

CHAPTER «PSYCHOLOGICAL SCIENCES»

PSYCHOLOGICAL AND LEGAL CHARACTERISTICS OF CRIMES AGAINST THE FOUNDATIONS OF NATIONAL SECURITY UNDER THE CRIMINAL CODE OF UKRAINE

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Abstract. Legal psychology as a comprehensive science taught at many leading universities in Ukraine poses the following challenges to students and society. Research of psychological principles and rules of the penitentiary system; effectiveness of influence of organisational, legal, regime and other measures on the personality of a convict; psychological problems of recidivism prevention; development and implementation of relevant recommendations; analysis of problems of improvement of regulatory, administrative, organisational, educational and training practice of professionalism in legal activity; development of methods of professional and psychological training in relevant professional fields, prevention and elimination of professional deformation of lawyers. The new challenges facing Ukraine are leading to changes in state policy in various areas. According to the authors, one of the priority areas is to strengthen national security through various legal means. An important segment of this state policy is to bring the system of rules on liability for crimes against the foundations of national security to the current needs of Ukraine.

The *purpose* of this paper is to identify the problematic issues that arise in improving criminal liability for crimes against the principles of national

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security of Ukraine, as well as to identify psychological factors through the prism of causal reality in today's conditions. It is necessary to find out why individuals commit the acts provided for in Section I of the Criminal Code of Ukraine, Special Part; what determinants are present in their minds that contribute to the commission of this particular group of crimes; how extremist activity correlates with the main motive for committing crimes against the fundamentals of national security.

The *methodology* of the work is the dialectical method of scientific knowledge, which made it possible to consider the object of research fully and comprehensively, with all its connections and interdependencies. The research was based on the dialectical categories of the general interconnection of all phenomena, their determinism, the relationship between quantitative and qualitative changes, the transition of quantity to quality, etc. In the process, the principles of historicism, objectivity, specificity and systematicity were observed when considering the object of study. The following general scientific research methods were used: abstraction and generalisation, analysis and synthesis, transition from the abstract to the concrete and from the concrete to the abstract, a systematic approach, as well as a number of special research methods, such as historical, logical and semantic, comparative, systemic and structural, dogmatic (formal and logical), statistical (time series analysis, structural analysis, correlation analysis, trend extrapolation).

Results. Some crimes against the fundamentals of national security of Ukraine, in particular, those provided for in Articles 109, 110, 112 of the Criminal Code, may have a pronounced political colouring. In the context of political and ideological diversity as the basis of public life, it is possible that the commission of these crimes by certain individuals may be provoked by their political or ideological opponents. In this regard, it should be emphasised that even if the provocateur does not actually have the relevant purpose or motive provided for as a mandatory feature of one of the listed corpus delicti (violent change or overthrow of the constitutional order, seizure of state power, causing international complications, etc.), this does not exclude criminal liability for incitement to commit the relevant offence. The provocation of a crime is a special form of incitement to commit a crime, whereby one person causes or significantly strengthens another person's intention to commit a crime, in order to then expose the latter in

the commission of the crime. According to the rules of complicity, it is sufficient for only one of the accomplices to be guided by a specific purpose or motive. The main characteristic of extremist consciousness is the presence of a motivating element of direct action and the ideological validity of putting the idea into practice. At the same time, an individual's adoption of an extremist ideology cannot be legally classified as extremism. This is the discrepancy between the narrow legal approach to understanding extremism and the broad general scientific way of defining this phenomenon. Social disciplines such as sociology and political science study extremism at the ideological and motivational level, independent of the fact of the act. This means that ideological constructions, value orientations and behavioural guidelines themselves come under the scrutiny of the social sciences.

Practical implications. Since legal psychology is an applied branch of psychology that studies the patterns and mechanisms of the psyche of people involved in relations regulated by law, as well as a scientific and practical discipline that studies the psychological mediation of legal relations and legal behaviour, the data obtained in the course of this study can be used in lectures on the educational components of Legal Psychology, Criminal Law: Special Part, Criminology, etc. In addition, the data generated by this research can be used to inform further scientific developments on related topics.

Value/originality. Possession of knowledge in the field of legal psychology in the field of understanding the psychology of crimes against the foundations of national security will help a specialist to better manage their life, exercise control over their own behaviour, and develop professional self-awareness. Knowledge of the psychological laws of the relationship between the individual and the collective (the state) is of great importance for preparing lawyers for useful and competent activities, the correct performance of official and public functions.

1. Introduction

Crimes against the principles of national security of Ukraine are the most dangerous encroachments on social relations ensuring state security, defence capability, independence of the state and its constitutional order. Without adequate criminal protection of these social relations, the normal functioning of the state and its relevant institutions is impossible. Without stability in society, it is also impossible to effectively combat crime, including

such dangerous crimes as murder, rape, robbery, etc. For this reason, the first section of the Special Part of the Criminal Code contains articles on liability for crimes against the foundations of Ukraine's national security.

The generic object of the crimes provided for in this section are social relations for the protection of the foundations of national security of Ukraine: its constitutional order, sovereignty, territorial inviolability and defence capability. In other words, the generic object of these crimes is the social relations ensuring the very existence of Ukraine as a sovereign, independent, democratic, social and legal state (Article 1 of the Constitution of Ukraine).

The authors of the article believe that one of the main socio-psychological factors of committing crimes against the foundations of national security is extremism. One of the most significant features of extremism, according to the authors, is its focus on representatives of certain social groups or the established order of power relations in general or their individual elements. This characteristic is based on a sense of dissatisfaction with the current state of affairs, a sense of social deprivation or frustration. The feeling of dissatisfaction is the motive (causal basis) of extremist consciousness, which is the driving force behind extremist activity.

The rejection of the law and the denial of its value leads to the view that extremism is an anti-legal ideology. In fact, instead of law, it offers a different ideological system of criteria, rules and ways of evaluating events and objects in the world, based on unacceptable postulates and guidelines (for an individual, a social group or society as a whole). Such ideology leads to the destruction of civil society institutions, ineffectiveness of the rule of law, violation of rights, freedoms and legitimate interests of various subjects of law, creates nihilistic attitudes among citizens, generates social tension and distrust between different segments and groups of society, as it is determined by ideas that contradict such fundamental general legal principles as legality, equality, humanism, democracy and justice.

Legal psychology is a discipline that synthesises psychological and legal knowledge and identifies psychological mechanisms in legal activity. In the course of the study of the discipline, law students learn about the psychological laws of the "human-law" system, ways of applying psychological knowledge in various areas of legal activity, forms of cooperation between a lawyer and a psychologist (forensic

psychological examination, psychological counselling, etc.), directions and content of psychological and preventive work to prevent violations of legal consciousness and behaviour, psychocorrection measures, and also learn to apply psychological knowledge to analyse specific situations in professional activity.

2. Legal Psychology as a Leading Model for the Study of Psychological Peculiarities of Committing Crimes Against the Fundamentals of National Security (Under the Criminal Code of Ukraine)

Legal psychology is an independent field of knowledge on the borderline of psychology and jurisprudence. It studies psychological phenomena, mechanisms and patterns related to law, its emergence, application and influence in the integral system of "human – society – law". It focuses on the psychological aspects of personality, behaviour and activities in the field of law, since law itself is the result of human activity addressed primarily to humans.

The individual is a direct participant in real social relations (economic, industrial, service, etc.); he or she becomes a party to legal relations in all their diversity (civil, criminal, family, etc.) in connection with or in relation to facts that acquire specific legal significance in a given case. Legal psychology, like any applied science, aims to specify and deepen the knowledge of a specific type of activity, in this case legal. Legal science and practice using psychological knowledge does not cease to be a branch of law.

In criminal law, for example, general psychology is used to formulate such concepts as the subject of a crime, the subjective party, the motive and purpose of a crime, and so forth; social psychology is used to develop the problem of complicity and group criminal activity. However, in any legal activity and, accordingly, its psychological support, the formal requirements of the law, the obligation and necessity to comply with it, legal concepts and categories, rather than psychological patterns of psyche and behaviour, regardless of their social content, come to the fore.

In turn, legal psychology studies mental phenomena, processes, regularities arising in the field of law enforcement and application activities on the basis of current legislation, the specifics of the psychological content of law, its institutions and categories. The psychological subject matter of

legal psychology is inseparable from the subject matter of jurisprudence, they are integrally related and define different aspects of the same phenomena of personality, behaviour and activity.

The integration of law and psychology takes place at three levels [1, p. 99–100]:

- application of psychological knowledge in legal activities in its purest form;
- use of transformed psychological knowledge;
- synthesis of psychological and legal knowledge.

The first level is the direct use of psychological knowledge as a method of expert psychological assessment. In this case, the psychologist acts as an expert, specialist or consultant in criminal, civil or administrative proceedings or at the stage of execution of a sentence or other legal measures.

The second level is the branching, clarification, and improvement of legal concepts and institutions through the involvement of psychological categories, as well as the use of psychological methods by lawyers in research or law enforcement, law enforcement, preventive, and other legal practice, the use of psychological data in operational and investigative activities, crime investigation, correction and re-education of offenders, professional selection and recruitment, etc. This clarifies such concepts as "legal consciousness", "guilt", "sanity", "legal capacity", "offender".

The third level of interaction between psychology and law is more pronounced than the previous two and is bilateral. Jurisprudence's need for psychological knowledge has led to the emergence of legal psychology, a science that is both psychological and legal. The emergence of such a science stimulates the development and improvement of both psychological and legal knowledge.

Historically, the fear of psychologisation in the study of social phenomena, including legal phenomena, has led to the ignoring of the achievements of psychology and the dogmatic application of certain psychological realities by lawyers. Metaphorically speaking, a kind of void was created, filled with arbitrary interpretations of the same phenomena, terminological inaccuracies and contradictions. For a long time, the borderline problems of psychology and law remained outside the scope of basic research. The most developed aspects of legal psychology were applied to law enforcement, in particular to investigative practice.

Much later, criminal and penitentiary psychology and the methodological foundations of the science itself began to develop.

Legal psychology involves the consideration of the psychological content of modern social realities related to law and its application; everything that is not related to jurisprudence is outside of it. This approach is fundamentally important, as otherwise the subject matter of the science is lost.

Legal psychology synthesises psychological knowledge in this area, creating additional opportunities for the development of law and psychology, psychological support of legal practice. Thus, legal psychology is a scientific and practical discipline that studies the psychological laws of the human-law system, develops recommendations and ways to improve its effectiveness; the science of facts, patterns and mechanisms of the human psyche in the field of legal relations and legal behaviour.

Based on the dual nature of legal psychology, it is part of the system of both psychological and legal sciences at the same time. The authors believe that the holistic structure of psychological science and its continuous development with the subsequent formation of new branches determines the development of legal psychology, which is related to general, social, pedagogical, age, medical, pathological, occupational, sports, etc. At the same time, the links between legal psychology and certain branches are quite clear, while others are only outlined. In general, it can be assumed that legal psychology as an element of the integral system of psychological science is more or less connected and interacts with all its elements.

The emergence of legal psychology as a science was due to the fact that its basic laws and partial problems could not be explained at the level of general psychological concepts, but required the development of specialised methodological tools for the study and theoretical development of issues at the border between legal and psychological sciences. Legal psychology is fully consistent with Herbart's statement that psychology has a long prehistory and a very short history. After all, the treatise of the ancient Greek philosopher Theophrastus (IV-III centuries BC) "Characters" contains a description of certain associative traits inherent in certain types of personality.

The following main stages of development of legal psychology can be distinguished [7, p. 121–123]:

- I – descriptive (from antiquity to the beginning of the XIX century);
- II – comparative and analytical (XIX century);
- III – natural science (first half of the XX century);
- IV – modern (since the 60s of the XX century).

Undoubtedly, from the 1960s to the end of the twentieth century, legal psychology in the Soviet and post-Soviet space went through stages of revival, intensive development and transformation into an independent branch of humanitarian science and practice. Its main ideas and provisions were formed: concept, subject, object, place in the system of other sciences, basic principles and methods.

Signs of the scientific maturity of legal psychology in Ukraine are as follows:

- its official recognition and inclusion in the state list of scientific specialities (19. 00. 06);
- training of specialists of the highest level of qualification in this speciality (Doctors and Candidates of Juridical and Psychological Sciences);
- establishment of psychological services in law enforcement agencies, where practitioners implement the developments of legal psychology in their practical work;
- increase in the number of dissertation research and scientific publications, scientific and practical conferences, and the emergence of the periodical Legal Psychology and Pedagogy.

For the further development of legal psychology, it is promising to create a scientific community of specialists who professionally deal with the problems of legal psychology. This will help to coordinate efforts and make it more realistic to introduce legal psychological knowledge into lawmaking, law enforcement and law enforcement activities.

3. Legal Characteristics of Crimes Against the Fundamentals of National Security and Their Psychological Basis: Manifestations of Extremism

Since the publication of Presidential Decree No. 64/2022 "On the Introduction of Martial Law in Ukraine" of 24 February 2022, many changes have taken place, both in politics and in people's minds. However, the Russian-Ukrainian war has also made it necessary to instantly determine who is an enemy and who is a true patriot.

Undermining the sovereignty, independence and democracy of Ukraine, actions against Ukraine as a social and legal state can cause great damage to the constitutional order and other components of national security, and move Ukraine away from achieving modern ideals of the state and society. Thus, encroachments on these benefits are the most dangerous for the state, society and each of its members.

Crimes against the foundations of the national security of Ukraine, provided for in Section I of the Special Part of the Criminal Code of Ukraine (Articles 109-114), infringe not only on the security of the state, but also on national security in general, which, according to Article 1 of the Law of Ukraine "On National Security of Ukraine" No. 2469-VIII, is defined as the protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats. If this concept is transformed into a broader plane, then, it is nothing more than the protection of vital interests of a person and a citizen, society and the state, which ensures sustainable development of society, timely detection, prevention and neutralisation of real and potential threats to national interests in various areas of public administration (law enforcement, defence, healthcare, freedom of speech, scientific and technical, innovation, social, fiscal, customs, investment, monetary, etc.).

Crimes against the foundations of national security of Ukraine, due to their special significance, are placed in Section I of the Special Part of the Criminal Code of Ukraine. Other crimes, which are also in one way or another directed against the security of the state, unlike crimes against the foundations of national security of Ukraine, are not characterised by overtly anti-state motives and the aim to undermine or weaken the state, change its constitutional order or cause significant damage to its security.

When determining the types of crimes against the national security of Ukraine, one should first of all proceed from the aforementioned Law (Articles 7 and 8), according to which the main real and potential threats to the national security of Ukraine are, in particular (Table 1):

From the objective point of view, the crimes under consideration are characterised by socially dangerous actions. The time and setting of the crime are mandatory features for only one form of treason: siding with the enemy can only be committed under martial law or during an armed conflict, as well as for the crime of sabotage (Article 113 of the CC of

The main real and potential threats to Ukraine's national security

Field	Characteristic
<i>State Security</i>	Intelligence and subversive activities of foreign special forces; threats of encroachment by certain groups and individuals on the state sovereignty, territorial integrity, economic, scientific, technical and defence potential of Ukraine, rights and freedoms of citizens; threats of using nuclear and other facilities on the territory of Ukraine for terrorist purposes; manifestations of separatism, attempts to autonomise certain regions of Ukraine on an ethnic basis.
<i>Foreign Policy</i>	Encroachment on the state sovereignty of Ukraine and its territorial integrity.
<i>Domestic Policy</i>	Threats to the constitutional order; the possibility of conflicts in inter-ethnic and inter-confessional relations; manifestations of separatism.
<i>Scientific and Technological</i>	Insecurity of the domestic high-tech market from foreign technical and technological expansion; outflow of scientists, specialists and skilled labour outside Ukraine.
<i>Environmental</i>	Risks of man-made and natural emergencies; deterioration of the ecological state of water basins; and the risk of man-made, including nuclear and biological, terrorism.
<i>Informational</i>	Disclosure of information constituting state and other secrets provided for by law; attempts to manipulate public opinion, in particular by disseminating false or biased information.

Ukraine), where part 2 of this Article specifies acts committed under martial law or during an armed conflict as a qualifying feature.

The subject of crimes against the foundations of national security of Ukraine is a sane person who has reached the age of 16 (the subject of a crime under Article 112 of the CC is 14 years old).

A special subject is a feature of only two corpus delicti of crimes against the foundations of national security of Ukraine: in the crime under Article 111 of the CC, it is only a citizen of Ukraine, and in the crime under Article 114 of the CC, it is only a foreigner or stateless person. The qualifying feature of the crimes under Articles 109 and 110 of the CC is that they are committed by a special subject – a representative of the authorities.

From the subjective side, crimes against the foundations of national security of Ukraine are characterised by direct intent only. The vast majority of them are committed with the aim of weakening the state, which implies

an intention to reduce the economic, scientific, technical, military, etc. potential of Ukraine.

Motives are not mandatory characteristics of crimes against the foundations of Ukraine's national security. They can be different and have criminal law significance mainly as circumstances that mitigate or aggravate the punishment (Articles 66 and 67 of the CC). An exception is the offence under Article 112 of the CC: the motive for an attempt on the life of a state or public figure is the desire to stop the activity of a certain person as a state or public figure, or revenge for such activity.

The vast majority of these crimes are grave and especially serious. However, by their gravity, they are not considered crimes, but even criminal offences.

Based on the above, crimes against the foundations of national security of Ukraine can be defined as intentional socially dangerous acts provided for by the Criminal Code, which cause or threaten to cause significant damage to the national security of Ukraine in the field of state security, as well as in the political, information, scientific, technological and environmental spheres.

This paper proposes to study extremism as the main determinant of crimes against the foundations of national security. In the modern scientific literature, one can find various definitions of extremism. Most often, this concept is understood as a commitment to extreme views and means in ideology and politics to achieve certain goals. Extremism is understood not only as aggressive actions and violence, but also as negative views, beliefs, attitudes, hatred, cruelty, and approval of radical actions and statements.

Such hidden or latent extremism is a prerequisite for extremist actions. The approach that considers extremism as one of the manifestations of legal nihilism is worthy of attention, as these phenomena have a common nature and sources, and are related to each other as general and particular. As it is known, legal nihilism is a state of public and group legal consciousness manifested in the denial of law as a social value, negative attitude to law, legislation, means of legal regulation, belief in the uselessness of law, ignoring its capabilities and social usefulness. Accordingly, it can be said that extremism is a form of nihilistic denial of social relations protected by law, aimed at their destabilisation and destruction, which manifests itself mainly in the form of ideas and actions related to the illegal use or threat of violence [4, p. 76].

The essence of extremism is revealed through its characteristics: extremity, categorical intentions and actions, presentation of one's own position as the only correct one, and the desire to achieve what one wants by any means necessary. It is ideological violence against people or the destruction of social institutions and material values, and it is, above all, a serious threat to national security. Extremism is a form of aggression. Through direct physical coercion or as a result of ideological, mental, political or economic coercion, unlawful influence is exerted, which leads to harm to an individual, society or the state.

The threat of violence, as well as violence itself, is accompanied by intimidation aimed at partial or total demoralisation of the target. At the same time, there is non-violent extremism in the form of mass and organised peaceful manifestations of popular discontent (e.g., Article 109(2) and (3) of the Criminal Code of Ukraine). Extremist ideas and attitudes are much more widespread in society than overt manifestations of cruelty, hatred and violence. It is this hidden extremism that creates the basis for social tension. Extremism is a direct result of social and cultural contradictions in society.

Extremist sentiments are most likely to grow where there are inequalities and contradictions between the interests of social groups in political, economic, social, spiritual, racial, religious, geopolitical and other relations. Extremism is particularly aggravated during economic crises, when part of the economy is overshadowed, the social security system collapses, unemployment and impoverishment become widespread, and the gap between rich and poor widens. The social base of extremism is made up of low-income people whose standard of living is significantly lower than that of the rich.

These extremist sentiments are also fuelled by the weakening of state power, corruption, ineffective law enforcement, criminalisation of society, and the absence of an ideological concept in the state that is recognised and supported by the majority of the population. The main source of extremism is the crisis in society, which leads to anomie. It is the destruction of the value and normative system of society, a sharp decline in the influence of social norms on people's behaviour, the lack of normative regulation of certain areas of public life, types of social relations or the unwillingness of a significant part of the population to comply with existing norms, including legal ones, that are among the significant objective causes of extremism.

Extremists are characterised by fanaticism, hatred, acceptance of radical action to achieve a particular goal, intolerance and deliberate disregard for the norms and principles of law. Extremists are usually young people who seek to establish a just (in their view) world order, who are fanatically committed to a particular idea, who are prepared to make sacrifices to achieve it, and who disregard both their own lives and the lives of their peers and enemies, whom they fight by violent means.

Psychological reasons play an important role in the spread of extremism. A systemic social crisis, anomie, naturally leads to feelings of fear, powerlessness, uncertainty about the future and aggression as a defensive reaction to a hopeless situation. It should be noted that advances in modern means of communication, including information technology and social networks on the Internet, significantly expand the possibilities for spreading extremist ideas and contribute to the intensity of communication between different extremist organisations and individuals.

The manifestations of extremism are diverse, ranging from incitement to racial hatred to the operation of illegal armed groups. One form of extremism is terrorism, which is an act intended to disrupt public security, intimidate the population or influence the decision-making of the authorities. The activities of the state itself can also be extremist in nature, including actions that it considers to be counter-extremism.

As is known, extremism is divided into left-wing and right-wing depending on the ideological content of its doctrines. Left-wing extremism is inherent in extreme revolutionary movements, which are characterised by the most radical demands for the transformation of the world. The worldview of left-wing extremists is based on the postulates of anarchism, Marxism, Leninism, Trotskyism and other revolutionary political doctrines. Left-wing radical organisations declare their task to fight against existing political regimes, eliminate exploitation or even destroy the state.

Right-wing extremism spreads not only the ideology of class struggle, but also the ideas of struggle between races, nations, cultures and civilisations. Forms of right-wing extremism include right-wing populism, ultra-conservatism, fascism and religious fundamentalism. Both right-wing and left-wing extremism resort to undemocratic ways of solving social problems, denying ideological and political pluralism, imposing a single position on everyone, extreme, extraordinary measures, up to and including

terrorist acts and coup attempts, which destabilises society and hinders its development. The rise to power of extremist forces often leads to the establishment of dictatorial, totalitarian political regimes.

Depending on the object of extremist activity, the following types of extremism can be distinguished: political, religious, nationalist (ethnic or national extremism) and environmental, all of which are causes inherent in the commission of crimes against the foundations of national security. Political extremism is an ideological, organised, destructive and systematic political activity of individuals, parties, social movements, states, international organisations, which contradicts the officially proclaimed course of the country and current legislation, or even threatens the survival of entire communities or human civilisation as a whole.

The recent manifestations of political extremism prove that this phenomenon has reached the level of a global problem. A striking example of this problem is the announcement by the DPRK of its intention to conduct the most powerful hydrogen bomb test in the Pacific Ocean [7, p. 34–35]. It is a threat to the entire world. Political extremism usually targets the existing state system, individuals or political parties, as well as the most important life support systems of society. Political extremism is aimed at seizing power, radically changing the state system by destroying existing state structures and establishing a totalitarian dictatorship of the left-wing or right-wing persuasion. In this case, all means are used, including the physical destruction of the enemy. This type of extremism has become widespread in countries in the process of active state-building. An essential feature of political extremism is the categorical disregard by the parties to the conflict of the legitimate rules of engagement, the achievement of the declared goal by any means and with the help of any means, from physical violence to moral coercion and economic pressure. Political extremism is a characteristic feature of political crime.

As is well known, political crimes are socially dangerous forms of struggle for power or its illegitimate maintenance, carried out by ruling or opposition political elites, parties, social groups and individuals. In the modern world, religious extremism is widespread, characterised by intolerance towards members of other faiths or by bitter confrontation within one faith. This is a type of extremism based on religious ideology. Extremist religious ideology emphasises only certain aspects of traditional

religious ideology, to the exclusion of all others. Religious extremism takes many forms, from the activities of religious sects to attempts to create a state based on the principles of a particular religion.

The social ideals of religious extremism do not always find adequate expression in the real socio-political interests of the population, as they are based on religious dogma and do not have a specific expression and programme of action to achieve them. The ideology of extremist organisations and the foundations of their members' worldview are most often determined by radical trends in Islam, the most famous of which is Wahhabism. The ideology of Wahhabism is characterised by the preaching of jihad as an armed struggle for the faith. In general, the ideology of Wahhabism is implemented in three forms: propaganda, organisational and practical (committing extremist acts).

At the same time, for many Muslim religious radicals who call for the fight against "infidels", religious postulates are only an ideological justification for their political goals and actions to achieve them. As a rule, statements about the need to change the status of certain religious groups are associated with demands to restructure the socio-political life of a particular country or region. Often, religious extremism is identified with outwardly similar religious fanaticism – an extreme degree of enthusiasm for religious dogma, religious activity and the creation of a cult out of it, worship and dissolution in a group of like-minded people. Religious fanaticism deprives people of their individuality and inner freedom, turning them into a means of asserting certain tenets of faith. In order to successfully combat both religious extremism and religious fanaticism, it is necessary to clearly distinguish between them.

Nationalist extremism is the ideology and practice of using force as an effective way to resolve a national issue. It manifests itself in extreme forms of nationalism, racism, fascism (its modern form is neo-Nazism), xenophobia, chauvinism, anti-Semitism. Politicised nationalist associations are usually prone to extreme views and methods in the theory and practice of international relations, and their destructive activities lead to hostility between nations and nationalities, regional wars, armed conflicts and genocide.

This type of extremism is most closely related to separatism; it denies the equality of people of all ethnicities and races, stimulates

hatred and contempt for any race or nationality other than one's own, which is proclaimed superior, and acts under the slogans of defending "their people", their political and economic interests, cultural values, language, while neglecting the similar rights of other nations and ethnic groups living in the same territory. Manifestations of extremism can be stimulated by a number of problems caused by migration. It should be noted that sometimes the behaviour of migrants themselves, who do not always know or wish to respect the traditions of the country to which they have arrived, can lead to hostility on the part of some of the local population. However, the most important factors contributing to the rise of nationalism and ethnic discrimination are imperfect legislation and the indifference of the authorities to xenophobic sentiments.

The international legal definition of extremism is contained in Paragraph 1 of the Shanghai Convention on the Suppression of Terrorism, Separatism and Extremism of 15 June 2001, according to which extremism is any act aimed at the violent seizure or retention of power, the violent alteration of the constitutional order of the state, and the violent interference with public security, including the organisation of or participation in illegal armed groups for the above purposes [3, p. 109].

Extremism is prosecuted under the criminal laws of those countries that are parties to the Shanghai Convention. The Russian Federation, the Republic of Kazakhstan, the People's Republic of China and the Kyrgyz Republic are parties to this Convention. The very name of this Convention gives grounds to conclude that terrorism, separatism and extremism do not differ in the degree of public danger. This is also noted by B. D. Leonov, who is a recognised expert in the field of research on the problems of combating terrorism and its derivative crimes [4, p. 139–145].

In some US states, extremist crimes are classified as hate crimes. For example, a crime is committed under the influence of hatred of persons of a different race, ethnic origin, nationality, religion, political beliefs, gender and sexual orientation, etc. In the UK, after the 2007 terrorist attacks in London, a programme to prevent violent extremism was adopted to stop attempts to spread extremist ideas [5, p. 76–77]. This shows that the issue of extremist activity is widely discussed in foreign countries. Today, there are various forms of extremism in the world: political, nationalist, religious, environmental, teenage and youth, etc.

Signs of extremist activity are traditionally considered to include: violence, incitement to violence, violation of public order, propaganda and public display of Nazi or similar attributes or symbols, financing of extremism, and calls for the total or partial destruction of certain social groups or other actions aimed at violating the rights of a particular social group; as well as extremist motivation: intimidation, hatred, hostility, hooliganism, personal or social exclusivity and superiority, fundamental illegitimacy [6, p. 232]. The reasons for the emergence of extremist ideology (aggressive xenophobia, religious intolerance, social hostility) are explained by the fact that nationalism and other extremist views are no longer an idea for those segments of the population who have not found a place in life – the marginalised. A qualitative leap in the development of extremism has led to the fact that this ideology is now held by representatives of various segments of the population. It can even be argued that nationalism in one form or another has become a fashionable and approved phenomenon.

4. The Subjective Side of Crimes Against the Fundamentals of National Security as a Psychological Factor of Committing

The subjective side of a crime is the internal, mental attitude of a person to a socially dangerous act and its consequences. Then, the following fair and scientific question arises from the point of view of legal (criminal) psychology: "What is guilt, motive and purpose of crimes against the foundations of national security under the Criminal Code of Ukraine?"

Article 23 of the Criminal Code of Ukraine defines guilt as "the mental attitude of a person towards an act or omission provided for in this Code and its consequences, expressed in the form of intention or negligence". This also applies to crimes against the foundations of Ukraine's national security.

It is worth to agree with P. Matyshevskiy that the subjective side of a crime is a process of thinking, desire and will of a person, which reflects external circumstances related to the commission of a crime; it is the internal essence of a criminal act; it is the internal processes that occur in the psyche of a convicted person when he/she commits a socially dangerous act provided for by criminal law.

Focusing on the external manifestation of the criminal act, its objective side, it is possible to draw preliminary conclusions about the content of the subjective side of the crime, and, putting forward operational and

investigative versions, to preliminarily qualify the act, since in general the subjective side of the crime reflects the connection of the consciousness and will of the person with the socially dangerous act committed.

According to Articles 24 and 25 of the Criminal Code of Ukraine, the subjective side of a crime is expressed in the form of intent or negligence. Intent is divided into direct and indirect. Part 2 of Article 24 of the CCU defines direct intent as intent if the person was aware of the socially dangerous nature of his or her act (action or inaction), foresaw its socially dangerous consequences and wished for their occurrence. According to Article 24(3) of the Criminal Code of Ukraine, indirect intent is recognised as intent if a person was aware of the socially dangerous nature of his or her act (action or inaction), foresaw its socially dangerous consequences and, although not willing, deliberately allowed them to occur.

The legal literature has repeatedly pointed out that the greatest difficulties in analysing specific *corpus delicti* arise in connection with the establishment of the subjective side, the proof of which is in any case not as reliable as the establishment of objective properties and signs of the crime, and gives rise to numerous mistakes by investigators and judges.

Analysing the content of the subjective side of crimes against the foundations of national security of Ukraine, one should agree that they are characterised by direct intent, as noted by M. Karpushyn and V. Kurlyandskyi in their time regarding particularly dangerous crimes against the state.

At the same time, establishing the direct intent of the perpetrator in the commission of an act that is similar in its objective features to any of the crimes against the foundations of national security is sometimes insufficient for an adequate qualification of this act, since in some of them the purpose and motive of the crime are specified by the legislator in the disposition of the relevant article of the criminal law, and thus are mandatory features of its subjective side. This issue is discussed in more detail below.

Direct intent, according to V. Lomako, is a person's mental attitude to an act and its consequences, in which he or she is aware of the socially dangerous nature of his or her act, foresees the possibility or inevitability of its socially dangerous consequences and desires their occurrence [5, p. 54–55]. In the same work, M. Panov, reasonably dividing all crimes into crimes with material elements and crimes with formal elements, defines the following: crimes with material elements are those crimes for the objective side of

which the law (disposition of the article of the Criminal Code of Ukraine) requires the establishment of not only an act (action or inaction), but also the occurrence of socially dangerous consequences.

Crimes with formal elements are crimes for which the law requires the establishment of an act (action or inaction) as an objective party. In crimes with formal elements, a person is aware of the socially dangerous nature of his or her act and wishes to commit it. When committing a socially dangerous act with a material element, a person is aware of its socially dangerous nature, foresees the occurrence of harmful socially dangerous consequences and wishes them to occur.

As noted above, all crimes against the foundations of national security of Ukraine are crimes with a formal composition, where the commission of acts specified in the disposition of the relevant article of the Criminal Code of Ukraine provides the elements of a completed crime. An exception to this rule is part 3 of Article 110 of the Criminal Code of Ukraine, which provides for the death of people or other grave consequences as an aggravating circumstance in the case of an attack on the territorial integrity and inviolability of Ukraine.

As for the definition of direct intent, as can be seen from the content of part 2 of Article 24 of the CC of Ukraine, it is designed only for crimes with material elements. 24 of the CC of Ukraine, it is designed only for crimes with material elements, and therefore the authors propose to set out the provision of the CC of Ukraine on the concept of direct intent in the following wording: "Direct intent is inferred if a person was aware of the socially dangerous nature of his or her act (action or inaction) and wished to commit it, or was aware of the socially dangerous nature of his or her act (action or inaction), foresaw its socially dangerous consequences and wished them to occur."

In addition to intent, the legislator has included motive and purpose as mandatory elements of the subjective side of some crimes against the foundations of national security of Ukraine. The motive of the crime is the inducement to commit a socially dangerous act, and the purpose is the perception of its socially dangerous consequences, the damage that will clearly occur to the interests protected by criminal law and that is desirable for the perpetrator.

The motive of the crime is a very important circumstance that characterises both the degree of social danger of the criminal act and the

nature of the social danger of the person who committed it. Motivation is an inner state of a person that determines his/her actions. The motive acts as a primary link in the process of volition, the ground on which the goal arises, the motive encourages the setting of the goal. According to the authors, there can be no intention without a motive; it can only arise and be strengthened under the influence of a motive.

Without establishing the motive, the prosecution cannot be fully convincing. Motive is the primary chain in the volitional process. This term comes from the Latin word 'movro' (movi, motum), which means to move, to be the basis on which the goal arises. Establishing the motive is necessary during the pre-trial investigation, since, being formed in the mind of a person, the motive leaves an imprint on the entire mental process. Together with other circumstances that characterise the personality of the perpetrator, it helps to establish the purpose, and through it – the direction of the intent.

The purpose of a crime, as correctly noted in the literature, is the desire of a person committing a socially dangerous act to achieve certain consequences. It is necessary to distinguish the purpose as a component of "desire" as a volitional moment of direct intent from the purpose as an independent feature of the subjective side of the crime.

Having once again emphasised that all crimes against the foundations of national security of Ukraine are committed only with direct intent, it is necessary to analyse the content of the subjective side of each of them. The crime for which liability is defined in Article 109 of the Criminal Code of Ukraine requires that the perpetrator(s) have a direct intent and the purpose of violent change or overthrow of the constitutional order, the purpose of seizing state power (part 1 of Article 109 of the Criminal Code of Ukraine).

The fact that the offence is committed intentionally should have been specified in the disposition of Article 109 of the CCU, as it is in Article 110 of the CCU. The second part of this article of the Criminal Code of Ukraine provides for liability for public calls for violent change or overthrow of the constitutional order, for the seizure of state power, as well as for the distribution of materials calling for such actions, which also implies that the perpetrator has such a goal. Such disregard may lead to criminal prosecution of dissidents; criminal prosecution of citizens for irresponsible talk as a crime against the foundations of national security of Ukraine.

The absence of such a goal by the perpetrator excludes the possibility of qualifying the act under Article 109 of the CC of Ukraine. The encroachment on the territorial integrity and inviolability of Ukraine is a crime committed intentionally, which was emphasised by the legislator in the disposition of Article 110 of the CC of Ukraine. The intention is undoubtedly direct.

Each of the actions specified in Article 110 of the Criminal Code of Ukraine requires that the perpetrator or perpetrators have a special purpose to change the boundaries of the territory or state border of Ukraine in violation of the procedure established by the Constitution of Ukraine. The motives of the crime can be any.

The second part of Art. 110 of the CCU stipulates, among other things, that the perpetrator has the purpose of inciting national or religious hatred. The third part of Art. 110 of the CCU defines liability for encroachment on the territorial integrity and inviolability of Ukraine, which led to the death of people or other grave consequences.

The content of the subjective side of the consequences referred to in part 3 of Article 110 of the CCU is characterised by negligence in one form or another. If such actions involve premeditated murder, the liability is incurred under the combination of Articles 110(3) and 115 of the CCU.

The transfer of information constituting a state secret to a foreign state, foreign organisation or their representatives requires direct intent on the part of the perpetrator: the person is aware of the socially dangerous nature of his or her actions and wishes to commit them. The purpose and motives may be any, which does not affect the qualification, but they must be taken into account by the court when imposing a sentence.

If the person committing such an act is mistaken about the content of the information, i.e., believes that the document handed over to a foreign state, foreign organisation or their representatives contains a state secret, or that information about the objects handed over (devices, substances, etc.) constitutes such a secret, when in fact it does not, he/she is liable, depending on the circumstances of the case, for attempted high treason in the form of espionage or attempted espionage, whether completed or not.

A Ukrainian citizen who passes such information to a Ukrainian citizen mistaken for a foreigner will also be liable for attempted high treason in the form of espionage. In the case of a similar mistake by a foreigner who has

gained access to Ukraine's secrets, the person will be liable for attempted espionage under Article 14 of the Criminal Code of Ukraine.

Such situations can be created artificially in the course of operational and investigative or counter-intelligence activities, when a person reasonably suspected of espionage is "planted" with documents that do not contain state secrets or items that do not constitute state secrets. The person may be "set up" to receive such materials by a citizen of Ukraine who has been mistaken for a foreigner.

In addition to direct intent, the collection of such information requires that the perpetrator has a purpose to pass it on to a foreign state, foreign organisation or their representatives. The absence (or failure to establish) of such a purpose excludes the possibility of qualifying such actions as treason in the form of espionage or espionage.

It can be assumed that information constituting a state secret is collected not for further transmission to a foreign state, foreign organisation or their representatives, but out of curiosity; for the purpose of collecting (for example, in the form of photographs of military facilities, etc.); for scientific purposes. In such cases, it is possible to speak of actions bordering on a crime, creating preconditions for the leakage of state secrets up to their possible use by third parties to the detriment of Ukraine's interests, but not of treason.

The commission of such actions may be the basis for preventive measures, but not for the application of criminal law measures. As for the motives for espionage, they may vary and do not affect the qualification. The most common motive for espionage is profit, the desire to make money.

This offence is committed, as stated in the disposition of Article 112 of the Criminal Code of Ukraine, in connection with the victim's state or public activity. In other words, the motive for the crime is the victim's state or public activity, which for some reason does not suit the perpetrator(s).

If there are other motives, regardless of the victim's identity, the perpetrator's actions should be classified as a crime against human life: Article 15 of the Criminal Code of Ukraine (intentional murder), Article 121 (intentional grievous bodily harm), Article 122 (intentional moderate bodily harm), Article 125 (intentional light bodily harm); Article 119 (negligent homicide) of the Criminal Code of Ukraine is not excluded.

As with all crimes against the foundations of Ukraine's national security, sabotage is committed with direct intent, a prerequisite for which is the perpetrator's goal of weakening the state. The absence (or failure to establish) of such a goal excludes the possibility of qualifying the perpetrator's actions as sabotage. The presence of the perpetrator's goal to weaken the state does not mean that it is actually possible to achieve it.

Speaking about the elements of sabotage, it should be borne in mind that certain anti-social manifestations, which are complete crimes in themselves, depending on the motives and goals of criminal behaviour, may only be preparations for sabotage, which should be taken into account when investigating such acts. First of all, it concerns such crimes as smuggling of radioactive, explosive substances, weapons and ammunition (Article 201 of the Criminal Code of Ukraine); illegal handling of weapons, ammunition or explosives (Article 263 of the Criminal Code of Ukraine), etc. In such cases, during the criminal investigation, it is necessary to find out the direction of the perpetrator's intent, the motives that prompted him to commit such actions, as well as the ultimate goal. It is worth remembering that a similar situation may arise in preparation for an attempt on the life of a state or public figure, as well as in preparation for the commission of certain serious grave crimes (creation of a criminal organisation – Article 255 of the CCU; banditry – Article 57 of the CCU; terrorist act – Article 258 of the CCU).

Manifestations of extremism are also facilitated by objectively determined modern non-traditional processes that lead to the development of interethnic tensions. Extremist manifestations include provoking mass riots, acts of civil disobedience, terrorist acts, methods of guerrilla warfare, etc. Although the Criminal Code of Ukraine does not contain a separate offence of extremism and the term is not used, a number of crimes should be considered as having extremist elements: Article 109 of the Criminal Code of Ukraine "Actions Aimed at the Violent Change or Overthrow of the Constitutional Order or at the Seizure of State Power", Article 110 of the Criminal Code of Ukraine "Trespass Against the Territorial Integrity and Inviolability of Ukraine" (basically the entire Section I of the Special Part of the Criminal Code of Ukraine).

5. Conclusions

The social conditionality of criminal law provisions in the area of countering extremism, based on the specifics of extremist acts, makes it appropriate and sufficient to distinguish and take into account two groups of factors justifying the existence of such provisions: normative and criminological. The authors have established a rather high degree of public danger of extremist crimes, which necessitates counteracting them by criminal law. It is noted that there are no special anti-extremist provisions in national criminal legislation.

The author characterises the content of extremism as a social phenomenon and a legal category. It is determined that Ukrainian researchers and experts recognise the seriousness of the danger of extremism. Hundreds of definitions of extremism have been developed in the legal, political science and philosophical literature, which reflect various aspects of this phenomenon. The article examines the essence of extremism from the point of view of philosophy, political science, sociology and law. The paper concludes that extremism is a multidimensional social phenomenon, which is socially conditioned and takes on various forms of manifestation of hostility to generally accepted social values.

Unfortunately, Ukrainian legislation does not contain a definition of the concept of "extremism" and its derivatives. It is established that there is no unity of approach to the understanding of extremism among legal scholars. The authors support the approach according to which extremism in any interpretation is a certain extreme in its manifestations and can be expressed in non-violent actions. It is stated that in the scientific literature there are different approaches to the correlation between extremism and terrorism. In the article, the authors support the approach according to which terrorism and separatism in certain cases can be types of extremism.

Science cannot develop if it is not constantly updated with new facts. Its correct and successful development is possible only if scientifically sound methods of accumulating facts are used. The justification of specific methods is to establish a link between the methodology and the methods of science. In the case of psychology, this means that the philosophical interpretation of the psyche determines the basic requirements for research methods, their design, organisation and analysis of results.

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