

# PREVENTION OF WAR AND ECONOMIC CRIMES UNDER MARTIAL LAW IN UKRAINE

Dmytro Shvets<sup>1</sup>, Maksym Korniienko<sup>2</sup>, Ruslan Karagioz<sup>3</sup>

**Abstract.** The objective of this study is to elucidate the challenges inherent in the prevention of military-economic crime under martial law in Ukraine. In the light of the study's findings, the authors proceed to analyse the measures to prevent military-economic crimes under martial law in Ukraine. This analysis enables the identification and detailed characterisation of three principal levels: general social, special criminological and individual preventive. In the context of studying the general social prevention of military-economic crime, it has been demonstrated that the formation of patriotism among servicemen of the Armed Forces of Ukraine and other military formations is unfeasible without the implementation of an appropriate set of state and social measures aimed at fostering the consciousness and behaviour of the individual in anticipation of their future role as a serviceman. These measures must be designed to cultivate a range of qualities, including civil, socio-psychological, moral, physical, military professional and volitional qualities, in order to ensure the fulfilment of both the constitutional duty of Ukrainian citizens to protect the Motherland and the effective execution of combat missions in any circumstances. Within the framework of special criminological prevention of military-economic crime, the study substantiates and proves the need to create mental health units at the level of divisions and brigades, which should be headed by psychiatrists and include mental health officers (licensed psychologists and/or social workers with specialised education who have at least one year of experience in relevant medical institutions). The article establishes that the main purpose of individual prevention of military-economic crime is a positive correction of a serviceman's personality aimed at changing his behaviour from anti-social to law-abiding, and therefore the main measures of individual prevention of military-economic crime in the Armed Forces of Ukraine and other military formations should be the following: identification of sources of negative influence that contribute to the commission of military economic criminal offences; examination of the personality of typical offenders; forecasting the individual behaviour of persons prone to commit military economic criminal offences; planning individual preventive measures for identified persons; implementation of appropriate corrective influence on the personality of a typical offender aimed at avoiding the commission of military economic criminal offences; control over the behaviour of typical offenders.

**Keywords:** military-economic crime, prevention, martial law, crime in the army, crime prevention measures.

**JEL Classification:** K10, K15

## 1. Introduction

Ensuring the rule of law and military discipline in the army, establishing clear rights and obligations of servicemen, their legal and social protection strongly dictate the need to improve not only military but also criminal legislation and the practice of its application in modern conditions.

The proper performance by the Armed Forces of Ukraine and other military formations of their duties of defence and protection of the state and society

depends on ensuring national security and defence of the state, and therefore the public danger of military-economic crimes, unlike most criminal acts committed by civilians, objectively affects the combat readiness of military units and formations.

Crime in the army is recognised as the most dangerous destabilising factor that has an extremely negative impact not only on the armed forces, but also on the national security of the state – the higher the level of crime, the less chance there is of using

<sup>1</sup> Odesa State University of Internal Affairs, Ukraine  
E-mail: [shvets@ukr.net](mailto:shvets@ukr.net)

ORCID: <https://orcid.org/0000-0002-1999-9956>

<sup>2</sup> Odesa State University of Internal Affairs, Ukraine (corresponding author)  
E-mail: [oduvs2015@ukr.net](mailto:oduvs2015@ukr.net)

ORCID: <https://orcid.org/0000-0002-6420-6169>

<sup>3</sup> Odesa State University of Internal Affairs, Ukraine  
ORCID: <https://orcid.org/0000-0002-6753-6155>



the army as an effective tool for solving foreign and domestic problems.

Prevention of military-economic crime is one of the most acute contemporary problems in the context of martial law in Ukraine, which today requires an appropriate and radical rethinking.

## 2. Literature Review

In view of the extremely acute problem of updating, improving, changing, expanding the legal framework for the prevention of military-economic crimes, minimising negative criminal trends, neutralising the causes and conditions of criminal offences, as well as blocking the channels, sources and opportunities for their production, an important area of activity for improving the functioning of the system is the theoretical development of the problems raised (Shkuta, 2022).

Criminology, legal acts and scientific literature use the terms "prevention", "prevention", "suppression" and "deterrence", which are similar in meaning. Some scholars distinguish between the terms "prevention" and "suppression" and associate them with different levels, directions and types of activity.

The relationship between the concepts of "prevention", "suppression" and "prevention" is most accurately elucidated by Y. F. Ivanov and O. M. Dzhuzha, who conceptualise crime prevention as a multi-level system of state and public targeted measures to identify, eliminate and neutralise the causes and conditions of crime. In light of this, prevention is regarded as an endeavour to eradicate, neutralise or diminish the elements that give rise to criminality or contribute to it (Shkuta, 2022).

Termination is the action aimed at stopping criminal activity that has already begun and preventing the occurrence of a criminal result. Prevention is the activity of the state and society aimed at keeping crime at the lowest possible level by eliminating its causes and conditions, as well as preventing and stopping specific criminal offences.

Depending on the hierarchy of causes and conditions of crime, there are three main levels of crime prevention: general social, special criminological and individual, which were discussed in Chapter 3 of the dissertation (Shkuta, 2020).

The main task of the Armed Forces of any state is to protect its sovereignty and defend against acts of aggression both from other states and within its borders from various threats (e.g., terrorist groups, etc.). The creation, maintenance and use of the Armed Forces is the right of the state, which allows it to remain independent and pursue its national interests. The army as an institution of the state appeared with the emergence of the first states of the world. At the same time, the first need arose for legal

regulation of the responsibility of servicemen for military criminal offences (Shkuta, 2020).

According to the authors, the Armed Forces of Ukraine should remain outside of political discussions and the distribution of power, but then the Constitution of Ukraine should be amended to state that the President of Ukraine cannot be the Commander-in-Chief, otherwise it will be very difficult to circumvent the political component.

## 3. Materials and Methods

The study is based on the work of Ukrainian and foreign scholars on methodological approaches to understanding the problems of preventing military-economic crime under martial law in Ukraine.

The study used general scientific and special methods, in particular: hermeneutic – to understand and interpret the texts of scientific articles, monographic publications, educational materials, which contributed to the disclosure of the content of the problems raised; sociological – to clarify the positions and opinions of scientists and practitioners on the causes and conditions of military-economic crime; dogmatic – to identify positive foreign experiences in the field of prevention of military-economic crime; and statistical method – to develop statistical indicators of military-economic crime.

## 4. Results and Discussion

At the current stage of state-building in Ukraine, society is paying considerable attention to issues related to the crime situation in the country, the state of countering criminal offences, preventing the criminalisation of society, and neutralising negative trends in this process. First of all, these are issues of an emergency nature that are directly related to the national security of Ukraine, the safety of its citizens, the protection of constitutional rights and freedoms, law and order in the country. In this context, the problem of preventive activities becomes particularly acute, which today is complex and contradictory in its content, ambiguous in terms of the consequences of organisational reform processes and radical changes in social relations. Therefore, ensuring internal stability, law and order and legality in the system and the mechanism of its functioning has become crucial, as this is the basis of national security (Dmytrenko, 2021).

There are many reasons for the aggravation, complication and negative crime situation in Ukraine in general and in the Armed Forces of Ukraine in particular. Firstly, it is Ukraine's economic and social problems, the slow pace of reforming society, and the subjective inhibition of this process. Secondly, there is a notable deficiency in the efficiency of law enforcement agencies, both at the central and

local levels. This is largely attributed to the fact that law enforcement is primarily oriented towards the detection and investigation of criminal offences that have already occurred. Rather than focusing on the prevention of criminal offences by influencing the underlying causes and conditions that facilitate their occurrence, there is a significant issue with the legislative framework for combating and preventing military-economic criminal offences. This framework is characterised by substantial gaps and outdated norms that render it practically ineffective (Shkuta, 2022).

In criminology, most Ukrainian scholars advocate the position that the state and trends of a particular type of crime directly depend on the state of general crime in the state, which is closely interconnected with general, economic, political, social, legal, organisational, moral and psychological and other processes.

At the same time, the study of the state and trends of military-economic criminal offences made it possible to establish that neither general social nor economic and social processes in the country have such an extraordinary impact on the growth of military criminal offences as changes in the military-political situation in the country.

Thus, according to analytical data, in 2013, 563,560 criminal offences were committed in Ukraine, of which 369 (0.065% of the total number of criminal offences committed) were military criminal offences.

The consolidated analytical data on the state and trends of criminal offences in Ukraine in 2013-2022 showed that during 2013-2018, more than 0.5 million (2013 – 563,560; 2014 – 529,139; 2015 – 565,182; 2016 – 592,604; 2017 – 523,911) criminal offences were committed annually in the country. In 2018-2022, there was a trend towards a sharp decline. Hence, in 2018-2019, the number of criminal offences committed

decreased by about 40 thousand per year, which led to a 15% decrease in the overall crime rate in the country in 2018 (487,133), 21% in 2019 (444,130), 36% in 2020 (360,622), 43% in 2021 (321,443), and in 2022 it started to grow again and amounted to 31.5% (362,636) of the total number of registered criminal offences in 2013 (563,560), which is not the case with the trend of military criminal offences. Despite the overall reduction in 2014 (529,139) by 7.2% of the total number of crimes compared to 2013 (563,560), the number of military criminal offences committed during the period under review increased more than 11 times (from 369 in 2013 to 4153 in 2014).

In the context of general crime, the rate of military criminal offences in 2014 was 0.8% (4153/529,139), in 2015 – 1.1% (6213/565,182), in 2016 – 0.6% (3650/592,604), in 2017 – 0.9% (4577/523,911), in 2018 – 0.8% (3694/487,133), in 2019 – 0.8 (3616/444,130), in 2020 – 1.1% (4055/360,622), in 2021 – 0.9% (3037/321,443), and therefore it can be stated that from 0.065% in 2013, over the next nine years (2014 – 24.02.2022) military criminal offences in the system of general crime in the state began to occupy about 1% (Figure 1).

As can be seen, the indicators of military criminal offences are characterised by wave-like fluctuations, with the highest rates observed in 2015 (6213), 2017 (4577) and 2020 (4055), and the lowest in 2021 (3037).

In 2016, 2018 and 2019, the figures were close to 2021. During 2016-2019, the total number of military criminal offences fluctuated downwards, which, in the authors' deep conviction, is a biased indicator, as it does not cover a large layer of hidden (latent) crime.

Martial law, introduced by Presidential Decree No. 64/2022 of February 24, 2022, became

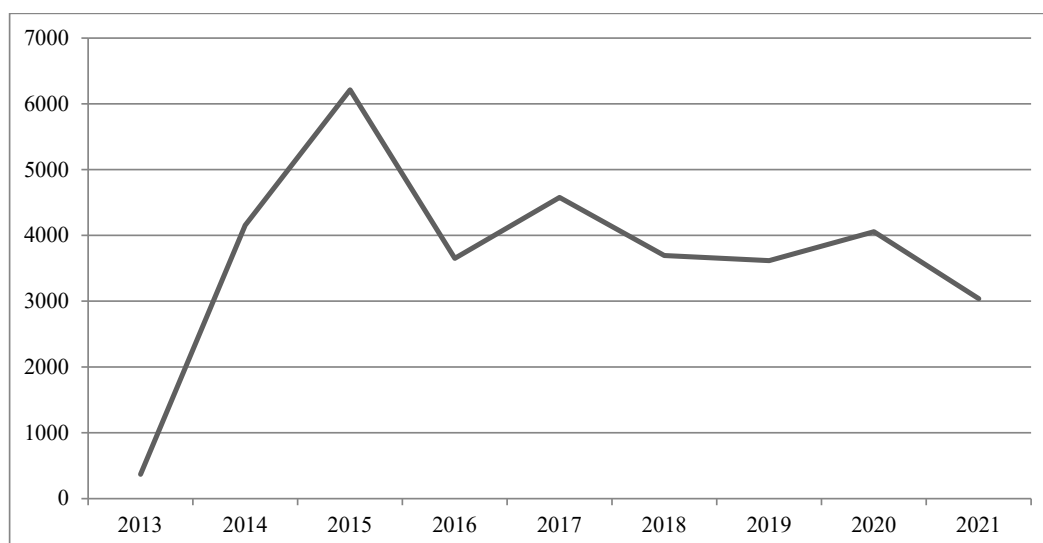


Figure 1. Indicators of military criminal offences in 2013-2021

a litmus test for a record increase in military crime, and amid a general decline in crime in the country, the commission of military criminal offences increased rapidly, with an average rate of 3.8% in 2022 in the system of general crime in the country and 4.5 times higher than in 2021 (Figure 2).

Depending on the identified causes and conditions of military-economic crime, scholars distinguish three main levels of prevention: general social, special criminological and individual prevention (Arkusha, 2019).

General social prevention includes the creation and implementation of targeted state programmes and strategies for the reform of the national army, aimed at effectively addressing the problems existing in the Armed Forces of Ukraine and other military formations that contribute to the commission of military-economic crimes.

As a rule, the main directions of general social crime prevention should cover the three main components: socio-economic, political and legal, and spiritual and moral (Shkuta, 2020) spheres of public life.

Despite the current martial law in Ukraine and a significant increase in financial support for the state's defence and security sector, the results of surveys of SBI and specialised prosecutors in the defence and security sector (42.7%) and military personnel of the Armed Forces of Ukraine and other military formations (61.4%) have shown that one of the main problems in the military sphere is the unresolved socio-economic issues of military personnel, which, according to 82.6% of respondents, should be addressed by increasing state funding.

Specialised criminological prevention of desertion in Ukraine is closely linked to general social prevention.

However, in contrast to general social prevention, it has a specific objective and is designed to identify and eliminate (block, neutralise) the factors that contribute

to crime, which is its defining feature. Concurrently, special criminological prevention encompasses both the prevention of planned and prepared criminal acts and the suppression of criminal acts that have already been initiated.

The main difference between special criminological prevention measures and general social ones is that their effect is tactical rather than strategic (Dmytrenko, 2022), and therefore special criminological prevention of criminal offences should be understood as a social process based on the use of special methods and techniques, knowledge and skills of regulating social relations solely with the aim of eliminating their negative aspects that may lead to the commission of criminal offences, i.e., with the aim of ensuring the requirements of criminal law (Arkusha, 2019).

A separate component of the criminological prevention of military-economic criminal offences is organisational and managerial measures, which should primarily include improving the work of law enforcement agencies.

In contrast to the special criminological prevention, individual prevention of desertion in Ukraine is a measure aimed at preventing it from being committed against specific individuals.

In the Armed Forces of Ukraine and other military formations, measures of individual prevention of military-economic crime are carried out within the framework of an educational and socio-psychological programme. This is defined as a system of organisational, informational, pedagogical, psychological, legal, military-social and cultural-educational measures aimed at fostering and developing the moral and combat qualities that are required at the professional level. The objective is to ensure that military collectives possess the requisite moral and psychological stability, which should facilitate high combat and mobilisation readiness of command and control

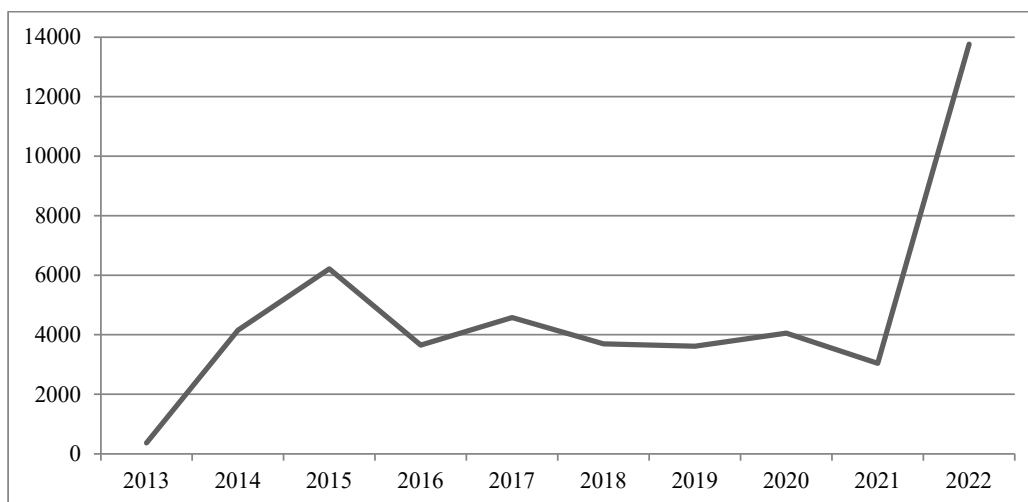


Figure 2. Indicators of military criminal offences in 2013-2022

bodies, formations and units, as well as a high level of combat and operational training, the reinforcement of military discipline and law and order, and the unity of military collectives to guarantee the training and performance of tasks by troops (forces) (Shkuta, 2020).

The purpose of individual preventive measures to prevent the commission of military-economic criminal offences should be a positive correction of the personality of a serviceman aimed at changing his behaviour from anti-social to law-abiding.

The main measures of individual prevention of military-economic crimes in the Armed Forces of Ukraine and other military formations should be: identification of persons prone to commit such crimes, study of these persons and sources of negative influence on them, forecasting of individual behaviour, planning of individual preventive measures, corrective actions on a person, control over the achievement of the goal of individual prevention and recording (documentation) of its process and the achieved results, which may have different focuses, but the authors consider psychological, informational and social measures of individual prevention to be the main ones (Shkuta, 2020).

## 5. Conclusions

The analysis of the measures to prevent military-economic crime under martial law in Ukraine has made it possible to identify and describe in detail its three main levels: general social, special criminological and individual preventive measures. Within the framework of the study of the general social prevention of military-economic criminality, it is proved that the formation of patriotism among the servicemen of the Armed Forces of Ukraine and other military formations is impossible without the provision of an

appropriate set of state and social measures aimed at the consciousness and behaviour of the personality of a future serviceman, the purpose of which is the formation of high civil, socio-psychological, moral, physical, military-professional and volitional qualities aimed at ensuring both the constitutional duty of Ukrainian citizens to defend the Motherland and the proper performance of combat missions in all conditions. In the context of special criminological prevention of military-economic crime, the authors present a rationale and evidence for the establishment of mental health units at the level of divisions and brigades. These units should be led by psychiatrists and comprise mental health officers, namely licensed psychologists and/or social workers with specialised education and at least one year of experience in relevant medical institutions. It is established that the main purpose of individual prevention of military-economic crime is a positive correction of a servicemen's individuality aimed at changing their behaviour from anti-social to law-abiding, and therefore the main measures of individual prevention of military-economic crime in the Armed Forces of Ukraine and other military formations should be the following: identification of sources of negative influence that contribute to the commission of military-economic criminal offences; study of the personality of typical offenders; forecasting the individual behaviour of persons prone to commit military-economic criminal offences; planning individual preventive measures for identified persons; implementation of appropriate corrective action on the personality of a typical offender aimed at preventing the commission of military-economic criminal offences; control over the behaviour of a typical offender.

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