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UKRAINIAN HELSINKI HUMAN RIGHTS UNION

STUDY SUMMARY

# INTERNATIONAL CRIMES IN UKRAINE:

## A REVIEW OF NATIONAL INVESTIGATION AND CASE LAW

Kyiv 2023

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# A REVIEW OF NATIONAL INVESTIGATION AND CASE LAW
## Study Summary

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This publication is made possible by the generous support of the American people through the United States Agency for International Development (USAID) in the framework of the Human Rights in Action Program implemented by Ukrainian Helsinki Human Rights Union.

Opinions, conclusions and recommendations presented in this publication do not necessarily reflect the views of USAID, the United States Government. The contents are the responsibility of the authors and UHHRU.

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# INTRODUCTION

International crimes are the most serious offenses that have no statute of limitations. And one of the important tasks of the national state bodies is to record such crimes, identify the guilty persons, bring them to justice, and ensure the enforcement of punishment. For this purpose, the Ukrainian law enforcement and judicial systems should act as effectively as possible.

Since the beginning of the war in Ukraine, i.e. since February 2014, the Ukrainian Helsinki Human Rights Union (hereinafter – UHHRU) has been systematically monitoring and documenting international crimes, providing legal assistance to victims at both the national and international levels, cooperating with state authorities to introduce the necessary changes to legislation or law enforcement, holding educational events for judges, prosecutors, investigators, and lawyers. In particular, this UHHRU study is one of the steps aimed at identifying key problems in the course of the investigation of international crimes and the subsequent legal proceedings to analyze, develop guidelines for state authorities in order to improve the efficiency of the law enforcement and judicial systems of Ukraine.

The **objectives** set by the authors of this study:

- **Investigate** the experience of foreign states on the territory of which an international armed conflict took place, with regard to prosecution for international crimes;
- **Analyze** the current state of interaction between law enforcement agencies investigating international crimes in Ukraine;
- **Identify** negative factors that affect the effectiveness of pre-trial investigation of international crimes;
- **Review** of national case law regarding the consideration of cases related to the armed conflict in Ukraine and provide legal assessment;
- **Develop** guidelines for the state authorities based on the results of the study.

### Subject of the study:

The term «international crimes» usually refers to the crimes defined in Article 5 of the Rome Statute of the International Criminal Court, namely: genocide, crimes against humanity, war crimes, and the crime of aggression. There are no concepts of «international crimes», «war crimes» and «crimes against humanity» in the criminal legislation of Ukraine. Instead, there are a number of articles of the Criminal Code of Ukraine (hereinafter – CC of Ukraine) which in terms of content correspond to some of the above ***corpus delicti***. Therefore, the study of pre-trial investigation and case law focused on the following articles of the CC of Ukraine: **436** (war propaganda); **436-2** (justification, recognition as legitimate, denial of armed aggression of the Russian Federation against Ukraine, glorification of its participants); **437** (planning, unleashing, waging an aggressive war, as well as preparation for the same), **438** (violation of the laws and customs of war); **441** (ecocide); **442** (genocide).

## Study time frame

Ukraine declared that the beginning of the armed aggression of the Russian Federation against Ukraine was on February 20, 2014,[1] when the first cases of violation by the Armed Forces of the Russian Federation of the procedure for crossing the state border of Ukraine in the area of the Kerch Strait and its use of its military formations stationed in Crimea were recorded.

At the same time, during the consideration of the interstate case ***Ukraine v. Russia (re Crimea)*** at the European Court of Human Rights (hereinafter – the ECtHR), the Government of Ukraine defended the position that Russia should bear responsibility for human rights violations starting on February 27, 2014, when the Verkhovna Rada of AR of Crimea was seized. In its decision, the ECtHR found that Ukraine had provided sufficient evidence to confirm that Russia had been exercising actual control over Crimea since February 27.[2] Therefore, the study period of this report covers the period from February 27, 2014 to May 1, 2023.

## Methodology

In order to collect information on the status of pre-trial investigation and court proceedings during the period under study, the authors of this study took the following measures:

- **Obtaining** official information from state authorities by sending requests for information in accordance with Article 19 of the Law of Ukraine «On Access to Public Information». In particular, relevant requests were sent to the Security Service of Ukraine, the National Police of Ukraine, the Prosecutor General's Office, the Supreme Court, and the State Judicial Administration of Ukraine.
- **Focus group** survey: 147 representatives of the National Police of Ukraine, 108 representatives of prosecutor's offices, 20 lawyers, and 207 victims of war crimes became respondents to the anonymous online survey.
- **Study** of the materials of the pre-trial investigation of criminal proceedings regarding war crimes committed after February 24, 2022: UHHRU lawyers analyzed the materials of 21 criminal proceedings in which they represent the victims.
- **Study** of court judgements and decisions in the Unified State Register of Court Decisions.
- **Content** analysis of verdicts under Article 438 of the CC of Ukraine (violation of the laws and customs of war).

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1 Resolution of the Verkhovna Rada of Ukraine On the Statement of the Verkhovna Rada of Ukraine «On Repelling the Armed Aggression of the Russian Federation and Overcoming its Consequences», April 21, 2015 No. 337-VIII.

2 Ukraine v. Russia (re Crimea) (dec.) [GC], nos. 20958/14 and 38334/18, § 315-335, 16 December 2020.

# SECTION 1

Transitional justice in terms of restorative justice is a long and costly process that reflects the institutional capacity of the state after the end of the armed conflict not only to ensure the basic needs of its citizens, but also to bring to justice those who put human lives in danger.

The experience of the Balkan countries of the former Yugoslavia is best known with regard to the International Criminal Tribunal for the former Yugoslavia (ICTY), while the national prosecution system remains largely overlooked. It consists of the presence of courts with appropriate specialization and prosecution bodies (rarely pre-trial investigation bodies). For example, Serbia has specialized bodies to prosecute war crimes (investigators and prosecutors), while Kosovo and Croatia have specialized units of the national prosecution system, i.e., within the general prosecutor's office and the police. Specialized war crime chambers were established in Croatia (in 2003), Bosnia (in 2005) and Serbia (in 2005).

Although the armed conflicts on the territory of these states ended 20 years ago, such investigations are still ongoing, and the number of convicts varies within a few hundred for each nation state. Therefore, we can conclude that despite the mass nature of crimes, the number of people who can really be brought to justice is always lower than society would like, on the other hand, these are long-term processes that take months and years, so the state should take measures in advance to have resources for such an important thing as restoring justice in a country affected by an armed conflict.

## SECTION 2

Currently, the national prosecution system works in various forms with all types of crimes known to international criminal law, namely: 1) violations of the laws and customs of war (war crimes); 2) a crime of aggression (planning, unleashing, waging or preparing); 3) crimes against humanity (characterized by a large-scale and systematic attack on the civilian population); 4) the crime of genocide (characterized by the intent to destroy in whole or in part one of the protected groups:: national, racial, ethnic or religious). At the same time, Ukrainian criminal law does not know such a ***corpus delicti*** as «crimes against humanity» and joint investigations under this classification can take place only with foreign partners within universal jurisdiction in accordance with the provisions of their criminal legislation, for example, with the USA.

The Ukrainian national system of criminal prosecution for international crimes is characterized by the practical implementation of the principle of compensability in international law – the state clearly understands that, given the immunities and inaccessibility of the military and political leadership of the Russian Federation, it is the ICC and the future Special Tribunal for the Crime of Aggression that should bring them to justice. As for rank-and-file combatants and mid-level military leadership, the scope of cooperation with other states within the universal jurisdiction is constantly increasing, so the issue of restoring justice concerns not only Ukraine, but also the ability of international criminal justice to deal with the most serious crimes.

At the same time, the main challenge is still the duration of the armed conflict, the constant increase in the number of criminal proceedings, the lack of a sustainable state policy regarding the restoration of justice, and, most importantly, the readiness of the state in the future to spend resources on the expensive work of specialized bodies to prosecute Russian combatants, which will last for decades. Ukraine has a negative experience in the investigation of the «Maidan cases», which demonstrated that the loss of interest in the event, and its controversial perception by political forces translates into the allocation of insufficient resources for the quality work of the prosecution. Ukraine should be prepared in advance to avoid repeating such mistakes.

# SECTION 3

## Subsection 3.1

### National Pre-Trial Investigation of International Crimes

In the course of the study, 255 representatives of pre-trial investigation bodies, namely investigators of the National Police of Ukraine (hereinafter – NPU) and prosecutors, were interviewed. Most of the interviewees noted the presence of difficulties that stand in the way of effective investigation of international crimes, namely heavy workload, insufficient resources, and lack of knowledge regarding the specifics of investigating such crimes. In addition, the interviewed pre-trial investigation body representatives also noted that there is a need to improve cooperation between the bodies while investigating international crimes in Ukraine. In particular, the following measures were proposed: creation of a separate investigative body and specialized prosecutor's office, creation of interdepartmental investigative and operational groups, interaction among structural units, improvement in the speed and efficiency of information provision, creation of a single platform for information exchange and use, introduction of electronic document management, improvement of IHL knowledge and skills of using OSINT during the pre-trial investigation, improvement of interaction with the Ministry of Defense of Ukraine for more prompt information acquisition.

The majority of respondents do not see the need for legislative changes that would improve the efficiency of investigation. However, 39.8% of interviewed prosecutors and 28.6% of interviewed NPU investigators believe that such changes are necessary, namely: expanding powers in terms of jurisdiction (provide for alternative jurisdiction), abolishing pre-trial investigation terms for crimes provided for by Section XX of the CC of Ukraine, establishing a clear and consistent procedure of pre-trial investigation from the initial stage to the end, providing the possibility of investigative actions by means of telecommunication (interrogations of victims, witnesses located abroad or outside the jurisdiction of the pre-trial investigation body), the possibility of using the specified evidence in court.

In general, although the vast majority of respondents positively assess the capabilities of the national law enforcement system to investigate international crimes, they believe that there are additional conditions for its improvement. The main factors that negatively affect the ability of the national law enforcement system are the large scale of international crimes committed on the territory of Ukraine, legislative obstacles, and lack of necessary resources.

As part of this study, 20 lawyers who handle war crime cases and 207 victims of war crimes were also interviewed. Based on the results of the survey of lawyers, the following conclusions can be drawn:

The vast majority of interviewed victims noted that they had no problems with registering a crime report (93.7% of respondents) and receiving information about the initiation of criminal proceedings (81.6% of respondents).

Mischaracterization of war crimes still happens: 45% of the interviewed lawyers noted that among the war crime cases that they handle, there were cases classified by the pre-trial investigation bodies (hereinafter - PTIB) under general criminal articles of the CCU (e.g., Articles 115[3], 146[4] of the CCU) rather than under Article 438 of the CCU.

[3] Homicide.

[4] Kidnapping, unlawful deprivation of liberty.

Poor communication between investigators and victims' representatives: 45% of lawyers noted that after they submitted a crime report, they were not contacted by representatives of the PTIBs, in addition, lawyers often do not receive answers to the lawyers' requests or motions (20% of respondents do not receive them at all, 30% receive them sometimes); 42% of lawyers note that they had difficulties in getting access to the materials of criminal proceedings (mainly due to problems in communication with the investigator).

Poor communication between investigators and victims: 80% of the interviewed lawyers noted that the communication of the pre-trial investigation bodies with the victims of war crimes is inappropriate; 87.9% of the interviewed victims noted that they were not informed about the progress of the pre-trial investigation.

Regarding the respondents' assessment of the effectiveness of the pre-trial investigation of war crimes, we have the following results:

- **Completeness** and timeliness: 45% of lawyers rated it negatively, 45% found it hard to answer;
- **Quality:** 50% of lawyers rated it negatively, 45% found it hard to answer;
- **87.9% of victims** consider the investigation of their case ineffective.

Among the key shortcomings of the investigation, representatives of the victims indicated the following: failure to carry out primarily necessary investigative actions or their negligent conduct, loss of evidence, chaotic, inconsistent, and haphazard storage of materials; unjustified and repeated change of jurisdiction; lack of experience of investigators; ignoring the motions of the victim to conduct investigative actions. In addition, the lawyers noted the problem with the investigation of crimes committed in the temporarily occupied territory or in the territory close to the war zone. In most cases, lawyers noted that pre-trial investigation in such cases does not take place at all or is very ineffective. The interviewed victims noted the following: lack of information on the progress of pre-trial investigation; lack of communication with the PTIBs; investigator's ***pro forma*** actions and their superficiality; delaying the investigation.

The interviewed lawyers believe that in order to increase the efficiency of the investigation, the interaction with the PTIBs should be improved, interdepartmental communication should be introduced, the level of IHL knowledge among investigators should be increased, and a step-by-step algorithm for the investigation of international crimes should be developed.

According to the results of studying the materials of the pre-trial investigation in 21 criminal proceedings related to war crimes committed after February 24, 2022, in 50% of cases the investigation does not actually take place at all and the case files contain only a crime report and evidence provided by the victim side. In some cases, there is also a negative impact on the effectiveness of the investigation due to the change of jurisdiction and transfer of the case file to a different pre-trial investigation body. In addition, there is often the loss of valuable physical evidence, failure to conduct expert examinations, and due to the untimeliness of investigative actions, it is already impossible to conduct some examinations, which accordingly makes it impossible to further establish important facts in the case. Also, very often pre-trial investigation materials are not properly arranged, some cases lack documents that were sent by victims' representatives or have documents that do not relate to the relevant episode at all.

## Subsection 3.2
### National Case Law on International Crimes

As part of this study, the peculiarities of the judicial examination of crimes provided for by the following articles of the CC of Ukraine were examined: 436 (war propaganda); 436-2 (justification, recognition as legitimate, denial of armed aggression of the Russian Federation against Ukraine, glorification of its participants); 437 (planning, unleashing, waging an aggressive war, as well as preparation for the same), 441 (ecocide); 442 (genocide) (hereinafter referred to as international crimes), committed on the territory of Ukraine, starting from February 27, 2014[5] to May 1, 2023 (hereinafter referred to as the period under study). In particular, the above-mentioned articles of the CC of Ukraine are located in Section XX «Criminal Offenses against Peace, Security of Mankind and International Law and Order».

Criminal cases initiated on the basis of facts of international crimes are examined by national courts of general jurisdiction in accordance with the provisions of the Criminal Procedure Code (CPC) of Ukraine. Over the 9 years of the war, a number of amendments and new articles have been introduced into the CPC of Ukraine in this context. In particular, new sections have been included in the CPC of Ukraine, namely, on April 14, 2022 – Section IX-1 «Special Regime of Pre-Trial Investigation and Trial Under Martial Law», and on May 3, 2022 – Section IX-2 «Peculiarities of Cooperation with the International Criminal Court».

It is worth noting that, in accordance with clause 6 of Part 1 of Article 152 of the Law of Ukraine «On Judicial System and Status of Judges», the State Judicial Administration of Ukraine is the body authorized to keep judicial statistics. It is posted on the official website of the judiciary under the heading «Other», section «Statistics»: Judiciary of Ukraine[6]. In particular, in response to an inquiry as part of this study, the State Judicial Administration of Ukraine reported that it cannot provide statistical data on cases pending in the cassation instance, as they are compiled by the Supreme Court. Therefore, this information was obtained in response to a request directly from the SC (see above cl. 3.3.2.1). Also, the State Judicial Administration of Ukraine replied that if the classification was under several articles of the CC of Ukraine, for example, under Articles 436-1, 438, 111, then the statistical reporting of the State Judicial Administration of Ukraine would indicate only Article 111, since the sanction there provides for more severe punishment. Therefore, part of the investigated crimes may be latent and not included in the statistical reports, and, accordingly, these data are further not taken into account.

In order to learn more about the judicial review of criminal proceedings for international crimes, in particular, how many verdicts were passed by national courts, data from the Unified State Register of Court Decisions were used. Having looked through the texts of verdicts in this register for 9 years and 2 months, the period under study, it is possible to derive a tentative number[7] of verdicts in Ukraine for international crimes:

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5 Ukraine v. Russia (re Crimea) (dec.) [GC], nos. 20958/14 and 38334/18, § 315-335, 16 December 2020.

6 court.gov.ua

7 Tentative, because it is possible that there are fewer convictions under Articles 436-1 and 436-2 of the Criminal Code of Ukraine due to an error in the retrieval of data during the search, and, accordingly, these indicators require separate verification and study.

1) 26 verdicts under Article 436 of the CC of Ukraine;
2) 514 verdicts under Article 436-2 of the CC of Ukraine;
3) 11 verdicts under Article 437 of the CC of Ukraine, one of which is an acquittal;
4) 31 verdicts under Article 438 of the CC of Ukraine;
5) No verdicts under Article 441 of the CC of Ukraine;
6) 3 verdicts under Article 442 of the CC of Ukraine, access to one of which is closed in accordance with clause 4 of Part 1 of Art. 7 of the Law of Ukraine On Access to Court Decisions.

Thus, the general national courts of Ukraine issued approximately 585 verdicts for the above-mentioned crimes.

It is worth noting that information on case law regarding international crimes cannot currently be obtained from open sources in the neighboring authoritarian countries – Belarus and Russia. It would be interesting to conduct a comparative analysis of case law, for example, on the consideration of international crimes there, but at present, it is impossible to do so. Thus, in Belarus, there is no information on the pre-trial and judicial proceedings of international crimes, and it is impossible to find it out due to the lack of physical access to such cases. Thus, in Belarus, there is no information on pre-trial and trial proceedings of international crimes, and it is impossible to find it out due to the lack of physical access to such cases.

A significant part of political cases are tried in closed sessions, so it can be assumed that the same proceedings take place in cases of international crimes, information about which is not available anywhere at all. Materials of criminal cases are provided to suspects, accused and convicted persons and their defense attorneys, as well as victims and their representatives only in paper form, their photographing is prohibited, and it is allowed to only make handwritten notes.

Also, the investigators force lawyers to sign non-disclosure agreements, and no lawyer will dare, for fear of reprisals from the state, to give information about the case, even with the client's consent, to a third party, for example, to human rights organizations, researchers, etc. In particular, about 100 lawyers were disbarred and about 10 lawyers are still behind bars. It is impossible to obtain reliable information about their fate. Currently, for example, it is known that one lawyer is under investigation on trumped-up charges due to the performance of professional activities for the protection of clients, and another has been detained and two have been searched, but this is not a complete picture, since not all cases are accessible. All of them have different stories, but one common feature can be seen here: attempts by Belarusian lawyers to oppose unlawful methods of pre-trial investigation end in repression against them, i.e. loss of license and imprisonment.

The Russian Federation has a unified electronic database of court decisions, but the texts of decisions on the merits in cases of international crimes are closed, and it is impossible as much as to see their number, i.e. the data on them are closed completely. There is also a separate electronic database of court decisions on cases in the city of Moscow. But the situation is the same there with regard to data on international crimes. Using one of the private electronic resources with the database of court decisions of Moscow, for the period under study, we managed to

find 14 appeal rulings on court rulings on the extension of preventive measures in the form of detention on charges of committing an offense under Article 356 (use of prohibited means and methods of warfare) of the Criminal Code of the Russian Federation. The texts of the rulings are short and do not contain information about the substance of the charges and, consequently, the trial on the merits, but at least an approximate number of cases can be seen in this way. It is worth noting that the texts of the above-mentioned court rulings do not anonymize the participants in the process.

As part of this study, emphasis was placed on the case law of applying Article 438 of the CC of Ukraine (see subsection 3.3.3.1 above). This article is a blanket article, so it requires the use of international law norms. It is worth noting that judges do not always mention the norms of international law in the studied texts of judgments, and when they do, they are most often the following: four Geneva Conventions and their protocols. It can also be noted that the courts do not analyze the application of these very norms in a particular case – they are only named, and then they are immediately followed by the description of the circumstances of a particular case.

During the period under study, Ukrainian courts passed 31 verdicts with legal classification under Article 438 of the CC of Ukraine. The following generalizations regarding these judgments can be made: the data of the participants in the trial are anonymized, the verdicts are all guilty, and most of the texts of the verdicts contain references to various norms of international law.

Regarding other characteristics, the data are different, namely:

1) Regarding citizenship, 39 persons were convicted in the above 31 verdicts, of whom 9 were citizens of Ukraine and 30 citizens of the Russian Federation;
2) Regarding the sex of the convicted persons, 38 were male and one was female;
3) Verdicts were passed in 2022-2023 and entered into force in October 2022-May 2023;
4) 27 verdicts have entered into legal force, and 4 are under appeal;
5) In 26 verdicts, the legal classification of the charges was carried out only under article 438 of the CC of Ukraine, and only in 5 cases – in combination with other articles of the CC of Ukraine, in particular Articles 111 (treason), 258-3 (creation of a terrorist group or terrorist organization), 260 (creation of paramilitary or armed formations not provided for by law), 437 (planning, unleashing, waging an aggressive war, as well as preparation for the same) of the CC of Ukraine;
6) The courts-imposed sentences of 8 to 15 years' imprisonment. In particular, the courts imposed the highest penalty – life imprisonment – twice, but in one case the sentence was reduced to 15 years of imprisonment on appeal, and the other case is still under appeal;
7) Verdicts in cases under Article 438 of the CC of Ukraine were passed by 16 general courts of Ukraine: 4 courts of the city of Kyiv, 2 courts of the Kyiv Region, 2 courts of the city of Chernihiv, 3 courts of the Chernihiv Region, 1 court of the city of Poltava, 1 court of the Poltava Region, 1 court of the city of Kharkiv, 1 court of the Donetsk Region;

**8)** Four appeals are still pending, and in the remaining cases the verdicts under Article 438 of the CC of Ukraine have entered into legal force.

With regard to 31 verdicts under Article 438 of the CC of Ukraine, it can be noted that 18 verdicts were passed in court proceedings held ***in absentia*** on the basis of the general principles of criminal proceedings, taking into account the features provided, in particular, by Part 3 of Article 323 of the CPC of Ukraine. The texts of court decisions in such cases are approximately the same and are based on the requirements of the CPC of Ukraine, without detailing the application of these provisions in a particular case. In none of the investigated cases, the person did not appear during the trial or was not detained by law enforcement agencies and brought to court, therefore the provisions of Part 4 of Article 323 of the CPC of Ukraine cannot be seen as implemented in these cases.

Please note that the period under study starts from February 27, 2014, but ***in absentia*** verdicts under Article 438 of the CC of Ukraine were passed in 2022-2023 in the criminal proceedings entered into the Unified Register of Pre-trial Investigations in 2021-2022 and entered into force in October 2022-May 2023. Thus, today it is impossible to say whether any of the convicted persons have filed applications to the ECtHR.

With proper legal representation, taking into account other norms of international law, in the above-mentioned 18 verdicts of Ukrainian courts for the period under study, significant violations of the criminal process may be recognized over time, which will lead to their annulment and new trials in ***praesentia***. In particular, convicted persons, both citizens of Ukraine and citizens of the Russian Federation, can file lawsuits against Ukraine to the ECtHR regarding violations of various aspects of a fair trial under Article 6 of the Convention.

Of the investigated 31 verdicts under Article 438 of the CC of Ukraine, nine were passed in trials held in accordance with the procedure provided for in Part 3 of Article 439 of the CPC of Ukraine, the so-called «fast-track trials», without examining the evidence due to the defendant's plea of guilty and consent to a fast-track trial without the evidence examination. It may be noted that it is after the consideration of international crimes under the procedure of so-called incomplete examination of evidence under Part 3 of Article 349 of the CPC of Ukraine that the prosecutor's office sometimes files a petition to the courts for exemption from serving the sentence in connection with the decision to transfer the person for exchange as a prisoner of war. Thus, it can be assumed that the defendants opt for this trial procedure in order to get an opportunity to return to the Russian Federation faster during the exchange of prisoners of war in accordance with the provisions of Article 84-1 «Exemption from serving a sentence in connection with the adoption by an authorized body of a decision to transfer a convicted person for exchange as a prisoner of war». However, this assumption requires separate thorough research.

Of the verdicts under the study, only 4 were passed by the courts in the course of a full trial with the participation of the accused and with the examination of evidence of their guilt. In these cases, the accused were interrogated during the trial and the following evidence was examined: 1) testimony of victims; 2) testimony of witnesses; 3) expert reports; 4) identification (lineup); 5) investigative experiments and the like.

It is worth noting that the texts of the verdicts show that during the pre-trial investigation, law enforcement agencies use the same approaches to gathering evidence for international crimes as for other crimes, i.e., no specifics can be pointed out yet. Also, their study in the course of the court proceedings takes place on general grounds in compliance with the provisions of the CPC of Ukraine.

Of course, one can be as picky as one likes about the collection and examination of evidence, but on the whole, the national criminal process has been respected, and the decisive fact is that a fair trial has been applied to everyone without exception, i.e. to international, so-called, criminals as well, regardless of their citizenship and nationality and no matter how difficult it may be for us psychologically to accept it. Of course, this analysis is an overview, because this is an extremely deep layer to explore, which requires a separate long-term study.

Many issues in the judicial consideration of international crimes with national characteristics are unique and are solved by judges during the consideration of specific cases, taking into account the experience of other countries and international law, but with elements inherent only in our, Ukrainian, practice in the war with the Russian Federation, thus creating precedents and new Ukrainian case law on the consideration of international crimes.

## RECOMMENDATIONS

**1.** Introduce a clear and predictable state (public) policy regarding the national system for the prosecution of international crimes – define the list of bodies that deal with this, their specialization, protected lines in the budgets of these institutions and other guarantees of quality work in the long term.

**2.** Decide on the format of relations with the ICC: It is necessary to ratify the Rome Statute instead of applying other mechanisms of de facto participation in this international treaty.

**3.** It is necessary to clearly define the scope of prosecution for the crime of aggression, i.e. which actors will be prosecuted and why: Only the military-political leadership of the Russian Federation, or also the Republic of Belarus and Iran in the form of complicity.

**4.** Introduce effective coordination of all pre-trial investigation bodies, because now various law enforcement agencies are involved in the pre-trial investigation process and due to inadequate communication there are unjustified delays in the investigation, loss of materials or parts of case files. Also, an important aspect of effective cooperation is the rapid exchange of information both between the pre-trial investigation bodies themselves in case of changes in jurisdiction and between the pre-trial investigation bodies and other public authorities that have important information for the investigation (e.g., the Ministry of Defense of Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine, etc.). Therefore, the issue of digitization of all pre-trial investigation materials and simplification of bureaucratic procedures is relevant.

**5.** Approve the algorithm for the investigation of international crimes with a detailed description of the implementation of urgent investigative actions. That is, a step-by-step instruction for pre-trial investigation body investigators and a description of the methodology of investigation of the most common war crimes must be developed, and appropriate control over the implementation of this instruction must be introduced. In addition, a procedure for investigator's actions in the investigation of war crimes committed in the temporarily occupied territory and the territory close to the war zone should also be developed.

**6.** The investigation of international crimes today requires investigators to have thorough knowledge of IHL and a lot of work with materials from open sources of information, electronic evidence, therefore it is necessary to introduce training and advanced training for investigators in these areas.

**7.** Pre-trial investigation bodies shall: Introduce proper communication with the injured party, as the majority of interviewed victims of international crimes and their representatives had negative experiences with representatives of pre-trial investigation bodies. In April 2023, the Prosecutor General of Ukraine approved the Concept for the Implementation of the Mechanism for Supporting Victims and Witnesses of War Crimes and Other International Crimes, and work on the creation of the Coordination Center for Victims and Witnesses Support was started. However, it is currently impossible to assess the effectiveness of the work of the newly created body will be, but its existence in order to establish communication with the victims is extremely important and relevant.

**8.** The creation of national specialized judges for international crimes would create an unnecessary halt in the trial of criminal cases and could cause irreparable harm to the proper administration of justice. Instead, it is advisable to improve the qualifications and training of criminal judges in order to properly prepare them for consideration of this category of cases.

**9.** To the State Judicial Administration of Ukraine shall: Modernize the format of presentation of statistical data by expanding the possibilities of searching for information according to various criteria.

**10.** To the judiciary of Ukraine, in particular the Grand Chamber of the Supreme Court, should develop as soon as possible a fundamental approach to the interpretation and enforcement of Article 437 of the Criminal Code of Ukraine.

**11.** Pre-trial and judicial bodies of Ukraine shall: Apply a special procedure in absentia both during the pre-trial investigation and during the trial only in exceptional cases and in the presence of a strong evidence base. It should be clearly articulated by the state that as soon as the Russian authorities change and are ready to cooperate within the ordinary mechanisms of international criminal assistance, Ukraine will first of all use them, and only then will it use the procedure of investigation and trial ***in absentia*** adopted in 2014, which is conditioned by the current political and legal the situation in the aggressor state.

**12.** In Ukraine, the war with the Russian Federation has been going on for more than 9 years, and we should have switched from an operational response to a rapid change in crime and, accordingly, its investigation and trial long time ago, by making changes to individual articles of current legislation, to systemic new legislation in this area.

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