

THEORY AND PRACTICES OF LAW

DOI <https://doi.org/10.30525/2592-8813-2025-4-1>

THE IMPORTANCE OF FORENSIC PSYCHOLOGICAL EXAMINATION OF A SUSPECT FOR ESTABLISHING A PERSON'S GUILT IN THE INVESTIGATION OF THE CRIME OF AIDING AN AGGRESSOR STATE

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Abstract. This article explores the significance of forensic psychological examination in establishing an individual's guilt in crimes of aiding an aggressor state, as introduced into the Criminal Code of Ukraine in 2022. It is determined that aiding, unlike collaborationism, implies the presence of direct, conscious, and voluntary intent aimed at causing harm to Ukraine. The intellectual (cognitive) and volitional (motivational) components of intent, which are internal mental processes manifested through external behavior, are investigated. It is substantiated that forensic psychological examination serves as a crucial tool for clarifying these components, evaluating an individual's beliefs, the motivational content of their behavior, and their ideological orientation, specifically the presence of anti-Ukrainian views, nostalgia for the Soviet past, or the ideology of the "Russian world". The article emphasizes that the expert's conclusion is an independent and decisive piece of evidence in criminal proceedings, particularly in complex cases where formal indicators are insufficient for the legal qualification of a crime against national security.

Key words: forensic psychological examination, aiding aggressor state, intent, national security, evidence, motivation, cognitive component, volitional component, psychological analysis, Criminal Code of Ukraine.

Problem Statement. Human and civil rights are fundamental values of a democratic society; however, in the conditions of the full-scale military aggression of the Russian Federation against Ukraine in 2022, the state faced the urgent need to effectively counter hostile actions not only at the front but also in the rear. The introduction of Article 111-2 of the Criminal Code of Ukraine, "Aiding the Aggressor State," became a response to these challenges, requiring a high level of legal precision and a resolute defense of national sovereignty. The key problem in investigating such crimes is the establishment of direct intent, which is an internal mental process and has no immediate material manifestation. Proving this intent requires an in-depth analysis of the external behavior and internal beliefs of the individual, which makes forensic psychological examination an indispensable tool in criminal proceedings (Makhmurova-Dyshliuk O. P. 2024).

Research Aim. The aim of this study is to substantiate the role of forensic psychological examination as a central instrument in the investigation of crimes related to aiding the aggressor state, by demonstrating its capacity to uncover the internal content of criminal intent, to provide an objective assessment of the cognitive and volitional components of human behavior, and to ensure that criminal responsibility is grounded in a comprehensive understanding of both external actions and internal motivations.

State of Research. The issue of criminal liability for aiding the aggressor state is relatively new, considering the introduction of Article 111-2 of the Criminal Code of Ukraine on April 14, 2022. Scholarly sources, such as the works of O. P. Vashchuk, O. O. Dudorov, and R. O. Movchan, as well

as scientific articles by A. M. Tymchyshyn, have already addressed the issues of forensic examination and liability for aiding the aggressor, and have also differentiated the concepts of aiding and collaborationism. Nevertheless, the issue of proving internal intent, which is the core of the subjective side of the crime, remains complex and requires further scientific reflection, especially in the context of applying forensic psychological examination as a key evidentiary tool.

Main Content. With the onset of the full-scale military aggression of the Russian Federation against Ukraine in 2022, the state faced the need not only to ensure defense at the front but also to properly regulate the legal mechanisms of countering hostile actions in the rear. One of the most important steps in this direction was the introduction, on April 14, 2022, of the new Article 111-2 into the Criminal Code of Ukraine – "Aiding the Aggressor State." Its adoption was a response to unprecedented challenges requiring a high level of legal precision, moral clarity, and resolute defense of national sovereignty. (Pysmenskyi Ye. O., Movchan R. O. 2022).

A key characteristic of such a crime is the presence of direct intent – that is, the person is aware of the nature of his or her activity, understands its consequences, and desires or consciously allows harm to be inflicted on Ukraine. This is not about passive observation but about active involvement in activities aimed at weakening the state (3, Dudorov O. O., Movchan R. O. 2022: 116).

In the criminal law context, aiding the aggressor state and collaborationism are related but distinct phenomena that require clear differentiation both in legal and moral dimensions. Collaborationism is a much broader concept. It encompasses various forms of cooperation with occupation administrations or the armed forces of the aggressor, which may be caused either by external pressure (coercion) or by personal motives: the desire to avoid persecution, to preserve property, to provide for one's family, or, regrettably, to obtain benefits, political patronage, or recognition from the aggressor. The motives of collaborators are often marked by opportunism, cowardice, or conformism, which, although not justifying them, legally require assessment taking into account the circumstances. (Khoroshun D. V. 2024).

Aiding, however, is a phenomenon of another level. It is a deliberate, deeply conscious participation in activities aimed at directly assisting the aggressor in its attempts to destroy the statehood of Ukraine. Such actions are often motivated by deeply rooted hostile beliefs – for example, the ideology of the "Russian world," nostalgia for the Soviet past, or hatred of Ukrainian identity. It is precisely this internal moral corruption, the criminal desire to serve the evil committed by the aggressor state, that makes aiding particularly socially dangerous (Mokina I. 2025). Thus, collaborationism may be conditioned by external circumstances, while aiding is a choice. A conscious, voluntary, and criminal choice, aimed not at adaptation but at active assistance to the enemy. Therefore, the legislator rightly provides for more severe sanctions for such actions, given the scale of the threat posed by the aider – as an agent of evil working from within against his or her own people with clearly formed intent.

Intent in criminal law is not an external but a deeply internal mental process, formed in the individual's consciousness as a reflection of his or her understanding, beliefs, and will. It is a legal category that has no direct material manifestation, but is revealed through external behavior: actions, statements, social connections, communication, and their consequences. Thus, intent is the core of the subjective side of the crime, which cannot be reduced to an assumption – it must be proven on the basis of a convincing set of objective and subjective factors.

The cognitive (intellectual) component of intent lies in the fact that the person clearly realizes the actual nature of his or her behavior, in particular that the actions are aimed at actually facilitating the implementation or support of the political or military decisions of the aggressor state, as well as the activities of its armed formations or occupation administration. Such actions include, in particular, the voluntary collection, preparation, and transfer of material resources or other property in favor of the said entities. The main motive and purpose of such actions is to undermine the territorial integrity, sovereignty, and defense capability of the Ukrainian state.

In the composition of the crime provided for by Article 111-2 of the Criminal Code of Ukraine, socially dangerous harm is not interpreted as a mandatory consequence of the act that must inevitably occur. On the contrary, such harm is seen as the target orientation of unlawful behavior, expressed in the conscious and voluntary participation of a person in activities aimed at supporting the decisions or actions of the aggressor state, its military units, or occupation authorities. The content of this act also includes the voluntary material provision of these structures. Thus, harm within the framework of this crime is inherent in the very fact of aiding activity, which by its nature is aimed at weakening the state sovereignty, territorial integrity, and defense capacity of Ukraine, and is not defined solely by its consequences. (Chornyi H. O., Kostenko M. V. 2024).

The volitional (motivational) component of intent reveals a deeper level – the direction of internal will. It is about the presence in a person of the intention to assist the aggressor state, his or her purposeful anti-Ukrainian orientation, adherence to a hostile ideology that denies the very legitimacy of Ukrainian statehood. Often such hostility has distinct historical, cultural, or political sources – in particular, nostalgia for the Soviet Union, sympathies for the imperial doctrine of the "Russian world," or outright ideological aggression manifested in public rhetoric, participation in information operations, appeals, or financing of destructive structures. Since intent is an internal phenomenon, investigative bodies and the court cannot directly observe it, but are forced to infer it from the whole set of external manifestations of the individual's internal state. These include behavior, statements, the form and content of communication, financial or organizational actions, participation in certain networks and environments.

That is why forensic psychological examination (not to be confused with psychiatric) plays a significant role, as it makes it possible to assess the convictions of the aider-offender, the motivational content of his or her behavior, the inclination to ideological aggression or antisocial activity. Such conclusions are of great importance not only for establishing intent as a legal fact, but also for the objective qualification of a crime encroaching on the foundations of national security (Tymchyshyn A. M. 2020: 298).

Legal doctrine recognizes that intent has a dual nature – cognitive and motivational. The cognitive component lies in the awareness of the factual circumstances of behavior, in particular that certain actions contribute to the interests of the aggressor state. The motivational component, sometimes called volitional, lies in the desire to achieve or, at the very least, in the conscious admission of consequences harmful to Ukraine. In this context, forensic psychological examination acquires special importance: it is designed to clarify whether the person could realistically have been unaware of the state of war, of the aggressive policy of the occupying state, or, on the contrary, whether he or she was well aware of the situation and nevertheless consciously chose the side of the enemy.

If it is established that the individual's behavior was dictated by anti-Ukrainian convictions, emotional hostility, sympathy for the enemy, or contempt for Ukrainian statehood, then the conclusion about the presence of a clear, ideologically colored intention to cause harm becomes fully justified. (Dudorov O. O., Movchan R. O. 2022).

It is especially often found that the motivation of the aider is connected with nostalgia for the Soviet past, with identifying oneself with the "Russian world," with the rejection of the European civilizational choice and the denial of Ukrainian identity. All this is not merely markers of a personal position, but – from the point of view of law – factors that form a conscious volitional intention to assist the aggressor by implementing or supporting its decisions and/or actions, by supporting the armed formations and/or the occupation administration of the aggressor state. In the context of aiding, there are also considered the facts of voluntary fundraising, preparation and/or transfer of material resources or other assets to representatives of the aggressor state, its armed formations and/or occupation administration (Mokina I. 2025).

Psychological examination in criminal proceedings regarding aiding the aggressor state and/or collaborationism is a special type of scientifically grounded research, aimed at clarifying the psycholog-

ical factors that determine the content, motivation, volitional structure, and dynamics of the behavior of the person suspected or accused of actions that could be aimed at undermining the national security of Ukraine.

According to Article 101 of the Criminal Procedure Code of Ukraine, an expert opinion constitutes a detailed presentation of the research conducted, as well as reasoned answers to the questions posed by the person or body that appointed the examination – the investigator, the investigating judge, or the court. In cases concerning encroachments on the foundations of national security, particularly in complex instances, an expert opinion may have decisive significance for the correct legal qualification of an act as a crime against the state. The final stage of expert research is the preparation of the opinion, which, according to the law, may have the status of an independent piece of evidence within criminal proceedings.

Pursuant to Part 2 of Article 84 of the Criminal Procedure Code of Ukraine, sources of evidence include, among others, expert opinions. In the context of investigating crimes related to aiding the aggressor state, expert opinions may be of substantial importance, since they allow, from a professional standpoint, to determine whether the examined person was aware of the nature of their actions, whether they could control them, and whether they acted under the influence of external factors such as coercion, deception, or dependence (Tymchyshyn A. M. 2020: 132).

Thus, an expert opinion in such criminal proceedings may play a key role in the formation of the evidence base, allowing the provision of a legal assessment of the person's mental state and their ability to consciously participate in criminal activity.

At the same time, from a procedural and practical perspective, forensic psychological examination performs an independent evidentiary function. Its opinion may serve as full-fledged evidence, either confirming or refuting the presence of intent in the composition of the crime, particularly in complex and borderline cases where formal features are insufficient for a clear legal conclusion. In certain cases, it is precisely the expert's determination of cognitive awareness, volitional intent, and ideological motivation that becomes the key factor allowing a lawful qualification of actions as a crime against the foundations of national security.

Therefore, the significance of psychological examination in cases of aiding the aggressor state is not auxiliary or optional. It acts as a central instrument in revealing the inner content of criminal intent, and hence as a guarantee of fairness in judicial proceedings and a safeguard against abuses in the sphere of freedom of expression (Vashchuk O. P. 2017: 20).

Forensic psychological examination in cases related to aiding the aggressor state is an exceptionally important tool for determining the motivation that underlies such acts. In practice, such an examination is appointed by the investigator, prosecutor, or court when it is necessary to determine whether the person was aware of the consequences of their actions in the context of open war. This may concern both the stage of pre-trial investigation and the trial itself, when it is necessary to determine the inner motives of the defendant.

Qualified psychologists holding the specialty of forensic psychological expert are involved in the examination; such activities may only be carried out by individuals included in the special register of forensic psychological experts. Accordingly, the expert must be independent and impartial, and their opinion must be based on scientifically grounded methods and be objective. The main task of the expert is to clarify the existence in the examined person of the cognitive component, that is, their ability to comprehend the real meaning of their own actions, to consciously control them to the fullest extent, and, taking into account their age, emotional state, individual psychological characteristics, and conditions of the microsocial environment (dependence, influence, pressure, deception, etc.), to assess the situation in which they acted (Tymchyshyn A. M., 2020: 133).

The expert must determine whether the person could understand the nature of their actions in the context of armed conflict, as well as whether they were able to realize that their actions could be used in

the interests of the aggressor state. This does not concern the level of awareness or possession of knowledge in political or military matters, since legal qualification under Article 111-2 of the Criminal Code of Ukraine does not require the occurrence of specific consequences as a mandatory element of the crime.

An important part of the examination is the study of the volitional element of actions, namely the motivation behind the person's conduct. Psychological examination helps to establish whether the person's will was directed toward assisting the aggressor, or motivated by anti-Ukrainian beliefs. In such cases, the expert analyzes the person's attitude toward Ukrainian statehood, the aggressor's policies, as well as whether their support was reinforced by ideological convictions, for example, adherence to the "Russian world" or nostalgia for the Soviet past. Psychological analysis allows establishing whether the person's actions constitute conscious participation in undermining the sovereignty and security of Ukraine, or whether they are accidental or ill-considered deed (Vashchuk O. P. 2017: 23).

The final stage of the examination is the preparation of the expert opinion, which may serve as independent evidence in a criminal case. In complex cases, the expert opinion is crucial for the proper qualification of actions as crimes against the state. In particular, if the examination indicates the person's conscious intent to harm Ukraine due to ideological or political convictions, this substantially strengthens the prosecution.

Thus, psychological examination is not merely an auxiliary tool but a component part of establishing the truth in the case, allowing answers to questions inaccessible to purely logical and factual analysis. (Tymchyshyn A. M. 2021).

Conclusions. Forensic psychological examination should be viewed not as an auxiliary measure but as a central and indispensable instrument in the investigation of crimes related to aiding the aggressor state. Its primary importance lies in its ability to reveal the inner content of criminal intent, a latent and subjective element that cannot be established through material evidence alone. By offering an objective and scientifically grounded assessment of both the cognitive and volitional aspects of a suspect's intent, such expertise enables investigators and courts to determine whether an individual acted with full awareness of their conduct, the potential consequences of their actions, and whether their behavior was motivated by anti-Ukrainian convictions or ideological hostility. This makes the role of expert opinions especially decisive in cases where the available factual evidence is insufficient for clear legal qualification.

The significance of forensic psychological expertise extends beyond confirming guilt in individual cases. It also plays a vital role in safeguarding fairness and the rule of law, ensuring that criminal responsibility rests on a comprehensive understanding of both external behavior and internal motivation. In the context of a full-scale war, where the boundaries between coercion, opportunism, and genuine ideological alignment with the aggressor often blur, psychological expertise becomes even more critical for preventing judicial errors and protecting human rights.

From a broader research perspective, this field has substantial potential for development. Future directions include improving diagnostic methods and assessment techniques to enhance the reliability of conclusions, integrating knowledge from psychology, criminology, political science, and law to achieve a more holistic understanding of the mechanisms of aiding an aggressor, and analyzing comparative legal practices to harmonize approaches across jurisdictions. At the same time, ethical challenges must be addressed, particularly the balance between national security concerns and the protection of fundamental rights, especially where ideological convictions and freedom of expression intersect with criminal liability. Equally important is the practical task of establishing standardized protocols for the training, accreditation, and independence of forensic psychological experts to guarantee impartiality and consistency in their work.

In conclusion, forensic psychological examination represents not only a crucial evidentiary tool in criminal proceedings but also a promising field for scientific progress and interdisciplinary dialogue.

By strengthening its methodological foundations and ensuring its fair and consistent application, Ukraine and the broader international community can enhance their ability to address modern security threats while upholding the principles of justice and human dignity.

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