

TRANSFORMATION OF THE TASKS OF CRIMINALISTICS AND FORENSIC EXAMINATION UNDER THE INFLUENCE OF MARTIAL LAW

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INTRODUCTION

In today's conditions, among the new challenges and threats, the full-scale invasion of the Russian occupation forces on the territory of Ukraine on February 24, 2022 and the military aggression of the Russian Federation became unprecedented and shocking. Such a difficult situation for our country necessitated the introduction of martial law in Ukraine, which significantly affected all spheres of our life. On the territory of Ukraine, the Russian military commits mass murders of civilians, destruction of infrastructure facilities and citizens' homes, rape of women and children, and looting. The crimes committed by the military of the Russian Federation on the territory of Ukraine are extremely large-scale, and their recording, documentation and investigation require the study of a significant volume of events, the careful collection of a large mass of evidentiary information¹ and conducting a huge amount of forensic research and forensic examinations².

In addition, in modern realities, digitization processes act as an important strategic direction for the future development of the advanced states of Europe and the world, including Ukraine, which has chosen the European vector of development. Today, there is a transition from the existing traditional system to a new reality – a digital one, in which digital information is an integral attribute, both in the work of criminal justice bodies, on the one hand, and modern criminal activity, on the other³. It is

¹ Zhuravel, V. A., & Kovalenko A. V. Examination of evidence in criminal proceedings as a component of the proof process. *Journal of the National Academy of Legal Sciences of Ukraine*, 29(2), 2022. Pp. 313–328.

² Konovalova V.O., Shevchuk V.M. Application of digital technologies in criminalistics in the conditions of war. Digital transformation of criminal proceedings under martial law: materials of the All-Ukrainian round table (Kharkov, December 16, 2022); National Law University named after Yaroslav the Wise; Scientific Research Institute of the Academy of Sciences named after academician V. V. Stashis NPR of Ukraine. Kharkiv, 2022. Pp. 49-53.

³ Shevchuk V.M., Konovalova V.O., Sokolenko M.O. Digital criminalistics: formation and role in the fight against crime in wartime conditions in Ukraine. *The use of digital information in the investigation of criminal offenses: materials of the international science and practice*

obvious that today's digital reality is now closely connected with the emergence of new forms of crime – cybercrime, information fraud, cyberterrorism, a large number of cyberattacks on enterprises and state databases⁴.

Undoubtedly, such threats require the development of the latest approaches to combating crime, updating the system of criminal justice bodies to modern conditions and global threats. This leads to the intensification of the application and spread of criminalistic innovations, the latest digital technologies in the practice of investigative, judicial and expert activities. This, in turn, determines the current trends and prospects for the development of criminalistics, which is at the forefront of the fight against crime. At the same time, it is important to take into account that criminalistics in Ukraine has chosen a European vector of development, therefore European approaches are found in various areas of criminalistics, including in the application of standards of evidence during criminal proceedings⁵.

Under such conditions, today's challenges and threats necessitate the formation and introduction of innovative approaches in the criminalistics protection of combating war crimes in Ukraine, taking into account the processes of digitalization and Europeanization. Of course, such challenges today determine the modern trends in the development of criminalistics and the change in the priorities of its tasks, which significantly affects the formation of modern criminalistic knowledge and the emergence of new directions (branches) of criminalistics⁶.

Under such conditions, today's challenges and threats determine the need for the formation and introduction of innovative approaches in criminalistic protection against modern crime. Such challenges today determine the need to develop and study the problems of criminalistic support for the investigation of war crimes in the conditions of war and the modern realities of the significant spread of digital technologies in investigative, judicial and expert activities.

round table, Kharkiv, December 12. 2022; Scientific Research Institute crime problems named after Acad. V. V. Stashis. Kharkiv: Pravo, 2021. Pp. 97-102.

⁴ Zhuravel V. A. Crime mechanism as a category of criminalistics. *Yearbook of Ukrainian law: Coll. of scientific papers / responsible for the issue O.V. Petryshyn.* Kharkiv: Pravo, 2021, 13. Pp. 390-404.

⁵ Shepitko V. Yu. The formation of the doctrine of criminalistics and forensic examination in Ukraine is the way to a unified European forensic space. *Law of Ukraine.* 2022, 2. Pp. 83.

⁶ Shevchuk V., Vapniarchuk V., Borysenko I., Zatenatskyi D., Semenogov V. Criminalistic methodics of crime investigation: Current problems and promising research areas. *Revista Juridica Portucalense*, 32, 2022. Pp. 320–341. URL: <https://revistas.rcaap.pt/juridica/article/view/28241>

1. Changing the priorities of criminalistics tasks in the conditions of full-scale Russian military aggression

In today's modern realities, taking into account the main trends in the development of criminalistics and their influence on the specifics of the formation of criminalistic knowledge to solve the problems faced by criminal justice bodies is of particular importance. Practice shows that the solution of these tasks involves the introduction of an effective system of combating modern crime, war crimes, reforming criminal and criminal procedural legislation, taking urgent measures aimed at improving investigative, expert and judicial practice in conditions of martial law, European integration and digital technologies.

First of all, it is worth noting that the trends in the development of criminalistic science depend on various factors, in particular, among them, the following are particularly important: 1) integration processes and the interdisciplinary nature of research; the impact of scientific and technological progress; 2) problems of formalization of scientific knowledge; 3) deepening the processes of technological research and the process of criminal proceedings; 4) introduction of modern digital technologies (AI, OSINT, etc.) and digitization of criminal proceedings; 5) strengthening of contradictions in the interaction of science and practice; 6) activation of the practical focus of criminalistic research; 7) challenges and modern global threats to society⁷.

In such conditions, there is a need for the formation of criminalistic knowledge in accordance with the modern needs of practice. Therefore, today it is necessary to take into account the trends in the development of science and the task of adapting criminalistic knowledge to the conditions of war, digital technologies and reforming domestic legislation to international standards of the European Union⁸.

At the same time, the introduction of martial law in Ukraine as a result of the full-scale armed aggression of the Russian Federation on the territory of our country is among the factors that today determine the priorities of the development of criminalistics and forensic examination. This affected all spheres of life in our country, including the activities of criminal justice bodies. Today, one of the main tasks of Ukraine is to repulse the armed aggression of the Russian Federation and restore the violated rights and

⁷ Shevchuk V. Tasks of criminalistics in the conditions of military threats and digital technologies. Criminalistics and forensic expertology: science, studies, practice 19 (compiler Gabriele Juodkaite-Granskiene; scientific-editorial committee: Henryk Malewski (chairman) and others) Forensic Science Centre of Lithuania, Criminalists' association of Lithuania. Vilnius, Brno, 2023. Pp. 81 – 88.

⁸ Шепітько В. Теоретико-методологічна модель криміналістики та її нові напрями. *Теорія та практика судової експертизи і криміналістики*. 2021. Вип. 3 (25). С. 9–20.

freedoms of Ukrainian citizens, as well as ensuring the principle of irreversibility of the responsibility of those guilty of such crimes. Under such circumstances, for the effective trial of such war crimes, in particular, both for the courts of Ukraine and any international court, it is fundamental to identify and document evidence of war crimes, but also to establish a cause-and-effect relationship between the guilty actions of the aggressor country and the consequences that have occurred, that is, the damage caused. And the most important thing is to ensure in the future a successful trial and bringing to criminal responsibility all persons guilty of this war.

It can be seen that in the modern conditions of the martial law today, criminalistics has the following features: 1) expanding the boundaries of the influence of criminalistics; 2) technology and computerization of criminalistics; 3) unification of criminalistic knowledge; 4) prioritization of the investigation of criminal offenses; 5) digitization of criminalistic, introduction of innovations and active use of artificial intelligence technologies, etc⁹.

At the same time, one of the defining trends of criminalistics in today's realities is the transformation and expansion of its subject, which is due to the desire of science to change the objects it studies. At the same time, in our opinion, it is important to note that the transformation of criminalistic knowledge, the expansion of the subject of criminalistics and the application of forensic recommendations in all areas of judicial proceedings does not lead to the appearance of new objects that are studied by forensics. After all, the objects of criminalistics remain, on the one hand, crime and criminal offenses, and on the other, pre-trial investigation, trial and criminalistic prevention of modern crime. Crime is transforming – the tasks of criminalistic are changing.

It can be seen that the transformation of crime in Ukraine during the war had a significant impact on the change in the priorities of criminalistics tasks and the peculiarities of the formation of criminalistic knowledge in the conditions of martial law. The tasks of criminalistics are determined by its social function – to contribute with its techniques, methods and means of combating modern crime.

Today, the tasks of criminalistics, depending on theoretical-cognitive and applied problems, can be divided into three levels: 1) tasks aimed at improving the theoretical and methodological foundations of criminalistics, the formation and development of the general theory of criminalistics; 2) tasks aimed at improving law enforcement practice, that is, scientific and practical developments for the development of the theory of criminalistics

⁹ Журавель В. А. Загальна теорія криміналістики: генеза та сучасний стан: монографія. Харків, 2021. С. 6–7.

and for the practice of law enforcement, taking into account the modern realities of consent; 3) tasks aimed at developing and implementing criminalistic innovations into practice, as well as improving the strategy of combating crime by means of criminalistics¹⁰. We are talking about the formation and the need to develop new directions in criminalistics, in criminalistics innovations, criminalistics strategy, military criminalistics, digital, medical, and nuclear criminalistics.

It is believed that these and other important tasks can be solved comprehensively and systematically, in particular, by improving criminal and criminal procedural legislation and developing theoretical and methodological foundations and scientific and practical recommendations for countering modern crime, primarily related to the emergence of new challenges to the system criminal justice and the need to solve extraordinary tasks in the conditions of martial law and active hostilities on the territory of Ukraine.

In the context of the above, it is considered relevant not only to bring national legislation into line with international legal standards for the regulation of war crimes, as well as activities related to their detection, documentation and investigation, but also the formation of effective criminalistic recommendations for technical, tactical, and methodological criminalistic support of activities on collecting and researching the evidence base of war crimes.

Taking into account the trends of integration and the interdisciplinary nature of the formation of the system of scientific knowledge, which requires research on war crimes, military criminal offenses, it can be stated that the formation of military criminalistics is taking place. The content of the scientific concept of military criminalistics should include ideas and theoretical propositions about the object of research, the knowledge system, the content of its individual elements, the place in the system of scientific knowledge, the significance for the theory and practice of investigative work, the tasks of further scientific research. The object of study of military criminalistic should be the regularities of collection, research and use of evidentiary information in the investigation of war crimes (military criminal offenses) committed in the areas of hostilities, in the territories of hostilities in the conditions of a military conflict.

In today's modern realities, among the main tasks of criminalistics are the actual problems of developing, forming and applying a system of means, methods, techniques and measures of criminalistic protection against the commission of war crimes and collecting evidence and ensuring their

¹⁰ Shevchuk V. Current Issues of Criminalistics in Context of War and Global Threats. *Theory and Practice of Forensic Science and Criminalistics*, 2022, 28 (3), 11–27.

proper use in court proceedings. We are talking about appropriate criminalistics protection against modern crime, among which today the priority is the problems of documenting and investigating war crimes committed by the military of the Russian Federation. The complex nature of such problems should cover the technical, tactical, and methodological forensic areas of ensuring the documentation and investigation of war crimes. The modern realities of the war in Ukraine require forensics to improve, develop and put into practice a system of forensic methods of investigation of certain types of criminal offenses committed by military personnel in the conditions of hostilities, investigation of military criminal offenses. Scientific research on the methodology of investigating crimes against the foundations of Ukraine's national security (treason, collaborative activities, etc.) is being updated; documentation and investigation of war crimes committed by the Russian military in Ukraine; investigation of criminal offenses related to the illegal use of humanitarian aid, charitable donations or free aid and illegal crossing of the state border of Ukraine, etc.

Further development of criminalistics and forensics in the conditions of the information society, digitization and military realities of today is impossible without the wide use of innovative and fundamental knowledge in the field of digital technologies, the formation and development of a new direction, a new field – digital forensics. This requires special attention to the development of innovative approaches to the investigation of crimes in cyberspace, the use of digital technologies and the capabilities of artificial intelligence in the detection, recording, investigation of war crimes, crimes of genocide and other crimes committed by the Russian occupation forces in Ukraine.

It can be seen that the processes of integration and differentiation of knowledge (natural, technical and legal) created the prerequisites for the emergence of innovative directions. Further prospects for the formation and development of criminalistic doctrine require the need to reboot and modernize the current paradigm of criminalistics.

First of all, we are talking about updating and taking into account the opinion of many criminalistic scientists (I.I. Kogutykh, V.G. Lukashevich, V.M. Stratonov, V.Yu. Shepitko, etc.), in particular, V. G. Honcharenko's proposals about the fact that the knowledge offered by forensic science can be successfully adapted and widely applied not only for criminal justice, but also for any other activity related to obtaining and analyzing legally significant information, i.e. in constitutional, civil, economic, administrative

processes etc.¹¹. As noted by I.I. Kogutych, criminalistics as a science should study the objectivity (regularity) of the mechanism of a criminal offense or other legal fact, the emergence of information about them, as well as the collection, verification, evaluation and use of information obtained in this activity, and specially developed means and methods of research of legally significant events. It is seen that with such an approach to the modern understanding of the subject of criminology, its knowledge can and, if necessary, should be used both in the field of criminal jurisdiction and in other non-criminal jurisdictional areas, which will significantly increase the current demand for this science¹².

The field of criminalistics interests expands and penetrates into new fields of knowledge, becoming a cognitive tool that is increasingly used in various fields of activity, where it is necessary to learn the truth by examining various material, ideal traces, and even other objects. The methods and tools of forensics are increasingly penetrating the civil, administrative process and other areas of legal practice. In this regard, the proposals of scientists to expand the traditional understanding of the structure of forensic science with a new section tentatively titled «Applied criminalistics in legal practice», which would be focused on the use of forensic capabilities in civil, arbitration, administrative processes and in other areas of law enforcement activity, deserve attention¹³. Moreover, as noted by Lithuanian criminalists, the role and importance of criminology is important not only in the investigation of criminal offenses in the work of law enforcement officers, in criminal proceedings, but also in administrative, civil, economic, arbitration proceedings and even in constitutional jurisprudence¹⁴. Therefore, we are talking about revising, modernizing and significantly updating the modern understanding of the subject of criminalistics and expanding the boundaries of the application of criminalistic knowledge in various areas of legal activity.

Therefore, criminalistics, integrating the modern achievements of science and technology, now directs its scientific potential to create an

¹¹ Даньшин М. В. Окремі методичні та психологічні аспекти викладання криміналістики. *Форум права*. Вип. 2. 2013. С. 110–115.

¹² Когутич І.І. Про окремі виклики криміналістиці та шляхи її усталення. *Криміналістика і судова експертиза*. Вип. 65. 2020. С. 5-19. С. 15.

¹³ Shevchuk V. Trends in the formation of criminalistic didactics in the conditions of global threats and digital technologies. *Quo vadis, kriminalistika? Liber Amicorum profesoriui Henryk Malewski*. Collective monography / Kurapkai E. V., Matuliene S., Navickienė Ž., Shevchuk V. and others. Vilnius, Lithuanian association of criminalists, Mykolas Romeris University, 2023. P. 116-155.

¹⁴ Judzinskytė, Akvilė. Lietuvos teisinės bendruomenės kriminalistinis švietimas. Criminalistics Education of the Lithuanian Legal Community. Master Thesis. Mykolas Romeris universitetas, Lithuanian, 2022. 114 p. Pp. 90. <https://vb.mruni.eu/object/elaba:117023592/>

effective system of forensic tools, methods and technologies, the use of which is designed to solve complex practical tasks, among which the possibility of applying criminalistic knowledge in combating crime is especially important.

2. Formation of the concept of military criminalistics and its purpose in modern conditions of military threats

In modern realities, a separate direction in criminalistic should be the development of a system of criminalistic methods of investigation, activation of the development of technical and criminalistic support, application of special knowledge, protection of information sources and problems of information security. In fact, it is possible to state the formation of a new scientific forensic direction of military criminalistics¹⁵.

It is worth noting that in the history of criminalistics there were attempts to form the idea of «military-field criminalistics», «military-applied criminalistics» (H.M. Grigoryan (2021), V.V. Bilous (2022) and others). In our opinion, the proposed terms somewhat narrow the understanding of the subject, system and tasks of military forensics. From our point of view, the content of the scientific concept of military criminalistics should include ideas and theoretical propositions about the object of research, the knowledge system, the content of its individual elements, the place in the system of scientific knowledge, the significance for the theory and practice of investigative work, the tasks of further scientific research.

The object of study of military criminalistics is the regularities of collection, research and use of evidentiary information in the investigation of crimes occurring in areas of armed conflict, active hostilities and military aggression. The object of military criminalistics to a certain extent also determines its system, which includes scientifically based and tested in practice criminalistic provisions and recommendations on the organization of detection, documentation and investigation of crimes committed in areas of active hostilities, armed conflict in conditions of war, which determine the development and application of theoretical and methodological foundations, selection and application of means, methods and techniques of criminalistic techniques, tactics and methods of crime investigation taking into account specific conditions of activity – in conditions of martial law and active hostilities in a certain territory of the state.

¹⁵ Shevchuk V. M. The role of criminalistics in improving the efficiency of the investigation of war crimes committed by military of the RF in Ukraine. *Scientific Collection «InterConf»*, (122): with the Proceedings of the 1st International Scientific and Practical Conference «Diversity and Inclusion in Scientific Area» (August 26-28, 2022). Warsaw, Poland: Ceac Polonia, 2022. Pp. 187-195.

One of the main tasks of military criminalistics is the development, formation and application of a system of means, methods, techniques and measures of criminalistic protection against the commission of such criminal offenses, which has a complex nature and must cover theoretical-methodological, technical-criminalistics, tactical-organizational and methodological-criminalistic search directions¹⁶.

The theoretical and methodological foundations of military criminalistics include general scientific issues related to the development of the concept, subject, system and tasks of military criminalistics, its place in the system of forensic science. The development of such scientific problems as the methodology of military criminalistics, the course system of military criminalistics, innovations in forensic didactics in teaching military criminalistics, etc., can become important directions of such scientific research. In this case, we can talk about military criminalistics as a new scientific direction in criminalistic doctrine, which has significant prospects and requires further scientific research in criminalistics.

In the direction of technical and forensic support of military criminalistics, scientific developments and research are being updated on the creation and implementation of innovative criminalistic products aimed at optimizing the fight against crime in the military sphere, documenting and investigating the detection, documentation and investigation of crimes related to the military aggression of the Russian Federation against Ukraine. Such innovative products include the latest technical and criminalistic tools, modern information technologies, electronic knowledge bases, methods of recording, analysis, evaluation and collection of evidentiary information developed or adapted to the tasks and needs of countering war crimes and other criminal manifestations in wartime conditions.

In addition, modern biometric identification systems based on human characteristics can be applied to the needs of military forensics (systems of electronic identification of a person based on biometric characteristics – fingerprints, appearance characteristics, iris pattern, DNA, gait characteristics, handwriting). The possibilities of using unmanned aerial vehicles, surveillance and video control systems, electronic control over the movement of people in space and air, identification systems for recognizing people's faces, etc., are becoming relevant nowadays.

In the tactical and forensic provision of military criminalistics, the development of tactical bases for conducting procedural actions and criminalistic recommendations in conditions of war should become

¹⁶ Matulienė S., Shevchuk V., & Baltrūnienė J. (2023). Artificial Intelligence in Law Enforcement and Justice Bodies: Domestic and European Experience. *Theory and Practice of Forensic Science and Criminalistics*, 29(4), 12-46.

promising areas of research. They may be related to the specifics of the tactics of conducting separate investigative (search) and covert investigative (search) actions in conditions of martial law, military operations, etc. Such a situation necessitates the development of new tactical techniques, review of the possibilities of tactical combinations and tactical operations, investigative (search) algorithms, etc. Important directions of such research in criminalistic tactics are the problems of developing the tactics of actions in which the participants (suspects, witnesses, victims, etc.) were persons from the occupied territories or from the areas of active hostilities, as well as prisoners of war, etc.

In the methodological and forensic field of military criminalistics, such directions are closely related to changes in criminal and criminal procedural legislation, since such changes require the improvement of existing methods of investigation of criminal offenses and the development of new criminalistic methods of investigation. Innovative developments in this field of criminology should be aimed at conducting research on methods of investigation of new types of criminal offenses, tactical operations, investigative (search) algorithms, verification of typical investigative versions, development of forensic characteristics of criminal offenses, documentation, determination of damage and compensation for damages caused to Ukraine and its citizens as a result of the armed aggression of the Russian Federation, etc.¹⁷.

The modern realities of the war in Ukraine require forensics to improve, develop and put into practice a system of criminalistic methods for investigating certain types of criminal offenses¹⁸, committed by military personnel in the conditions of hostilities. In addition, scientific research on the methodology of investigating crimes against the foundations of Ukraine's national security is being updated; war crimes committed by the military of the Russian Federation in Ukraine; crimes against peace, human security and international legal order; crimes related to illegal use of humanitarian aid and illegal crossing of the state border of Ukraine, etc. The wide spread of informational computer technologies contributes to the further development of algorithmization of the very process of

¹⁷ Капліна О. В. Відшкодування шкоди, завданої громадянинуві внаслідок збройної агресії РФ : кримінальний процесуальний аспект. *Проблематика документального оформлення, визначення шкоди та відшкодування збитків, завданих Україні та її громадянам внаслідок збройної агресії Російської Федерації*: наук.-практ. конф. (м. Харків, 22 червня 2022 р.). Х.: НЮУ ім. Ярослава Мудрого, 2022. С.12-17. С. 16-17.

¹⁸ Shevchuk V.M. Modern criminalistics in the conditions of war and global challenges XXI century: problems today and development prospects. *Problemy Współczesnej kryminalistyki = Current problems of forensic science*. Том XXVI. pod redakcją: Tadeusza Tomaszewskiego, Ewy Gruzy, Mieczysława Goca. Warszawa 2022. Pp. 359 – 374.

investigation of a criminal offense and ensuring the efficiency and effectiveness of judicial proceedings.

Taking into account the modern tasks of adapting criminalistic knowledge to the conditions of martial law and reforming domestic legislation to the international standards of the European Union, the problems of adapting and modernizing criminalistic knowledge to modern requirements of practice are quite urgent. It is considered that the mentioned problems should be taken into account when forming programs, educational disciplines and when improving the methodology of teaching criminalistics in modern conditions.

Thus, in the realities of today and in the conditions of wartime, criminalistics faces new tasks of criminalistics, the paradigm of criminology doctrine is changing, which affects the peculiarities of the formation and application of the system of criminology. Strengthening and activating the practical component during the teaching of criminalistics acquires significant importance. In such a situation, the forensic training of future lawyers becomes especially important, which must take into account the modern requirements of adapting forensic knowledge to the conditions of martial law, reforming domestic legislation to international EU standards, and the emergence of new branches (directions) of criminalistics. It is important to take into account the modern trends in the development of criminalistics related to the formation of its new directions, in particular, nuclear and military criminalistics, which will make it possible to significantly increase the role and applied value of the application of criminalistic knowledge in the modern realities of wartime and global threats to world civilization.

3. Digital criminalistics and its role in the detection and investigation of war crimes

Modern trends in the formation of criminalistic knowledge and the further development of forensics in the conditions of the information society, digitization and military realities of today are impossible without the wide use of innovative and fundamental knowledge in the field of digital criminalistics – a new field of criminalistics that is dynamically developing today and forms theoretical and methodological foundations in this field of knowledge.

Today, the question of increasing the effectiveness of the investigation of modern crime, including war crimes and cybercrimes with the help of digital technologies, is a pressing issue. Under such circumstances, it is necessary to talk about the activation of the problems of the formation of a

new scientific direction – Digital Forensics, Digital Forensic Science or Digital Criminalistics¹⁹.

In the specialized literature, there are different approaches to defining the concept of digital criminalistics and its place in the system of criminalistics and forensic sciences. Some scientists point out that digital forensics is a separate branch of forensic science, which is a system of scientific methods of researching digital evidence with the aim of facilitating the detection and investigation of criminal offenses. Others point out that digital forensics is related to the process of collecting, obtaining, preserving, analyzing and submitting digital evidence for the purpose of obtaining investigative information, evidentiary information and carrying out investigations and criminal prosecutions in relation to various types of criminal offenses²⁰, including cybercrimes and war crimes committed by the occupying forces of the Russian Federation on the territory of Ukraine.

Some sources state that digital criminalistics is «a branch of forensics that focuses on criminal procedural law and evidence related to computers and related devices», such as mobile devices (such as phones and smartphones), game consoles and other Internet-enabled devices (such as health and fitness devices and medical devices). In addition, digital forensics is related to the process of collecting, obtaining, preserving, analyzing and presenting electronic (digital) evidence in pretrial and judicial proceedings. Therefore, digital criminalistics can be a strategic direction in the development of criminalistic science²¹.

In view of the above, it can be asserted that the subject of digital criminalistics is the regularities of detection, recording, preliminary research, use of computer information, digital traces and means of their processing in order to solve the tasks of detection, disclosure, investigation and prevention of criminal offenses, as well as development based on this knowledge of the patterns of technical means, methods, and methodological recommendations aimed at optimizing activities to combat criminal offenses in the digital space.

The object of digital criminalistics is, on the one hand, criminal offenses (crimes) associated with the use of computer (digital) technologies and social relations arising in the course of detection, disclosure, investigation

¹⁹ Колодіна А. С., Федорова Т. С. Цифрова криміналістика: проблеми теорії і практики. *Київський часопис права*, 2022, (1), 176-180.

²⁰ Колодіна А. С., Федорова Т. С. Цифрова криміналістика: проблеми теорії і практики. *Київський часопис права*, 2022, (1), 176-180.

²¹ Шепітько В., Шепітько М. Формування цифрової криміналістики як стратегічний напрямок розвитку науки. *XVII Medzinarodny Kongres Kriminalistika a Forenzne Vedy. Criminalistics and Forensic Expertology: Science, Studies, Practice. Abstracts of the XVII International Congress* (September 16-17, 2021). Bratislava, Slovak Republic, Academy of Police Forces in Bratislava. 2021. С. 187-198. С. 192.

and prevention of criminal offenses (crimes), when detection, recording, research, use of computer information, digital traces and means of their processing are carried out, and on the other hand, the activity of law enforcement agencies in relation to the investigation of such criminal offenses and the issue of the development and application of forensic techniques, methods, means of using computers computer (digital) technologies in the fight against crime in the digital space.

Therefore, digital criminalistics is a branch of forensics that studies the patterns of occurrence and use of digital traces and, based on the knowledge of these patterns, develops technical means, techniques and methods for detecting, recording, extracting and researching digital information (evidence) and means of processing it for the purpose of disclosure, investigation and prevention of criminal offenses.

We believe that it is necessary to clearly distinguish digital criminalistics as a separate field of criminalistic knowledge, aimed at the study of digital traces, on the one hand, and on the other – the use of digital technologies in the investigation and judicial proceedings, that is, the process of digitization of criminalistics as a natural modern stage of its development and formation, which provides for the implementation of digital technologies in various fields of criminalistic technology and forensic examination, to the very process of pre-trial investigation²². Therefore, the modern tasks of digital criminalistics are the search and analysis of digital traces, data analysis (including metadata), collection of evidentiary information in the digital environment²³.

The investigation of war crimes and military criminal offenses in Ukraine has its own characteristics, caused by the rapid development of digital technologies, which determines certain specifics, which are caused by: 1) the wide possibilities of users of smartphones and other means with photo and video recording functions to document war crimes, broadcast events online, to spread information without borders through the Internet, social networks, mass media, blogs, etc., thus reaching millions of user audiences; (2) broad possibilities of monitoring, tracking various objects, establishing their geolocation, etc., processing big data with the help of criminal analysis tools, cyber intelligence; (3) digitization of criminalistics and forensic activities, which significantly increases the quality, accuracy

²² Степанюк, Р. Л. Перлін С. І. Цифрова криміналістика й удосконалення системи криміналістичної техніки в Україні. *Вісник Луганського держ. ун-ту внутрішніх справ ім. Е. О. Дідоренка*. 2022. № 3 (99). С. 288.

²³ Авдєєва Г. К. Проблеми використання засобів цифрової криміналістики при розслідуванні воєнних злочинів. *Використання цифрової інформації в розслідуванні кримінальних правопорушень* : матеріали міжнар. наук.-практ. круглого столу, м. Харків, 12 груд. 2022 р. Харків : Право, 2022. С. 10-13.

and speed of evidence collection; (4) the gradual transformation of the model of criminal proceedings from paper to electronic, which already at the stage of the transitional paper-electronic model significantly affects the process of proof²⁴.

In the realities of war, the central place for collecting evidence of war crimes and military criminal offenses in digital forensics was occupied by artificial intelligence technologies. The following directions can be singled out: 1) search for saboteurs and war criminals using facial recognition algorithms; 2) eavesdropping on the conversations of Russian military occupiers; 3) search for occupiers in social networks; 4) collection of intelligence data for the Armed Forces of Ukraine using artificial intelligence technologies; 5) identification of persons, unrecognizable corpses and conducting DNA analysis studies, etc.

As we can see, a huge array of various forensically significant information, including digital, requires a constant search and formation of new approaches to the detection and collection of evidence of war crimes. Among them, the use of artificial intelligence technologies, in particular digital criminalistics tools, is of particular importance.

Since the beginning of the 90s of the 20th century, the volume of digital information has grown so much that in 2020, the UN, with the participation of more than 150 experts, prepared a special practical guide «Berkeley Protocol on the Effective Use of Data from Open Sources of Digital Information in the Investigation of Violations of International Criminal Law, Human Rights and IHL» (Berkeley Protocol, 2020)²⁵, which contains standards and methodological approaches to collection, preservation and analysis of publicly available information (social networks, satellite images, etc.), which can be presented as evidence in criminal proceedings.

In addition, digitalization of the evidence process is facilitated by the creation of specialized sites that offer a fairly simple scheme for downloading information and evidence about war crimes²⁶. Moreover, we have examples of the creation of a database of war crimes by human rights organizations, both in Ukraine (for example, the Ukrainian Helsinki Human Rights Union) and at the international level (Sunflower project). The information obtained in this way can help plan the investigation of war

²⁴ Дуфенюк О. М. Розслідування воєнних злочинів в Україні: виклики, стандарти, інновації. *Baltic Journal of Legal and Social Sciences*. 2022. № 1. С. 54.

²⁵ Berkeley Protocol on Digital Open Source Investigations A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law. (2020). United Nations. Retrieved from <https://humanrights.berkeley.edu/programs-projects/tech-human-rights-program/berkeleyprotocol-digital-open-source-investigations>

²⁶ See more details: <https://dokaz.gov.ua/>; <https://warcrimes.gov.ua>

crimes, put forward forensic versions, ensure procedural savings of resources and means.

As evidenced by the practice highlighted in open sources, today in a situation of full-scale aggression, digital forensics tools significantly help in the detection, disclosure and investigation of war crimes.

As we can see, in the modern world, almost all human activity, including that of war criminals, is accompanied by a kind of «trace picture», among which digital traces take a special place²⁷, as an important source of forensically significant information. It is digital, and not electronic, traces that currently form the basis of the evidence base during the investigation and consideration of crimes and criminal offenses of the category under consideration. In digital traces, despite the constantly changing form of storage of information, one thing remains constant – this is the digital encoding of this information, which has become quite widely used, replacing the analog signal. Taking into account these arguments, in our opinion, today it is necessary to talk about the digital traces left in the virtual space²⁸.

Digital traces in forensics are material invisible traces that contain forensically significant information (information, data), recorded in digital form on physical media and can be detected, recorded and investigated with the help of certain digital devices²⁹. Today, such traces are files and their excerpts, storage devices of RAM and traffic, service information about these files, which are created by digital devices (English digital devices) – technical devices or devices designed to receive and process information in digital form using digital technologies. It can also be a certain category of items belonging to computer tools, in particular software products, text and graphic documents; multimedia files; databases; program files; system reports and application logs, etc. As a rule, they are used by criminals when committing criminal offenses, leaving a kind of «footprint» of digital traces.

Therefore, a digital trace is forensically significant computer information about the events (actions) of a criminal offense, reflected in digital information in the material environment, in the process of its origin, processing, storage and transmission. It can be seen that in modern conditions

²⁷ Крицька І. О. «Доріжка цифрових слідів»: доказове значення й окремі аспекти збирання та дослідження у кримінальному провадженні. *Цифрові трансформації України 2020: виклики та реалії*: зб. наук. пр. НДІ ПЗІР НАПрН України № 1 за матеріалами круглого столу, 18 вересня 2020 р. Харків, 2020. С. 92-97.

²⁸ Shevchuk V., Kapustina M., Zatenatskyi D., Kostenko M., & Kolesnikova I. (2023). Criminalistic support of combating iatrogenic criminal offenses: Information system prospects. *Social & Legal Studies*, 6(4), 208-216. doi: 10.32518/sals4.2023.208.

²⁹ Авдєєва Г. К. Сутність цифрових слідів у криміналістиці. *Актуальні питання судової експертизи та криміналістики* : зб. матеріалів міжнар. наук.-практ. конфер., присвяч. 95-річчю створення Харків. НДІ суд. експертиз ім. засл. проф. М. С. Бокаріуса (Харків, 10–11 жовт. 2018 р.). Харків, 2018. С. 91

of war, the following areas of application of digital forensics are gaining special importance: obtaining information from mobile devices of seized phones of participants in criminal proceedings; obtaining information from personal computers of individuals and legal entities; obtaining information from servers and other information stores in organizations and institutions; obtaining information about radio frequency identifiers, GPS trackers, sensors, stationary and mobile measuring devices using geolocation, video surveillance and positioning systems; receiving information from network services that establish voice and video communication between computers via the Internet, such as ICQ, Skype, WhatsApp, Viber, Telegram and others; receiving information from banking systems on appropriate digital media (SD disks, flash cards, etc.); receiving information from cellular communication operators regarding the details of subscriber communication and establishing the location of the subscriber from geolocation; obtaining information from video surveillance cameras of various commercial and state structures; obtaining information from cameras and video cameras seized from participants in criminal proceedings.

To a large extent, the success of the implementation of the tasks of documenting war crimes depends on the standardization of the investigation process, the algorithmization of procedural actions, high-quality interaction between units, taking into account the foreign experience of investigating criminal violations of international humanitarian law. It is important to develop specific and sub-specific forensic methods of investigation depending on different situations and the type of war crime and violation of international humanitarian law, in particular, on the category of persons against whom an attack (strike) was carried out; depending on the object directly attacked (blow); depending on the means by which the attack (blow) was committed; depending on the method of committing illegal actions against the person (persons); depending on the territorial feature; depending on the norms of the special part of the Criminal Code of Ukraine³⁰.

It is seen that a natural stage of development and formation of modern criminalistic knowledge is precisely the process of digitalization of criminalistics, which involves the introduction of digital technologies in various fields of criminalistic science, forensic expertise and legal practice. At the same time, special attention should be paid to increasing the role of criminalistic didactics, in particular, criminalistic training of investigators, prosecutors, courts, detectives, criminalistic investigators, forensic experts in the field of digital technologies. Starting a new profession and training a digital

³⁰ Дуфенюк О. М. Розслідування воєнних злочинів в Україні: виклики, стандарти, інновації. *Baltic Journal of Legal and Social Sciences*. 2022. № 1. С. 54. DOI: 10.30525/2592-8813-2022-1-6

criminalistic is quite relevant today. Under such circumstances, the modern paradigm of criminalistics should be aimed at the further development and formation of digital criminalistics in order to effectively solve new tasks in the conditions of martial law and processes of digitalization of society.

4. European vector of development of modern criminalistics

Ukraine's integration into the world and European community requires our state to adapt its national legislation to international standards and obligations. This especially applies to criminalistics and the criminal process, both in the field of combating crime and in the field of protection of important constitutional rights, freedoms and interests of citizens, taking into account the modern realities of the development of Ukrainian society. Announcing the recommendation to grant Ukraine the status of a candidate for the EU, it was confirmed that Ukrainians have clearly shown their desire for European values and standards, however, our country will have to implement a number of important reforms aimed at achieving Ukraine's European integration aspirations.

During the martial law, law enforcement agencies faced new challenges, so the legislator made appropriate changes to the Criminal Procedure Code and the Criminal Code of Ukraine. The creation of a military justice system is quite relevant today, in particular, this is the issue of the formation of the military police, military prosecutor's office and military courts (specialized panels) taking into account the best foreign experience, European and international standards for combating crime³¹.

The creation of military justice bodies in the realities of today's war is a necessary step to ensure high-quality and effective prevention, counteraction, detection, recording, disclosure and investigation of war crimes committed by the Russian military on the territory of Ukraine. offense. Solving this issue requires appropriate legislative regulation and the development of the concept of criminalistic support for the activities of military justice bodies, which defines a new scientific direction of research in criminology, in particular in the formation and development of military criminalistics.

In the modern realities of martial law in Ukraine, it is important to ensure compliance with international principles and standards in the fight against corruption³², taking into account the experience of European and

³¹ Вдовитченко В. Військова юстиція України: сучасний стан та перспективи розвитку. *Діяльність військової юстиції в умовах збройного конфлікту. Досвід української прокуратури* : матеріали Міжнар. наук.- практ. конф., м. Харків, 28 жовтня 2021 р. Київ-Одеса : Фенікс, 2021. С. 19-26.

³² Шепітько В. Ю. Цільове призначення криміналістичних знань і прагнення європейських стандартів у протидії злочинності. *Теорія та практика судової експертизи і криміналістики*. Вип. 17. 2017. С. 4-11.

world practices, taking into account the traditions, customs and mentality of Ukrainian citizens, because the nature of corruption in our state differs from corruption manifestations in other countries. Ukraine plays a key role in the process of interdepartmental coordination of international cooperation in the field of combating and preventing corruption. At the same time, as practice shows, it is necessary to eliminate the duplication of activities, to establish the interaction of these bodies, which should be clearly regulated by current legal acts taking into account European international principles and standards. In addition, in our opinion, under such conditions there is a problem of providing the system of these bodies with the necessary resources, means and training, including forensic and criminal procedural direction, and in the future, the implementation of the proposed developments in practice.

The European Union and Ukraine have been working together to ensure information security in our country, including accessible cross-border communication since the beginning of the full-scale war in Ukraine. The European Commission has adopted a decision authorizing Ukraine's national regulatory body responsible for electronic communications to participate in the EU Telecommunications Regulatory Agency (BEREC), which is another important step on the way to Ukraine's European integration. Therefore, for Ukraine, which has determined the course of accession to the EU as one of the priorities, compliance of legislation with European standards, including in the field of combating crime, the implementation of judicial proceedings and the formation of a system of military justice bodies³³. In today's realities, there is also a change in the vector of forensic research in Ukraine, its approach to a single European space³⁴.

In view of the above, there is a need to introduce innovative technologies into the educational process, which will help prepare highly qualified, competitive lawyers of the European level. At the same time, innovative approaches to legal education become important – a purposeful process of partial changes leading to modification of goals or channels of education; the introduction of new technologies into the education system, including the development of criminology as both a science and an educational discipline, while improving the methods of its teaching. These circumstances present new challenges and perspectives to the legal education system, legal disciplines and criminology, as a scientific and applied legal science that is at

³³ Богущкий П. П. Військова юстиція як правова система: міжнародні стандарти та національні особливості. *Діяльність військової юстиції в умовах збройного конфлікту. Досвід української прокуратури* : матеріали Міжнар. наук.- практ. конф., м. Харків, 28 жовтня 2021 р. / П. П. Богущкий, П. М. Візнюк, Л. В. Зіяк, В. Г. Пилипчук, І. О. Петришен. Київ-Одеса : Фенікс, 2021. С. 19-26.

³⁴ Шенітько В. Теоретико-методологічна модель криміналістики та її нові напрями. *Теорія та практика судової експертизи і криміналістики*. Вип. 25 (3). 2021. С. 11.

the forefront of the struggle. The problem of forming and applying innovative approaches in forensic didactics and bringing the science of forensic science closer to a single European forensic space becomes important.

In this context, criminology today faces new tasks aimed at adapting and forming criminalist knowledge to the conditions of war and reforming domestic legislation to international EU standards. Ukraine's efforts to successfully reform the judiciary and pre-trial investigation, to implement the principles, principles, and methodology of the activity of investigators, detectives, prosecutors, judges, and judicial experts accepted by the international community require, first of all, compliance with international standards for the functioning of a certain legal institution, an understanding of the responsibilities that the state must assume and guarantee their effective implementation to society. Therefore, in today's realities, the process of restarting criminalistics and the need to conduct new directions of scientific research in the conditions of striving for European standards in the field of combating crime can be traced.

Taking into account the geopolitical trends of international cooperation and the deepening of Ukraine's integration in the European space, the prospect of harmonizing Ukrainian legislation with the standards developed in the EU is gaining more and more importance. Ukraine's efforts to successfully reform the judiciary and pre-trial investigation, to implement the principles, principles, and methodology of the activity of investigators, detectives, prosecutors, judges, and judicial experts accepted by the international community require, first of all, compliance with international standards for the functioning of a certain legal institution, an understanding of the responsibilities that the state must assume and guarantee their effective implementation to society.

Therefore, it can be stated that the European course of development of domestic legal science demonstrates, in a certain sense, a universal example of the implementation of the criminal law, criminal procedural and forensic policy of Ukraine, which is based on international standards. Taking into account the modern tasks of adapting forensic knowledge to the conditions of war and reforming domestic legislation to international EU standards, the problems of adaptation and modernization of forensic knowledge to modern requirements of practice are urgent.

CONCLUSIONS

Thus, in modern conditions of war, the integrative function of forensics requires further research, the application of systemic-structural, activity, functional, technological approaches, as well as strengthening the practical direction of criminalist research. The modern paradigm of criminology should be aimed at the preservation and further positive development of

criminalistics as a legal science of an applied nature, its performance of important functions of providing practice with modern knowledge, means, methods and recommendations that increase the effectiveness of law enforcement agencies in countering criminal manifestations and modern challenges in the conditions martial law

Today, the development trends and tasks of criminalistics should be reflected in the development of the methodology of science, the general theory of criminalistics, the general provisions of the theory of knowledge, its categories in adaptation to the concepts of criminalistics. Among the innovative areas of forensic research, scientific intelligence, in particular, the general theory of forensics, which is associated with the development and improvement of scientific principles, clarification of the subject and object of forensics, study and research of functions, tasks, etc., is of particular importance. In the field of criminalistic technology – technical and criminalistic tools, modern information technologies, electronic knowledge bases, devices. In criminalistic tactics – the development of new tactical techniques, their complexes, combinations and tactical operations, algorithms of investigative (search) actions. In criminalistic methodology – conducting research on methods of investigation of new types of criminal offenses, tactical operations, development of criminalistic characteristics of military criminal offenses, war crimes, construction of effective investigation methods.

It is seen that the processes of integration and differentiation of knowledge (natural, technical and legal) created the prerequisites for the emergence of innovative areas such as criminalistic anthropology, criminalistic toxicology, criminalistic genetics (criminalistic DNA analysis), criminalistic archaeology, criminalistic chemistry, criminalistic biology, criminalistic narcology, criminalistic psychiatry, criminalistic pharmacy, etc. We are talking not only about criminalistics and forensic examination, but also about the formation of a system of forensic sciences, which play an important role in gathering evidence and combating crime. In this aspect, we can talk about the formation of new scientific directions in criminalistics (medical, nuclear, aerospace, genoscopic, military, digital criminalistics), the emergence and development of which is primarily determined by the existing trends and tasks of the development of science, and mainly by the needs of practice in the latest tools and methods and modern crime prevention technologies.

SUMMARY

Current problems of criminalistics, forensics, their modern development trends, transformation of their tasks under the influence of martial law and processes of digitalization of modern society are studied. The emergence

and prerequisites for the formation of new directions (branches) of criminalistics and forensic expertise, conditioned by modern trends in the development of science, scientific and technical progress, and the active spread and introduction of the latest digital and information technologies, are substantiated. The main trends in the formation and development of forensic science and forensic examination in today's realities have been identified and analyzed, and prospective directions of scientific research have been outlined.

It has been proven that in view of the modern trends in the development of criminalistics and forensics, it is worth considering the emergence and formation of its separate branches (directions): military, digital, medical, aerospace, and nuclear criminalistics. In modern conditions in Ukraine, the problems of developing criminalistic support for the investigation of war crimes in the conditions of the Russian-Ukrainian war and the activation of processes of digitalization of society, as well as the wide implementation and use of digital technologies in investigative, judicial and expert practice, are of particular importance.

It is substantiated that the natural stage of the development and formation of modern criminalistic knowledge is precisely the process of digitalization of criminalistics, which involves the introduction of digital technologies in various fields of forensic science, forensic expertise and legal practice. At the same time, special attention should be paid to increasing the role of criminalistic didactics, in particular, forensic training of investigators, prosecutors, courts, detectives, forensic investigators, forensic experts in the field of digital technologies. Starting a new profession and training a digital criminologist is quite relevant today. Under such circumstances, the modern paradigm of criminalistics should be aimed at the further development and formation of digital criminalistics in order to effectively solve new tasks in the conditions of martial law. The most relevant and promising problems of the research of the mentioned problems are highlighted.

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