIONS

Russia's armed aggression against Ukraine has caused numerous challenges to national security and law and order at the regional and global levels. Russia's armed aggression has created favourable conditions for the activation of criminal groups that use the unstable situation to establish their influence. This includes illegal arms trade, smuggling, kidnapping, extortion and other forms of organised crime. Under such circumstances, establishing criminal influence has a tangible negative impact on stabilising the existing situation. It does not contribute to the restoration and normal functioning of state institutions. Using internal national mechanisms and international instruments to counteract such negative phenomena is important.

Important elements of combating criminal influence at the national level have been updated. It is about strengthening criminal responsibility for committed offences, coordination actions between law enforcement agencies, institutional capacity, international support and cooperation. Among the international experience, it is important to follow the decisions of the UN and the Council of Europe, which are actively forming an international legal framework for countering criminal influences. In Italy, Georgia, and Asian

countries, criminal punishment is prepared to admit one belongs to the criminal world. Using such experience requires caution, as it is important to counter corruption and abuses under martial law, which can complicate the implementation of measures to counter criminal influence.

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