

Crimes against the Fundamentals of National Security of Ukraine (2014-2018): LEVEL, Dynamics, Structure

Anzhela Stryzhevskaya¹, Oksana Ilina²,
Dmytro Ptashchenko³ & Olha Kolos⁴

Abstract

The relevance of this topic lies in the fact that due to the annexation of the Crimean Peninsula by Russia and the creation of terrorist formations within the Luhansk and Donetsk regions, the dynamics of crimes against the foundations of national security of Ukraine has increased, and therefore it is necessary to investigate the state of this problem. The purpose of this study was to investigate the state of crimes against the foundations of national security of Ukraine in 2014-2018, and to identify the reasons for this. During the study, several methods of theoretical cognition were used, specifically analysis, synthesis, concretisation, abstraction, and generalisation. The study found that in 2014-2018, there was an increase in the level of crime against state security, including an increase in the number of crimes and perpetrators. The results of this study can be used to create ways to address the problem of the spread of crimes against the foundations of national security in the future.

Keywords: Armed Aggression; Separatism; Crime; Lustration; Corruption.

Introduction

The relevance of the subject under study is directly related to the events taking place in the recent history of Ukraine. After the Revolution of Dignity in 2013-2014, the country withdrew from Russia's sphere of influence, but became an arena of geopolitical conflict. The annexation of Crimea and the military confrontation in the east (2014-2018) led to social, economic, and political crises. These processes have contributed to an increase in crime, specifically crimes against national security, leading to the highest crime rates since the 1990s. The problem with investigating this subject is that crime, like other social phenomena, can be assessed using qualitative and quantitative criteria. It is important to understand that

¹ Department of Criminal Law Policy and Criminal Law, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine.

² Department of Criminal Law Policy and Criminal Law, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine.

³ Department of Criminal Law Policy and Criminal Law, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine.

⁴ Department of Law Enforcement and Anti-Corruption Activities, Interregional Academy of Personnel Management, Kyiv, Ukraine; Department of Criminal Law Policy and Criminal Law, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine. kolos000k@ukr.net

the analysis of the quantitative aspect of this phenomenon must be accompanied by an analysis of qualitative characteristics, as the significance of numerical data increases with the number of cases. Notably, the statistics below have some discrepancies, since (Sysoieva & Zubko, 2021; Alpysbayeva et al., 2019; Burkovska et al., 2022):

- approximately one third of reported crimes are still unsolved, which leads to the perpetrators still being unidentified and unpunished;
- approximately 8-10% of crimes are committed by groups;
- there are multiple cases of criminal proceedings with one defendant.

Some scholars have investigated this topic. V. Kuznetsov et al. (2023) studied the topic of crimes against the foundations of national security in a general context. Thus, in their study, the authors managed to describe and define all the key aspects of this topic. However, the researchers conducted a general analysis, without focusing on the dynamics of these crimes between 2014 and 2018. O.A. Chuvakov (2017) also investigated the issue of crimes against the foundations of national security, but the subject of his research was counteracting this phenomenon. The author described in detail some ways to counteract such crimes. M. Shepitko (2019) studied the factor of the judicial system in the context of combating crimes against the foundations of national security in Ukraine. The author analysed this issue in detail and focused on the key issues of the Ukrainian judicial system, as well as viable solutions to these difficulties. O. Ovcharenko and T. Podorozhna (2020) investigated the period of development of Ukrainian society after the Revolution of Dignity in 2014 and drew attention to one of the key processes of political life at that time, namely lustration. The researchers examined the general theoretical aspects of this concept and proved the importance of this process for the development of the state and combating crimes against the foundations of national security. As for the types of crimes against the foundations of national security, G. Yaremko et al. (2021) studied this problem, addressing the issue of no systematisation of these types of crimes in modern legal science. Considering this, the authors tried to create such a categorisation scheme in their research paper. An important source for this study was also the paper by E. Creegan (2011), which reviewed the theoretical aspects of crimes against the foundations of national security not only in the Ukrainian but also in the international context.

The purpose of this study was to identify the level and dynamics of crimes against the foundations of national security of Ukraine in 2014–2018, and to find the causes of this problem. To fulfil this purpose, the following tasks needed to be completed:

- to define the concept of crimes against the foundations of national security in general theoretical terms;

- to review reports and statistics on these crimes;
- to conduct a comparative analysis in the context of crimes committed in different years;
- to consider the reasons for the spread of crimes against the foundations of national security.

Materials and Methods

First of all, the study of the dynamics of crimes against the foundations of national security is quite complex and requires considering many different aspects. Furthermore, the limited amount of statistical data was a significant challenge in conducting this study. The main method used in this study was the analysis method. It was important to consider in detail all the key components included in this paper to obtain the most accurate data possible. The analysis method was used when considering the main concepts, as it was necessary to first define key terms, specifically the concept of crimes against the foundations of national security, to accurately understand the subject matter of this study. Thus, the method of analysis was key in the context of reviewing the materials and source base of this study.

An important type of source in this paper is statistical data, which is why the information processing method was used. Its use helped to examine statistical information in detail and conclude on the dynamics of crimes over a certain period, as well as to determine which types of crimes against the foundations of national security prevailed between 2014 and 2018. The synthesis method is also a vital component of this study. Specifically, synthesis allows combining various aspects, sources, and concepts to create a complete and more in-depth picture. This method was used not only to combine the results of the analysis of diverse sources, but also to investigate individual statistics. For instance, the study of the number of crimes against the foundations of national security that came into force considered indicators of the period in which they were committed, as well as indicators of the types of crimes. Thus, by using the synthesis method, it was possible to combine these categories, which helped to specify the issue of the dynamics of crime and cover other aspects of this study.

The next method used in this study was the method of concretisation. Given that the study used many different data and considered a considerable number of aspects, it was necessary to focus on particular elements that are key to this study. This method was used after analysing and comparing the number of crimes against the foundations of national security, which were taken from diverse sources, to highlight the key aspects. Given that the subject of this study is the current security situation in Ukraine, which is largely related to geopolitical motives, abstraction became an essential method. Another method used in this study was generalisation.

This method was used at the final stage of the study to review all the findings and formulate particular conclusions.

Results

The highest social value in Ukraine is recognised as a human being and their life, health, honour, and dignity, as well as inviolability and security (Constitution of Ukraine, 1996). Since democratic and social institutions are vital components of the functioning of the state, maintaining state security, defence capability, sovereignty, and constitutional order is a prerequisite for the proper performance of the tasks of fighting crime, ensuring an adequate standard of living, preserving honour and dignity, inviolability of private property, and general security. Crimes against the foundations of national security affect not only state security (Kuznetsov et al., 2023; Creegan, 2011). In Ukraine, national security is defined as the protection of state sovereignty, territorial integrity, democratic constitutional order, and other national interests of Ukraine from real and potential threats. Crimes against the foundations of national security of Ukraine are defined as actions that are socially dangerous, illegal, committed intentionally, and therefore subject to punishment. These actions lead to damage or threat of damage to both the external and internal security of the state. They are committed by persons who violate the law and pose a potential threat to the national security of the country (Chuvakov, 2017; Krasnov et al., 2019).

According to the Prosecutor General's Office of Ukraine, since 2014, there has been a considerable and sharp increase in crimes against the foundations of national security (About registered criminal offenses and the results of their pre-trial investigation, 2023). Compared to 2013, when only 8 such crimes were recorded, in 2014 their number increased 65 times to 527 cases. This is the highest level in the history of independent Ukraine. However, according to statistics, the last two years have seen a gradual decline in the level of criminal threat to national security. In September 2015, the Main Military Prosecutor's Office established the Department for Investigation of Crimes against the Fundamentals of National Security of Ukraine, Peace, Human Security, and International Law and Order. This unit is tasked with collecting, systematising, and analysing evidence of the involvement of representatives of the authorities and the Armed Forces of the Russian Federation (AF RF) in the aggressive war against Ukraine (About registered criminal offenses and the results of their pre-trial investigation, 2023). In this context, war crimes are also being investigated and the extent of the damage caused is being determined with a purpose of further submitting the materials to the International Criminal Court.

During the first six months of the Department's existence (until March 2016), over 100 criminal proceedings were investigated, and the extent of collected materials exceeded 400 volumes. The number of casualties totalled 9354, including 2055 killed and 7299 wounded ATO soldiers. Experts conducted more than 1700 forensic examinations and questioned over 4500 witnesses and victims (About registered criminal offenses and the results of their pre-trial investigation, 2023). The investigation into crimes against international law and order and human security resulted in 27 indictments. Among them, 7 acts concerned Russian citizens, three of whom were active members of the RF AF. Additionally, 19 Russian citizens were served with a notice of suspicion, 14 of whom were also members of the RF AF. Some of them were interrogated on the territory of Ukraine (Briefing of the Chief Military Prosecutor, 2014). Four verdicts of Ukrainian courts came into force, according to which 5 people were found guilty of waging an aggressive war against Ukraine under Article 437 of the Criminal Code of Ukraine. Among these persons are two Russian citizens I. Gorbunov and O. Daronin, as well as one service member of the RF AF V. Starkov, who were sentenced to 11 to 14 years of imprisonment (Briefing of the Chief Military Prosecutor, 2014).

According to the Security Service of Ukraine (SSU), 82 people were convicted of crimes against the state and people of Ukraine during the year (February 2014 – March 2015) (Briefing of the Chief Military Prosecutor, 2014). Since February 2014, investigators of the SSU have opened 4023 criminal proceedings related to crimes against the foundations of national security and defence of Ukraine, territorial integrity, as well as other serious offences aimed at undermining the constitutional order and seizing state power. Furthermore, 1126 people received a notice of suspicion, of whom 753 were arrested by courts following a submission by SSU investigators. The main purpose of the SSU investigative units has been to fight crime in the Joint Forces Operation area, as well as to conduct prompt and objective investigations of persons accused of treason (85 proceedings), sabotage (62), espionage (9), and terrorist acts (1123) (During the year, 82 persons were convicted “for crimes against the state and the people” – SBU, 2015). According to V. Vovk, the head of the SSU's Main Investigation Department, 1505 people were arrested for crimes against national security between 2014 and 30 November 2017. Between February 2014 and 30 November 2017, SSU investigators initiated 15236 criminal proceedings related to crimes against the foundations of national security and defence of Ukraine, territorial integrity, terrorism, and other serious offences against 3603 people. Of these individuals, 1505 were arrested. 1888 people known to be members of terrorist organisations and illegal paramilitary groups, traitors, terrorist supporters, were charged and sent to court.

The Head of the Security Service of Ukraine, V. Hrytsak, emphasised the main efforts of the special service aimed at countering Russian aggression, preventing crimes against the foundations of national security, and combating terrorism. Data from the SSU show that from February 2014 to November 2017, 132 citizens of the Russian Federation (including 17 members of the RF AF) were registered as suspects, of whom 21 have already been convicted in Table 1. Twenty-six people from the Russian Federation were tried in Ukraine on indictments (The SBU investigates 15,500 cases of crimes against the security of Ukraine, 2017).

Table 1

Number of individuals convicted of crimes against the national security of Ukraine in 2014-2018 (based on verdicts that have come into force)

<i>Crimes</i>	Article of the Criminal Code of Ukraine	2014	2015	2016	2017	2018	<i>Dynamics</i>
<i>“Actions aimed at the violent change or overthrow of the constitutional order or the seizure of state power”</i>	109	7	18	7	10	3	-57.1%
<i>“Encroachment on the territorial integrity and inviolability of Ukraine”</i>	110	23	40	46	59	80	3.5 times
<i>“Financing of actions committed for the purpose of violent change or overthrow of the constitutional order or seizure of state power, change of the</i>	110	0	1	0	1	7	+

<i>boundaries of the territory or state border of Ukraine</i>							
<i>“High treason”</i>	111	1	2	3	0	8	8 times
<i>“Attempt on the life of a state or public figure”</i>	112	0	0	0	0	0	0
<i>“Sabotage”</i>	113	0	2	1	4	1	-
<i>“Espionage”</i>	114	0	1	0	0	0	-
<i>“Obstructing the lawful activities of the Armed Forces of Ukraine and other military formations”</i>	114	0	11	2	1	1	+
Total (convicted individuals)		31	75	59	75	100	3.2 times

Source: (Analysis of the state of administration of justice in criminal proceedings in 2018, 2019).

Analysing the above data, it should be noted that the structure of crimes against national security stays stable. Among them, the main ones are violation of the territorial integrity and inviolability of Ukraine and high treason. Notably, a considerable number of those who committed high treason were former law enforcement officers of Ukraine who joined the security forces of the unrecognised authorities on the Crimean Peninsula and in certain areas of Donetsk and Luhansk regions (Semenets-Orlova, et al., 2020). Another problematic issue is the discrepancy in the quantitative indicators of the statistics of the Supreme Court of Ukraine compared to the data of the Prosecutor General’s Office of Ukraine and the Security Service of Ukraine. There are several reasons for this situation. In determining the reasons for this situation in the context of the spread of crimes against the foundations of national security, it is necessary to first note that the aggression of the Russian Federation contributes to the development of separatist groups that affect the security situation in Ukraine. Furthermore, there are internal reasons.

First and foremost, the Ukrainian judicial system is corrupt, and this is confirmed not only by public opinion but also by international experts. The judicial

system in Ukraine has become one of the most corrupt branches of power, which has undermined public confidence in fairness and justice (Shepitko, 2019; Vaitsekhovska et al., 2021). One of the main causes of corruption in the courts was political interference and the influence of high-ranking officials on the due process. Political pressure on the judiciary has often resulted in unfair rulings or delays in the consideration of cases. The systematic lack of control and transparency of judicial proceedings created favourable conditions for the spread of corruption (Mishchenko, 2009; Tovma, 2013; Kulanov et al., 2020). The absence of an effective system of punishment for judges who abuse their position has also contributed to the persistence of corruption in the judiciary (Pedersen & Johannsen, 2023). Furthermore, the analysis of the criminal procedure aspects of the study of cases of deliberately unjust verdicts, rulings, or orders by judges confirmed that the granting of immunity to judges creates a situation where a specific procedure for serving a notice of suspicion, detention, or choosing a preventive measure, including detention, is applied. However, the legislation of the Criminal Procedural Code of Ukraine leaves unclear which inquiry and investigation body should be involved in such situations (Shepitko, 2019). Furthermore, there is no particular guidance on the criteria and experience of the investigator who should be in charge of the investigation, especially given the possibility of unlawful influence of colleagues on this investigator (Tatsiy and Serohina, 2018).

Secondly, after the Revolution of Dignity in 2014, the judicial reform was launched under the presidency of P. Poroshenko. An important process during this period was lustration, which can be defined as a set of measures legalised by law aimed at verifying the past of individuals who collaborated with non-democratic regimes and at imposing special restrictions to prevent them from taking part in public administration (Cibák et al., 2021). Examples include the detention of civic activists or Ukrainian judges during the Euromaidan events (November 2013 – February 2014), which greatly contributed to the outrage of human rights defenders who were ready to carry out a popular check on the judicial system (Ovcharenko & Podorozhna, 2020). The implementation of this political phenomenon through the purification of power requires a detailed legal framework and a suitable enforcement mechanism. Otherwise, the lustration process can easily turn into a “witch hunt”, which is contrary to the fundamental rule of law that is essential for young democracies (Yaremko et al., 2021). Thus, it is important to analyse lustration measures from several perspectives: from the perspective of protecting the values necessary for a democratic society in transition, as well as from the perspective of respecting human rights and the rule of law, which are interrelated.

First of all, respect for human rights is impossible without effective democracy, as a democratic society is based on respect for fundamental human

rights and freedoms (Silagadze et al., 2022). Therefore, lustration does not violate fundamental natural rights, such as the right to life, the prohibition of torture, the right to liberty and security of person. Restrictions on access to public service (including public decision-making) are a logical consequence of transitional periods and apply to people who took part in past repressive regimes (Bleakley, 2023; Anishchuk, 2023). Lustration is a vital part of democratisation and a necessary component of transitional justice (Shebanin et al., 2022). In the context of this overall objective, restrictions targeting particular individuals associated with repressive regimes are still reasonable and acceptable. Thus, proceeding from the information presented above, the dynamics of crimes against the foundations of national security in Ukraine increased dramatically between 2014 and 2018. Predominantly, this is caused by external factors, namely Russia's aggression, but internal factors should also be factored in.

Discussion

Crimes against the foundations of national security are one of the key issues that the state must address, as they can adversely impact not only on the security of citizens but also the sovereignty of the entire country. The problem of crimes against national security is relevant not only for Ukraine. Specifically, the issue of the effectiveness of court sentences for acts of terrorism is relevant for Indonesia. In their research paper, M. Istiqomah and A. Alimardani investigated the effectiveness of the judicial system in the context of countering terrorism (Istiqomah & Alimardani, 2023). The analysis of this issue allowed the authors to determine that a considerable problem for the judiciary in Indonesia is the influence of the ruling elite, as they often influence the adoption of harsher sentences, guided by political motives. Furthermore, the analysis notes that judges use their professional discretion to avoid applying the minimum mandatory sentence in certain situations, such as cases involving juvenile offenders (Kumisbekova et al., 2019). As findings of their study, the researchers note that an essential and effective tool for combating terrorism, and, accordingly, strengthening national security, is the development of an independent and strong legal branch of government. It is worth agreeing with this thesis, since, as mentioned above, the inefficiency of the judicial system is one of the reasons for the existence of threats to national security (Zaki & Ab Hamid, 2021; Patashkova et al., 2021).

D. Muharremi and M. Ademi (2023) investigated the general aspects of the spread of crimes in the country, including those that affect national security. Thus, the authors examine the problem of terrorism, which is quite widespread today in many countries of the world. Researchers address the issue of organised crime, which is highly developed in many countries and has an impact on political

decision-making. In examining the reasons for the spread of this phenomenon, the authors conclude that the key factors contributing to the development of organised crime are the corruption of the state and the inefficiency of the judicial system (Abudaqa et al., 2020; Moskvina, 2022). The authors suggest that the main solution to this issue is to increase the number of law enforcement officers and give the police more powers to control the population. It is worth disagreeing with these ideas, as they do not consider the fact that police structures can also be corrupt and have secret ties with representatives of the criminal world, which can only exacerbate the problem of organised crime (Cubitt, 2023; Hubanova et al., 2021).

V. Avdeev et al. investigated the issue of addressing threats to national security in the context of international law (Avdeev et al., 2023). The study concluded that one of the main challenges in ensuring public safety is the need to minimise and neutralise the threats as follows. This problem can be solved by implementing the norms and mechanisms of international law aimed at increasing the level of protection of people's facilities, transport infrastructure, fuel and energy, chemical, nuclear, atom, and industrial units, as well as the country's defence industry from terrorist acts (Mishchenko et al., 2022; Sinaj & Vela, 2022). It is worth concurring with the opinion of these authors. Given that all the above threats have an impact not only on the national security of a particular country, but also have a regional or global nature, they must be addressed at the international level, respectively (Zamira Sinaj et al., 2012; Danchuk et al., 2015; Berestovoi et al., 2020).

The topic of the study by O. Chuvakov et al. (2022) was the classification of types of crimes against the foundations of national security using evidence from Ukraine and Azerbaijan. Since crimes that threaten national security have been committed in these countries since 2014, in various areas of activity, there is a need to classify them. The systematisation of crimes is based on various indicators that help to clarify the classification of offences that may threaten the internal and external security of the state. Establishing clear criteria helps to distinguish crimes against national security from other types of offences (Paulikas and Paulikiene, 2022). The application of a set of criteria makes it possible to divide crimes against national security into specific categories: those that violate external or internal security (Dumi et al., 2014; Makaliuk, 2016; Bence et al., 2022). It is proposed to group crimes against the fundamentals of national security by areas of activity or methods of encroachment. Notably, such a classification is conditional and requires further rulemaking work aimed at improving this categorisation system. It is worth agreeing with the ideas of the researchers because crimes against the foundations of national security of Ukraine are diverse and multifaceted, and therefore their classification can help in combating and counteracting them.

R. Niknami (2021) investigated separatism in Moldova, and, accordingly, the problem of the existence of the so-called Pridnestrovian Moldavian Republic. This question is important in the context of this study, as there are many parallels between the influence of Russia's proxy states in Moldova and Ukraine. The author argues that the Pridnestrovian issue simultaneously refers to Russia's security, reproducing interconnected security patterns that influence each other. Moldova's deeper ties with the European Union, for example, have a considerable impact on Russia, which is gradually losing control of the region (Maldynova et al., 2023; Tanklevska et al., 2023). There are several complexities surrounding this issue that limit the European Union's ability to take effective action to resolve the conflict. The researcher also examines this topic in the dynamics and finds that for a certain period of time the EU did not try to resolve this issue, but in 2003 there were attempts to resolve this problem. However, it has not yet been resolved, given that the EU has been exerting indirect influence (Trusova et al., 2021). In addition, the elevated level of corruption in Moldova and Transnistria is becoming an obstacle to effective reforms that the EU could introduce (Silagadze, 2022). At the same time, Russia keeps a wide range of influential software and hardware in the region (Kollai, 2022; Pylypchynets, 2022; Kerimkhulle et al., 2023). It is worth agreeing with the opinion of the researcher since the issues of global support and the internal situation are key in the context of addressing the threats of separatism.

One of the key threats to national security in today's globalised world is illicit enrichment, as it has a strong impact on the economy of any country (Atanelishvili et al., 2020; Khushvakhtzoda and Nazarov, 2021). O. Reznik et al. argue that this is because persons receiving illicit income try to legalise it by discrepancies between their true origin and official activities (Reznik et al., 2023). The "products of criminal activity" pose a threat not only to the country's economy, but also to the entire national system (Mishchenko and Mishchenko, 2016; Khamitkhan et al., 2018; Doszhan et al., 2020). The insufficient level of control instruments in the financial sector facilitates the active transfer of illegally acquired income, which leads to the flourishing of the shadow economy (Kassenova et al., 2020; Sadvakassova et al., 2023). These opinions are correct, but the authors of this study disagree with the researchers' idea that only tighter control in the financial sector will solve this issue. Counteracting the withdrawal of substantial amounts of illicit proceeds requires not only financial control, but also enhanced control by law enforcement agencies that are not corrupt (Spinello, 2022; Kortukova et al., 2023).

In general, the issue of crimes against the national security of Ukraine is quite complex and multifaceted. By investigating the dynamics of crimes during 2014-2018, it was found that the number of certain types of crimes decreased, while some increased. Furthermore, it is important to study the examples of other countries in

the context of preserving national security to understand their methods and learn from their experience.

Conclusions

Crime and the crime situation in any country always pose a serious threat to its existence and development, and Ukraine is no exception. Since 2014, Ukraine has faced new challenges that have had a significant impact on crime, especially in terms of security. Notably, criminological science in Ukraine has hardly studied crimes related to violations of national security. This is due to the lack of sufficient practice of applying legislative norms related to crimes against national security, as well as the lack of a proper theoretical basis for analysing such phenomena. However, in modern conditions, specifically due to historical events in Ukraine, research on crime against national security is gaining a new dimension. The analysis of indicators of crime against national security shows the following trends: the situation with crime against the foundations of national security in 2014-2018 is characterised by an increase in the number of crimes committed and an increase in the number of perpetrators. Moreover, the situation is exacerbating and becoming more cross-cutting and acute. At the same time, the structure of this crime is still stable, with the main focus on encroachments on the territorial integrity of Ukraine and state security, including areas related to treason.

Several key factors contributed to the situation in the period under consideration. These include violations of Ukraine's sovereignty by the Russian Federation, including reconnaissance and subversive activities, illegal imports of military equipment, weapons, and ammunition from Russia to support illegal military formations and separatist groups, widespread corruption in government and influence of criminal structures on politics, as well as transnational organised crime, legislative shortcomings that have created a favourable environment for criminal activity, underfunding for the judiciary and law enforcement agencies, which has led to a decrease in their effectiveness, and a corrupt judiciary. These factors contribute to the development and aggravation of the situation in the field of crime against national security. Notably, official statistics on crime in Ukraine may not be complete due to the occupation of Crimea and certain areas of Donetsk and Luhansk regions by Russia. The reasons for the ineffectiveness of judicial reform and the causes of corruption in the security forces require further research to address them.

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