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DOI <https://doi.org/10.32849/2663-5313/2024.1.16>**Oleksandr Tarasenko,***Candidate of Juridical Science, Director of the Department of Education, Science and Sport of Ministry, Internal Affairs of Ukraine, 10, Akademika Bohomoltsia Street, Kyiv, Ukraine, postal code 01601, TarasenkoOleksandr@ukr.net***ORCID:** orcid.org/0000-0003-0369-520X

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CRIMINAL LAW MEASURES TO COMBAT COLLABORATION DURING THE ARMED CONFLICT

Abstract. Purpose. The purpose of the article is to analyse thoroughly the criminal law measures to counteract collaboration activities in the context of armed conflict. A special focus is made on the development of an effective regulatory mechanism for this issue, given the urgency of protecting Ukraine's national security. The study is aimed at systematising existing legal approaches and identifying optimal solutions for improving Ukrainian legislation. **Results.** The article examines the phenomenon of collaboration as a multifaceted socio-political phenomenon that has become particularly relevant in the context of the armed conflict in Ukraine after the full-scale invasion of Russia in 2022. The nature, motives and consequences of collaboration are analysed, and its impact on national security, sovereignty and territorial integrity of the state is determined. An emphasis is placed on the criminal law regulatory framework for this phenomenon, in particular, the introduction of Article 111-1 'Collaboration Activities' to the Criminal Code of Ukraine, and the main challenges in its practical application are considered. The text emphasises the need to develop a comprehensive strategy to combat collaborationism, combining legal, social, educational and technological measures. The importance of preventing criminal offences through legal education, social programmes for vulnerable groups, and the integration of law enforcement and social services is underlined. The potential of using modern technologies for threat monitoring, digital control and improving the effectiveness of law enforcement is considered. The role of international cooperation in counteracting this phenomenon, including the exchange of experience and implementation of best international practices, is analysed separately. **Conclusions.** The recommendations for improvement of the current legislation and law enforcement mechanisms with a view to increasing the effectiveness of combating collaboration both during the war and in the post-war period are proposed. The key areas of prevention of criminal offences are identified, including information security, prevention of propaganda, legal education and social reintegration of persons prone to offences.

Key words: collaborationism, collaboration, national security, armed conflict, criminal law regulatory framework, crime prevention, social programmes, legal education, information security, international cooperation, Ukrainian legislation, Article 111-1 of the Criminal Code of Ukraine, hybrid warfare.

1. Introduction

After the full-scale invasion of Ukraine by the Russian Federation, it has become necessary not only to properly investigate military criminal offences, where investigative practice is not yet sufficiently developed, but also to deeply understand the phenomenon of voluntary cooperation between citizens and representatives of the occupying country. As a result, this cooperation, which benefits the aggressor and harms the homeland, is a complex socio-political phenomenon that requires detailed study. The study of collaborationism is relevant for any state whose territory has been or remains occupied, as such countries face the task of not only identifying cases of collaboration with the occu-

pier, but also providing support to their population. It is important to understand the nature, causes, motives and consequences of collaboration in order to ensure fair punishment of those who collaborate with the enemy both during and after the war.

Modern science interprets collaborationism as a complex psychosocial phenomenon that manifests itself in voluntary cooperation, especially if it is ideologically motivated, with the enemy in various spheres of public life. The result of such activities is a threat to national security, encroachment on the sovereignty, territorial integrity, constitutional order and other interests of the state. In the context of the ongoing war and the occupation of certain territories

of Ukraine, many citizens remain in a difficult situation. Some of them were forced to flee their homes, but a significant number of Ukrainians remain in the occupied territories, often becoming hostages of the situation. Unfortunately, among them are those who, from the first days of the occupation, sided with the enemy and took the position of a collaborator.

Collaborationism is studied as a multifaceted socio-political phenomenon that arises as a result of interaction between the occupiers and the local population. It can be seen as a form of cooperation that can be both voluntary and forced. This cooperation covers various sectors: political, military, economic, domestic, socio-cultural, etc. An important aspect of the study is to find out the motives behind such actions and to develop measures to combat this phenomenon.

In Ukraine, the issue of collaboration has gained particular importance due to the continuation of Russian aggression and the temporary occupation of part of the sovereign territory. The outbreak of war has a hybrid character, which adds to the complexity of identifying and qualifying cases of collaboration. Therefore, the study of this phenomenon in the current Ukrainian realities is not only important, but also necessary both from a theoretical point of view and for practical application. Specifically, this applies to measures to counteract collaborationism during active armed conflict, as well as in the post-war period.

The purpose of the article is to analyse thoroughly the criminal law measures to counteract collaboration activities in the context of armed conflict. A special focus is made on the development of an effective regulatory mechanism for this issue, given the urgency of protecting Ukraine's national security. The study is aimed at systematising existing legal approaches and identifying optimal solutions for improving Ukrainian legislation.

A number of scholars have studied the individual components of the phenomenon of collaboration. Among the most well-known names are the following: M. Akimov, V. Berezniak, I. Berdnik, M. Bondarenko, L. Brych, S. Vorobei, V. Hatseliuk, M. Holovko, O. Holovkin, N. Hunko, O. Illarionov, O. Kravchuk, V. Kubalskyi, V. Kubalskyi, V. Kuznetsov, S. Lykhova, O. Matiushenko, V. Navrotskyi, A. Politova, M. Rubashchenko, M. Syiploki, N. Stefaniv, V. Shablysty, S. Shevchenko, O. Yunin and others. Their research was based on the identification of certain criminal law aspects of collaboration, especially in the context of armed conflict. However, the issue of defining a comprehensive strategy aimed at developing effective strategies to combat collaborationism and improving the current legislation remains open.

2. Collaborative activities during the armed conflict

With the outbreak of the hybrid war in 2014, and later the full-scale invasion of Ukraine by the Russian Federation in 2022, the issue of collaboration in the occupied territories of our country arose. That is why, in March 2022, the Law of Ukraine 2108-IX of March 03, 2022 "On Amendments to Certain Legislative Acts of Ukraine Regarding the Establishment of Criminal Liability for Collaborative Activities" came into force (Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Regarding the Establishment of Criminal Liability for Collaborative Activities, 2022), which established criminal liability for collaboration. In accordance with this law, Article 111-1 'Collaboration Activities' was added to the Criminal Code of Ukraine (hereinafter - the CCU) (**Criminal Code of Ukraine, 2001**).

Therefore, when studying this phenomenon, the etymology of the words 'collaboration' and 'collaborationism' cannot be ignored. Collaborationism in international law, according to Yevhen Pysmenskyi, means cooperation with the enemy, especially in the occupied territory. Any form of such cooperation is regarded as treason against the state (Pysmenskyi, 2020). The researcher points to the possibility of a legal conflict if the concepts of 'treason' and 'cooperation with the occupier' are distinguished. On the other hand, O. Holovkin and I. Skazko consider collaborationism as intentional actions aimed at harming the sovereignty or security of Ukraine. These actions may include participation in illegal organisations in the occupied territories or performing administrative functions under the control of the aggressor (Holovkin, Skazko, 2017). In addition, the concept of "collaboration" has a broader meaning than the traditional historical interpretation of the term "collaborationism," as it covers various forms of criminal cooperation. Current Ukrainian legislation considers collaboration as a serious offence, which includes both active support of the occupying power and forced participation due to personal interests or threats. In terms of terminology, it is important to consider the complexity and context of such actions, which leads to the use of the broader concept of "collaboration" in Ukrainian criminal law. In the current context of the war with Russia, collaborationism manifests itself in various forms, including participation in illegal referendums, propaganda campaigns, transfer of resources to the enemy or holding positions in occupation authorities. Therefore, the legal definition of this phenomenon should be as clear and flexible as possible to cover all manifestations of criminal activities in the context of armed conflict. As

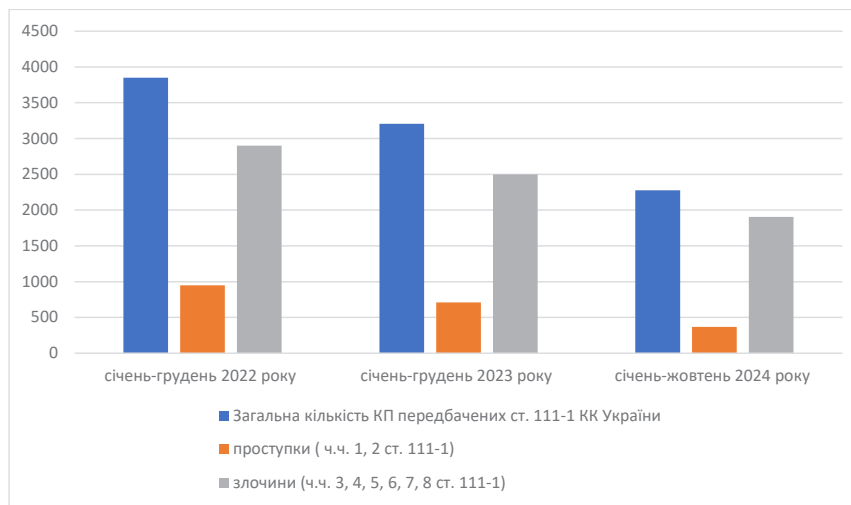


Fig. 1 Number of recorded criminal offences in the reporting period under Article 111-1 of the CC of Ukraine

January-December 2022 January-December 2023 January-October 2024

- **Totality of criminal offences under Article 111-1 of the CC of Ukraine**
- **Misdemeanours (parts 1, 2 of Art. 111-1)**
- **Offences (parts 3, 4, 5, 6 of Art. 111-1)**

a result, after the enactment of this article, criminal proceedings on the facts of committing such a criminal offence were registered in the first days. This is confirmed by the statistics on registered criminal offences and the results of their pre-trial investigation, which is available on the official website of the Prosecutor General, in relation to the registered criminal proceedings on the fact of collaboration.

The statistics reveal a decrease in the number of recorded criminal offences under Art. 111-1 of the CC of Ukraine over the past 3 years, which is not a positive indicator, since due to a number of factors, the criminal offence under study acquires signs of latency. In addition, the decrease in the number of registered criminal offences under Art. 111-1 of the Criminal Code of Ukraine ("Collaboration") may be due to several main factors:

1. Difficulty in distinguishing between the elements of a criminal offence and the need to accurately qualify the actions of suspects. Art. 111-1 of the CCU has many parts covering different forms of collaboration, which require detailed proof of all elements of a criminal offence.

2. Proceedings in absentia (in the absence of the accused) sometimes lead to insufficient protection of the defence's rights, which may affect the number of completed cases. There are difficulties with the evidence base, especially when the accused is outside Ukraine.

3. Frequently, the actions of suspects may fall under other articles of the CCU (e.g.,

Article 111 of the CCU "Treason"), which creates competition between the provisions and reduces the number of recorded criminal offences under Article 111-1 of the CCU.

4. Sometimes, actions that initially appear to be collaborative activities may, after further investigation, be classified as other offences or not constitute a criminal offence at all. There may also be political pressure to 'demonstrate' the performance of law enforcement bodies, which affects the recording of cases.

5. The ambiguity of the definition of "temporarily occupied territories" and their status at different times also affects the statistics of offences due to the physical impossibility of conducting pre-trial investigations in such territories.

Therefore, the decrease in the number of recorded criminal offences is related not only to the decrease in the number of cases of collaboration, but also to legal, procedural and social factors.

3. Prevention and prophylaxis of criminal offences related to collaboration

The current situation demonstrates that collaboration can take a variety of forms, while acquiring new features. The most common ones include participation in hostilities on the side of the aggressor state, public calls for support of the aggressor, propaganda of the occupation authorities, organisation and holding of illegal referendums, work in occupation administrations, transfer of mate-

rial or non-material resources to the occupation forces, cooperation with the military or intelligence agencies of the aggressor, creation or support of illegal armed groups, economic cooperation with the occupiers, providing information to the enemy, holding senior positions in enterprises or structures under the control of the aggressor, participation in information campaigns in favour of the occupation authorities, propaganda of the aggressor's ideas in the media or educational institutions, persecution of the pro-Ukrainian population, organisation of anti-Ukrainian rallies, administrative activities in favour of the occupation authorities, violation of the rights of citizens under the control of the aggressor. Given this diversity of manifestations of collaborative activities, the issue of prevention and prophylaxis of criminal offences comes to the fore (Yunin, Bereznia, Shablysty, Makashov, 2024).

Both the prevention and prophylaxis of criminal offences are aimed at reducing crime, protecting public safety and creating conditions for the stable development of society in both peacetime and wartime. In peacetime, preventive measures are focused on socio-economic aspects: employment, educational programmes, and support for socially vulnerable groups. Legal education of citizens plays a special role, raising their awareness of the legal consequences of criminal offences and ways to protect their rights.

Under martial law, the emphasis shifts to protecting national security, combating crimes against the foundations of national security, criminal offences against peace, human security and international law and order, military criminal offences, etc. In such circumstances, special attention is paid to information security and the prevention of propaganda that promotes hostile actions. Legislation is being tightened and control over compliance with the law is becoming stricter, including the introduction of military tribunals and operational measures.

Conflict prevention also includes work with the population in the temporarily occupied territories, where it is important to distinguish between forced cooperation and deliberate collaboration. All measures are aimed at creating conditions in which criminal activities become risky and potential offenders understand the inevitability of punishment. In general, comprehensive prevention combines legal, social and moral and ethical approaches, ensuring stability and protecting the foundations of statehood.

It is believed that the prevention of criminal offences is a set of measures aimed at creating conditions that minimise the risks of criminal behaviour and ensure compliance with legal and social norms. The main goal of prevention is to create a stable legal consciousness among

citizens that meets the requirements of the current legislation. This activity involves not only combating criminal offences that have already been committed, but also preventing potential threats by creating conditions under which criminal activity becomes unprofitable and dangerous. In peacetime, prevention focuses on social programmes that promote the integration of vulnerable groups into society, improve education, employment and social justice. Of particular importance is legal education, allowing citizens to understand the consequences of illegal actions (Shablysty, Bereznia, Katorkin, 2024).

The key functions of prevention are protective, educational, ideological and prognostic. The protective function ensures the protection of public interests and social values from unlawful encroachments. It involves the work of law enforcement bodies and other state institutions that oversee compliance with the law and respond promptly to potential threats. The educational function focuses on building respect for the law among citizens through educational programmes and social campaigns. The main emphasis is on persuasion rather than coercion, which helps to prevent criminal behaviour by fostering a law-abiding consciousness.

The ideological function is to formulate the general ideological orientation of preventive measures, ensure support for national interests and counteract anti-state propaganda. It is especially important in times of martial law, when there is a growing need to strengthen national unity and counteract collaborationism. Unfortunately, in the face of current challenges, the issue of ideology is often underestimated, which requires increased attention from the state and society (Katorkin, 2024).

The predictive function helps identify potential threats and develop strategies to prevent them. It provides law enforcement bodies with the necessary information to predict and localise risks. This function is especially relevant in wartime, when it is necessary to identify threats to state security in a timely manner and respond to them promptly.

General prevention focuses on addressing the systemic causes of crime, such as social injustice, corruption or insufficient legal culture. It reaches a wide audience and aims to create a safe environment. Individual prevention, on the other hand, focuses on specific individuals whose behaviour raises suspicions of possible illegal acts. This work includes conversations, supervision and psychological support, which helps prevent the commission of criminal offences even at the stage of identifying intent.

Law enforcement bodies, government agencies, educational institutions, NGOs and the media play an important role in preven-

tive activities. The joint efforts of these institutions ensure a comprehensive approach to crime prevention, creating an environment for a safe and stable society in both peacetime and wartime. Work with youth is particularly emphasised, as they are the most vulnerable to negative influence and manipulation by the enemy (Katorkin, 2024). Therefore, criminal law measures to combat collaboration during armed conflict play an important role in the prophylaxis and prevention of this type of criminal offence. Such measures include the following:

1. Creation of a single platform for the prevention of criminal offences:

1.1. Early warning system: use of artificial intelligence to analyse data and identify potential threats.

1.2. Electronic databases: joint access of law enforcement bodies to a single database of persons prone to commit criminal offences.

1.3. Digital risk monitoring: surveillance of social media to detect propaganda of criminal acts (especially in the field of cybersecurity).

1.4. Educational applications and platforms: interactive programmes to teach young people about legal culture. Introduce mandatory courses on media literacy and countering disinformation.

2. Integration of social services and law enforcement bodies:

2.1. Community-based social and legal centres: creation of local support centres for most-at-risk groups (juveniles released from prison, people in difficult life circumstances).

2.2. Expansion of the Community Policing programme: active interaction of the police with communities, for example, mentoring programmes for young people with the participation of law enforcement officers.

3. Prevention through education and media:

3.1. Early legal education: mandatory introduction of legal studies in schools from an early age. Introduction of interactive teaching methods for better understanding of the law.

3.2. Information campaigns: regular media awareness campaigns on the consequences of criminal offences. Launch national programmes to combat stereotypes that may contribute to crime (e.g. gender-based violence).

4. Economic and social measures:

4.1. Support for socially vulnerable groups: creation of vocational training programmes for people at high risk of committing offences.

4.2. Mechanisms of resocialisation: introduction of a system of social contracts for people serving suspended sentences. Development of community service programmes as an alternative to imprisonment.

5. International cooperation:

5.1. Exchange of experience and technologies: implementation of international practices

of crime prevention (e.g. Scandinavian model of social rehabilitation).

5.2. Control of cross-border crime: joint activities with foreign partners to combat organised crime and cyber threats.

6. Use of innovative technologies:

6.1. Video surveillance systems with analytics: installation of modern cameras in places with high crime rates.

6.2. Electronic supervision of probationers: introduction of bracelets to monitor the whereabouts of persons on probation.

4. Conclusions

In the current context of the armed conflict between Ukraine and Russia, collaboration is a complex socio-political phenomenon that requires detailed research and effective counteraction. The introduction of criminal law measures, such as Article 111-1 of the Criminal Code of Ukraine, has become an important step in ensuring national security, but at the same time, challenges arise in their effective implementation and application in practice.

A comprehensive approach, including legal, social, educational and technological measures, is needed to successfully combat collaboration. It is important to create mechanisms for the early detection of potential threats and ensure effective crime prevention through social programmes, legal education and media literacy. Cooperation between law enforcement bodies, social services and international partners, as well as the use of modern technologies for data monitoring and analysis, is of particular importance.

An important task remains to develop a clear strategy that will consider various forms of collaboration and ensure fair punishment of perpetrators. Prevention should be aimed at creating an environment in which illegal activities become risky and unprofitable, and society gains a strong immunity to external threats. Only comprehensive and coordinated action by all stakeholders will ensure the stability and protection of Ukraine's statehood both during the war and post-war periods.

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Олександр Тарасенко,

кандидат юридичних наук, директор, Департамент освіти, науки та спорту Міністерства внутрішніх справ України, вул. Академіка Богомольця, 10, Київ, Україна, індекс 01601, TarasenkoOleksandr@ukr.net

ORCID: orcid.org/0000-0003-0369-520X

КРИМІНАЛЬНО-ПРАВОВІ ЗАХОДИ БОРОТЬБИ З КОЛАБОРАЦІЙНОЮ ДІЯЛЬНІСТЮ У ПЕРІОД ЗБРОЙНОГО КОНФЛІКТУ

Анотація. Метою статті є глибокий аналіз кримінально-правових заходів протидії колабораційній діяльності в умовах збройного конфлікту. Особлива увага приділяється розробці ефективного механізму законодавчого регулювання цієї проблеми, враховуючи актуальність захисту національної безпеки України. Дослідження спрямовано на систематизацію існуючих правових підходів і визначення оптимальних рішень для удосконалення українського законодавства. **Результати.** У статті досліджується феномен колабораційної діяльності як багатогранне соціально-політичне явище, що набуло особливої актуальності в умовах збройного конфлікту на території України після повномасштабного вторгнення РФ у 2022 році. Проаналізовано природу, мотиви та наслідки колабораційної діяльності, визначено її вплив на національну безпеку, суверенітет і територіальну цілісність держави. Особлива увага приділена кримінально-правовому регулюванню цього явища, зокрема запровадженню ст. 111-1 «Колабораційна діяльність» до КК України, та розглянуто основні виклики у його практичному застосуванні. У тексті підкреслюється необхідність розробки комплексної стратегії протидії колабораціонізму, що поєднує правові, соціальні, освітні та технологічні заходи. Акцентовується увага на важливості профілактики кримінальних правопорушень через правову освіту, соціальні програми для вразливих груп населення, інтеграцію роботи правоохоронних органів та соціальних служб. Розглянуто потенціал використання сучасних технологій для моніторингу загроз, цифрового контролю та підвищення ефективності правоохоронної діяльності. Окремо проаналізовано роль міжнародної співпраці у протидії такому явищу, зокрема обмін досвідом та впровадження найкращих світових практик. **Висновки.** Запропоновано рекомендації щодо вдосконалення чинного законодавства та механізмів правозастосування з метою підвищення ефективності боротьби з колабораційною діяльністю як під час війни, так і в післявоєнний період. Визначено ключові напрями профілактики кримінальних правопорушень, серед яких інформаційна безпека, запобігання пропаганді, правова просвіта та соціальна реінтеграція осіб, схильних до правопорушень.

Ключові слова: колабораціонізм, колабораційна діяльність, національна безпека, збройний конфлікт, кримінально-правове регулювання, профілактика злочинності, соціальні програми, правова освіта, інформаційна безпека, міжнародна співпраця, законодавство України, ст. 111-1 КК України, гібридна війна.