

Crime in Ukraine in Conditions of Martial Law*

Olha Bohatyrova,¹ Vasyl Yurchyshyn,² Kateryna Buriak,³
Oleksandr Mykhalik,⁴ Valerii Marchuk⁵

^{1,4} Interregional Academy of Personnel Management, Ukraine

² State University of Trade and Economics, Ukraine

³ Ukrainian State University of Chemical Technology, Ukraine

⁵ Bukovyna University, Ukraine



[10.15408/jch.v11i3.35788](https://doi.org/10.15408/jch.v11i3.35788)

Abstract

This article explores crimes in Ukraine under the conditions of military law. It is proven that crime is a social phenomenon that cannot exist outside the social environment because it manifests itself in its crimes and criminal offenses of a certain part of the members of society. The research method used is qualitative research method with literary and legislative approaches. The results of the research state that crime with ideology, dynamics, and geography causes a process of globalization that changes, improves, or worsens the lives of people, their rights, and freedoms, which are undoubtedly linked to many objective and subjective factors of society's development. The analysis of modern concepts presented in the works of domestic scientists has been done. The definition of the author of crimes in the conditions of military law has been formulated and its main characteristics have been revealed.

Keywords: Administrative-legal; Environmental; Decentralization; Customs; Public Authority; Local Self-Government; Social Aspects

* Received: July 27, 2023, revised: August 12, 2023, accepted: November 14, 2023, Published: December 31, 2023.

¹ **Olha Bohatyrova**, Doctor of Juridical Sciences, Professor of Law Enforcement and Anti-Corruption Department Prince Vladimir of the Great Interregional Academy of Personnel Management. ORCID ID: <https://orcid.org/0000-0003-4630-4408> Email: 30olechka@gmail.com

² **Vasyl Yurchyshyn**, Doctor of Legal Sciences, professor, Professor of the Department of Finance, Accounting and Taxation Chemivtsi Institute of Trade and Economics of the State University of Trade and Economics. ORCID ID: <https://orcid.org/0000-0003-0238-678X> Email: vas.yurchyshyn@ukr.net

³ **Kateryna Buriak**, candidate of Science of law, associate professor at the Department of Entrepreneurship, organization of Production and Theoretical and Applied Economics, Ukrainian State University of Chemical Technology Dnipro, Ukraine. ORCID ID: <https://orcid.org/0000-0001-6265-9706> Email: buriak_kate@ukr.net

⁴ **Oleksandr Mykhalik**, Doctor of Juridical Sciences, Professor of Law Enforcement and Anti-Corruption Department Prince Vladimir of the Great Interregional Academy of Personnel Management. ORCID ID: <https://orcid.org/0000-0003-1675-8433> Email: o.h.mykhalik@gmail.com

⁵ **Valerii Marchuk**, Associate professor of the Department of Professional and specifically legal disciplines of the Faculty of Law, Bukovyna University. ORCID ID: <https://orcid.org/0000-0001-8263-7934> e-mail: marchuk2023@ukr.net

**Corresponding Author: 30olechka@gmail.com

Kejahatan di Ukraina dalam Kondisi Darurat Militer

Abstrak.

Artikel ini mengeksplorasi kejahatan di Ukraina dalam kondisi hukum militer. Terbukti bahwa kejahatan adalah fenomena sosial yang tidak dapat ada di luar lingkungan sosial karena ia memanifestasikan dirinya dalam kejahatannya dan pelanggaran kriminal dari bagian tertentu dari anggota masyarakat. Metode penelitian yang digunakan adalah metode penelitian kualitatif dengan pendekatan literatur dan perundang-undangan. Hasil penelitian menyatakan bahwa kejahatan dengan ideologi, dinamika, dan geografi menyebabkan proses globalisasi yang mengubah, meningkatkan, atau memperburuk kehidupan orang, hak-hak dan kebebasan mereka, yang tidak diragukan lagi terkait dengan banyak faktor objektif dan subjektif dari perkembangan masyarakat. Analisis konsep modern yang disajikan dalam karya-karya ilmuwan domestik telah dilakukan. Definisi penulis kejahatan dalam kondisi hukum militer telah diformulasikan dan karakteristik utamanya telah diungkapkan

Kata Kunci: Aspek Administratif-Hukum, Aspek Lingkungan Hidup, Desentralisasi, Aspek Kepabeanaan, Kewenangan Publik, Pemerintahan Daerah, Aspek Sosial

Преступность в Украине в условиях военного положения

Аннотация

В статье рассматривается преступность в Украине в условиях военного положения. Доказано, что преступность – это социальное явление, которое не может существовать вне социальной среды, поскольку проявляется в преступлениях и преступных проступках определенной части членов общества. Используемый метод исследования - это качественный метод исследования с литературными и законодательными подходами. Обосновано мнение, что преступность с ее идеологией, динамикой и географией вызывает глобализационные процессы, изменяющие, улучшающие или ухудшающие жизнь людей, их права и свободы, которые, несомненно, связаны со многими объективными и субъективными факторами развития общества. Проведен анализ современных концепций, представленных в работах отечественных ученых. Сформулировано авторское определение преступления в условиях военного положения и раскрыты его основные признаки.

Ключевые слова: Административно-правовой аспект, Экологический аспект, Децентрализация, Таможенный аспект, Публичная власть, Местное самоуправление, Социальный аспект.

A. INTRODUCTION

Our analysis of doctrinal criminological provisions regarding the study of crime in the conditions of martial law in Ukraine in the 21st century made it possible to make sure that crime, its essence and nature, without any doubt belongs to criminological science. It is not a secret for anyone that the hybrid Russian-Ukrainian war of 2014 and the full-scale war of 2022 could not affect the criminalization of society. Migration of the population, crisis phenomena in the economy, unjustified killings, the enemy in the occupied territories, the cost of which cannot be measured in any way, the increase in violence against children and elderly people, unemployment - all these and other factors cause social tension and show the maturity of the society in terms of respect for the law, law-abiding and legal culture. ([Bohatyrov, 2018](#))

The analysis of research and publications convinces us that crime cannot exist by itself, it is dependent on ideological, social, economic, political, and international processes, and therefore it reflects the society, development of the social environment and genetically it consists of many independent factors which are closely related to each other, to cultural, national traditions and customs, legal prohibitions, etc.

The problem of crime was reflected in the scientific works of domestic scientists: A. Babenko, O. Busol, K. Buryak, A. Bohatyriova, O. Bandurka, I. Bogatyriov, M. Verbensky, Y. Leheza ([Leheza et al., 2022](#)), Halaburda Nadiia, Leheza Yevhen, Chalavan Viktor, Yefimov Volodymyr, Yefimova Inna investigated ([Halaburda et al., 2021](#)) and others.

B. METHODS

The research is based on the works of foreign and Ukrainian researchers regarding methodological approaches to understanding crime in Ukraine in conditions of martial law. With the help of the epistemological method, the essence of crime in Ukraine in conditions of martial law was clarified, thanks to the logical-semantic method, the conceptual apparatus was deepened, and the essence of crime in Ukraine in conditions of martial law was determined. To get an idea of the specifics of crime in Ukraine in conditions of martial law over the past five years, we analyzed statistical data, which, unfortunately, are not based on all canons of statistical generalization, as far as we did not have access to all blocks of information. However, thanks to the available data, it was possible to analyze crime in Ukraine in conditions of martial law.

C. RESULTS AND DISCUSSION

It is appropriate to pay attention to the definition of criminality given by N. V. Smetanina: criminality is the criminal practice of people, which manifests itself as a phenomenon in the form of a plurality of crimes and persons these crimes were committed by in a certain space-time interval and which is subject to quantitative and qualitative measurement. ([Smetanina, 2016](#))

Domestic scientist-criminologist M. H. Verbenskyi believes that crime is a natural phenomenon that reflects the state of the social organism; this phenomenon is determined by socio-economic, socio-moral, political, and other conditions of life in a particular society. It is neither more nor less than a by-product of social development, the result of its pathology and disorganization. ([Verbenskyi, 2009](#))

We are convinced that criminality is a corrosion that corrodes the state system of the country, and its national security, and therefore well-timed prevention is the task not only of state and non-state institutions but also of the entire population. That is why each of us must, first of all, get rid of the corrosion of legal nihilism, disrespect for the law, and “my house is from the edge”; we must develop such immunity in ourselves that will prevent the spread of such a virus as criminality.

Generalization of the above definitions of criminality demonstrates the existence of various approaches to such category as “criminality”, which in no way calls into question its scientific value, but which is rather evidence of criminological science democratization. When summarizing the above, we offer our definition of the concept of criminality - it is a persistent socially dangerous, heterogeneous phenomenon that encompasses the totality of all crimes committed in society over a certain period and has its classification. Such a definition formulated by the author allows us to single out the main features of this concept including the following:

- *Criminality is a socially dangerous phenomenon.* It is social by origin, subjects of crimes, victims, society, and the state, as well as by causes and conditions. The life of each person consists of a huge number of acts of behavior. These acts are very diverse in terms of the nature of the action, motives, purpose, and consequences. A variety of acts of behavior is a characteristic of any society, regardless of the degree of its development. ([Tylchyk et al., 2022](#))

At the same time, the objectively necessary basis for society's existence consists in the standardization of human behavior, the establishment of social

norms that limit the diversity of this behavior using determining types of behavior that are useful for society, approved by the majority of its members and supported by them, as well as using determining types of behavior that are related with harm to members of society, are condemned by it and entail application of punishment to the persons these types of behavior are committed by:

- *Criminality is an extremely heterogeneous phenomenon.* Actions united under this phenomenon are similar only in two general features: all these actions pose a danger to society and responsibility for their commission is provided for by the criminal law.

As for all other characteristics, they are very diverse and differ significantly from each other. This makes it necessary to distinguish different types of crime. Criteria for this distinguishing can be different and, accordingly, there may be different classifications of crimes. But all these classifications are important for the criminological characterization of criminality:

- *Criminality has a legal characteristic.* The circle of crimes it consists of is determined by criminal legislation, therefore decriminalization or criminalization of certain acts significantly affects all its indicators. Please note that this feature makes it possible to separate crimes from less dangerous offenses, as well as from actually existing actions that are objectively socially dangerous, but are not recognized as such according to the criminal law, i.e. are not criminalized;
- *Criminality is essentially a negative phenomenon,* and therefore it harms both society in general and its specific members. At the same time, some thinkers questioned this understanding. However, the problems brought by criminality to people hardly allow us to talk about it other than as a negative phenomenon;
- *Criminality has its classification.* According to the number of committed crimes, primary criminality (a set of crimes committed for the first time), recurrent criminality (a set of repeated crimes), as well as criminality committed in places of detention (penitentiary phenomenon), are distinguished. By gender - criminality of men and criminality of women are distinguished. By age - criminality of adults and juvenile criminality are distinguished. It is also possible to distinguish between the criminality of youths and criminality of other age groups. According to the motivation of acts, selfish criminality, violent criminality, and selfish-

violent criminality are distinguished. ([Matviichuk et al., 2022](#))

By other criteria, organized, corruptive, professional, economic, environmental, recidivism, penitentiary types of criminality, etc. are distinguished. It is also possible to name types of *криміналізація* according to the sections of the Special Part of the Criminal Code of Ukraine ([Leheza et al., 2023](#)). Such a classification helps, firstly, to specify the study of many problems, and secondly, it is important for solving practical tasks of preventing criminality in general and its varieties. An important role in consideration of criminality is played by factors that influence its spread. This is of great importance and was considered by criminologists as a positive scientific trend because it indicates to the state the ways to overcome criminality through reforms that would eliminate internal and external causes of criminality that exist in society ([Horbalinskiy et al., 2023](#)). Although at later stages this scientific theory did not become decisive in criminological science, we believe that its meaningful filling with the theoretical and practical foundations of today's reforms in Ukraine will allow us to show not only its role in identifying causes and conditions of criminality but also the price of crime and its social consequences, as well as the state, dynamics, causes, and conditions of its occurrence ([Leheza et al., 2023](#)). For a detailed disclosure of factors affecting the process of criminality in Ukraine, we could not bypass its social conditionality, which today is the focus of criminal, criminological, and criminal law enforcement sciences. This combination of three educational programs for training a future lawyer is caused by an interdisciplinary approach to researching theoretical foundations of criminality prevention.

By the way, a commission of a criminal offense by a person lies in the plane of his/her behavior and it acts as a stimulant while simultaneously penetrating the entire content of moral, property, social, and psychological factors ([Kobrusieva et al., 2021](#)). At the same time, each subject of crime (from a hooligan to a murderer) is not only endowed with the freedom to commit or not to commit a crime but also freely determines his/her status in society and has a choice between good and evil. In our opinion, this approach solves two tasks. First, the subject of crime is entirely dependent on freedom of choice, and second, the subject of crime lives in a society and understands that this society must respond to his/her behavior. Therefore, crimes should be sought in the causes and conditions of the development of the society itself, as well as in the behavior of its members. ([Leheza et al., 2022](#))

The specified factors also indicate that, in most cases, they appear with commission of a crime not repeatedly, but in a complex manner, and therefore

they should be taken into account when forecasting and planning criminality prevention. Among the factors that affect criminality and its spread in the society, we should single out the following:

- *Moral factors* are caused by a low level of upbringing, the humiliation of honor and dignity, disdainful attitude towards a person as an individual, religious and racial intolerance, and traditions of the community and the people. Unfortunately, it is precisely these factors that are difficult to assess in property terms, but they cannot be eliminated from the general algorithm for determining the price of criminality;
- *Property factors* are characterized by self-interested motives, enrichment, appropriation of other people's property, and destruction of other people's property, and therefore these factors should be evaluated according to the costs of the victim of the crime, such as the costs of medicines or costs of the victim's stay in the hospital, compensation of property in kind, etc.;
- *Social factors* are characterized by the following: low standard of living, extraordinary events (threat to preserve the identity of Ukraine, global economic crisis, natural disasters); unprofessional disclosure and prevention of crimes by law enforcement agencies; specificity of committing a criminal offense (corruption and economic offenses, war crimes); national customs and traditions; recidivism combined with correction and resocialization of criminals; impact on family, community and society crimes;
- *Psychological factors* predict a certain event, and it is this event that can act as evidence of an illness or a serious disorder in the criminal, psychological overload of the victim or his/her relatives from another crime, that is, being in a state of temporary insanity, and therefore psychological factors are constantly in the context of other factors;
- *Military factors* that arose as a result of the Russian-Ukrainian war. When considering military factors, it is worth emphasizing that they are based on the military security of Ukraine, the main purpose of which consists in the protection of rights and freedoms of individuals, the vital interests of the society, and the national interests of the state from internal and external military threats as well as the creation of favorable conditions for their guaranteed protection ([Leheza et al., 2022](#)). According to the Ukrainian scientist Yu.V.Orlov, military factors are those circumstances of physical (ontological, existential) and social (metaphysical,

constructivist) reality that are directly and/or indirectly related to the negative consequences of the full-scale war unleashed by Russia against of Ukraine. ([Orlov, 2022](#))

Military factors in general played an important role in deterring the enemy from starting hostilities in another territory, so we could not bypass them in our research. We must understand that the enemy threw its best-armed forces into Ukraine from three directions. These forces include Buryat barbarians, Trans-Baikal, Ural, and Siberian districts ([Leheza, 2022](#)). It would be wrong to underestimate the capabilities of the potential enemy ([Zadyraka et al., 2023](#)). Since the Russian army had a large number of manpower, a large number of armored vehicles, and reserves, we still have not received a final answer. What stopped the enemy? Servicemen have their vision and criminologists defend their notion. *But there is no doubt that military factors influenced the course of the Russian-Ukrainian war.* ([Bohatyrov, 2023](#))

Today, among lawyers and defenders, there is an opinion about the phenomenon of randomness in criminality, when a person commits a crime without wanting to do it. We do not deny possible randomness of the committing a particular crime, but we do ask certain questions. Why does a person who gets behind the wheel of a car while intoxicated understand well that such actions are criminal, but choose exactly criminal behavior? A thief also understands that this is a crime, but why does he commit a theft? a mother kills her child - does she not understand what she is doing? This list of examples can be continued ad infinitum. ([Leheza et al., 2022](#))

Perhaps the feeling of impunity, lack of education (lack of proper upbringing), disrespect for the law, genetic predisposition to commit a crime, and lack of trust in law enforcement agencies become the factors when a person commits a crime without understanding the social consequences for himself/herself and the society as a whole. So, a person, if he/she is well socialized by the state (stable job, own housing, family, trust in law enforcement agencies), should not commit a crime, but, unfortunately, he/she does, then what is the problem? So, criminality exists objectively, regardless of the consciousness and will of people, and therefore it should be considered as an element of the social subsystem of society. ([Zhukova et al., 2023](#))

Society, as a real-life process of people, constantly responds to challenges of criminality, while protecting its integrity and quality, developing new forms and methods of countering criminality. Unfortunately, certain social groups and strata of the population do not want to live according to the rules and norms of social relations, they have a breakdown of social consciousness, and

criminal behavior develops; they go beyond social control. ([Leheza et al., 2021](#)) Then society requires the state to apply criminal law prohibitions to such a category of people and isolate them from the public environment, but, unfortunately, this does not solve the problem, others take their place. In addition, we should not forget those who return from places of detention after serving the term of punishment.

Studies conducted by the “Intellect” school during the past three years of research show that the status, trend, and dynamics of criminality in the country do not reflect the real situation; criminality has become one of the most acute problems of society, as it exists in different regions on specific territories, and therefore a certain rethinking of scientific views on criminality and its consequences helps to concretize its study to solve the practical tasks of preventing criminality in general and its varieties. As noted by O. M. Kostenko, a high level of law and order in society, is possible only when citizens see state bodies as guarantors of their safety, and feel, not in words, but in deed, the interest of law enforcement agencies in considering and taking measures against any offense. ([Kostenko, 2008](#))

A separate component of criminality in Ukraine in conditions of martial law is presented as the problem of combating and preventing criminality in the family sphere, which is associated with a sharp stratification of our society in terms of the amount and quality of financial and material support. ([Villasmil Espinoza et al., 2022](#)) The events of 24 February 2022 dramatically changed the daily lives and living conditions of millions of Ukrainians. The war has acted as an external condition for many families, problems, and troubles appeared in families, and these problems have become internal causes of crimes performed in the family sphere ([Leheza et al., 2020](#)). Unfortunately, the Russian-Ukrainian war has divided thousands of Ukrainian families. The number of divorces is increasing daily. It was the war that catalyzed relationships between husband and wife, which they had not paid attention to before. Today, these problems have intensified. It is the distance from each other that does not bring family members closer, but on the contrary, helps to put an end to their relationships. However, the war and going abroad is only an excuse for divorce. Unfortunately, domestic courts are forced to consider the claims of parties regarding divorce. ([Kobrusieva et al., 2021](#))

According to the domestic scientist I.H. Bohatiryov, it is criminality in the family sphere that causes natural concern of citizens for their lives, the well-being of their families, and the safety of their children, as well as reduces trust

in the state policy in the sphere of counteraction and prevention of criminality. ([Bohatyrov, 2017: 114–120](#))

D. CONCLUSIONS

The task of the state is to ensure social conditions and legal rules of coexistence and harmonize social relations while removing social contradictions and strengthening the solidarity of society. Without solving this task, it is difficult to expect an increase in the social activity of the population in combating criminality and the improvement of legal support for the population. It has been established that a complex combination of legal, moral, psychological, and cultural factors will allow our society to realize that criminality as a socio-legal phenomenon is characterized by its dynamics, geography, state, and trend of further development, and therefore it significantly affects the internal stability of the society. Therefore, to reduce criminality, its cost, and consequences, the following institutes should work at a high level in Ukraine:

- *Institute of National Ideology of Respect for the Law.* In our opinion, this institute can provide legal upbringing; legal education, legal culture; and overcoming legal nihilism.
- *Institute for Regulation of Economic Relations in the Country.* This institute should provide: filling the state budget; using the latest technologies in the economy; reducing the level of corrupt activity of government representatives; overcoming unemployment in the country; and raising people's welfare to the level of European countries.
- *Institute of Social Protection and Population Security.* This institute can provide: satisfaction of basic human social needs; overcoming poverty; a decent pension; faith in the future; and protection and safety of elderly people and children.
- *Institute for restoration and development of socially useful ties of persons released from places of detention.* This institute will allow to: develop a program of adaptation of persons after release from places of detention; create a network of resocialization centers for ex-convicts; and expand the volunteer movement to help those released from places of detention.

Finally, it should be emphasized that modern Ukrainian society, although it is in a state of war with the aggressor state and so it is experiencing a certain crisis state of its development, should not forget that criminality, as a

socio-legal phenomenon, encroaches daily on the stability and security of the country, on life, honor, dignity, and property of every member of the society.

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