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ESTABLISHMENT OF JOINT INVESTIGATION TEAMS IN THE INVESTIGATION OF CRIMINAL OFFENSES AGAINST PEACE AND SECURITY OF MANKIND

Abstract. Purpose. The purpose of this study is to provide a theoretical analysis and examine the feasibility of establishing joint investigation teams (JITs) in the investigation of criminal offenses against peace and security of mankind. **Results.** The article examines the peculiarities of establishing JITs in the investigation of war crimes. It is noted that the issue of war crimes and holding perpetrators accountable remains one of the key challenges of contemporary international law. Ukraine, in its efforts to document the crimes committed by the Russian Federation, relies on the norms of international humanitarian law and cooperates with international organizations, including the International Criminal Court (ICC). The creation of the CICED (Core International Crimes Evidence Database) is identified as an important step toward improving international criminal justice and coordinating investigations related to international crimes such as war crimes, crimes against humanity, and genocide. CICED is expected to become a crucial tool for storing, processing, and analyzing evidence arising from such investigations, playing a key role in ensuring access to this evidence for various legal actors. Furthermore, Eurojust provides essential legal support by assisting in the preparation of agreements—such as the agreement establishing a JIT in Ukraine—and ensuring compliance with international legal standards. This enables national authorities to operate effectively within international procedures and contributes to harmonizing national and international legal mechanisms. It is argued that national legislation must clearly define the procedure for creating JITs, their powers, and the scope of their activities. This would prevent legal uncertainty in the formation of such teams and ensure their efficient functioning. **Conclusions.** One of the main challenges is the need to align procedures for collecting, exchanging, and disclosing evidence among countries. Legislation should clearly regulate this process to ensure the confidentiality, security, and legal admissibility of the collected evidence. Given the requirements for data protection, especially in the context of international investigations, it is important to develop procedures that ensure the proper legal safeguarding of data during its exchange between states. This also includes adherence to standards for the protection of human rights, particularly in cases involving the collection of information about individuals under investigation.

It is also crucial to establish effective mechanisms for cooperation with international organizations such as Eurojust, the International Criminal Court, and other states. This will allow Ukraine to effectively integrate into the international justice system and ensure a proper level of legal cooperation. Such cooperation includes determining the legal status of deployed investigators and prosecutors, as well as addressing issues related to the use of means such as weapons, if necessary, to ensure the security of the investigation.

Key words: war crimes, investigation, International Criminal Court, joint investigation teams, criminal offenses against peace and security of mankind.

1. Introduction

The issue of war crimes and the prosecution of those responsible represents one of the key challenges of modern international law. Ukraine, in its efforts to document the crimes committed

by the Russian Federation, adheres to the norms of international humanitarian law and cooperates with international organizations, in particular the International Criminal Court (hereinafter – ICC).

The principle of universal jurisdiction, which applies to war crimes, enables states to prosecute individuals suspected of committing such acts regardless of where the crimes were committed. This creates a legal basis for international justice, even if the perpetrators are not present within the territory of Ukraine.

In this context, Joint Investigation Teams (hereinafter – JITs) play a significant role in the investigation of international crimes, particularly war crimes, crimes against humanity, and acts of terrorism. Their activities facilitate the coordination of efforts between different countries, the exchange of evidence, and the simplification of extradition procedures for suspects.

One of the first precedents of effective international cooperation in the criminal prosecution of individuals responsible for crimes related to the Russian Federation's war against Ukraine was the investigation into the MH17 tragedy. At present, the JIT continues its work in investigating war crimes committed by Russian military personnel on the territory of Ukraine.

The MH17 case became a landmark example of international justice, demonstrating the importance of thorough evidence collection, inter-state coordination, and adherence to legal standards even under complex circumstances. The District Court of The Hague delivered its ruling based on a robust evidentiary base, including satellite imagery, intercepted communications, witness testimonies, and a reconstruction of the missile's trajectory. This once again confirms that international crimes require high-quality evidence, enhanced inter-state cooperation, and the establishment of JITs for the investigation of such criminal offenses.

Among the scholars who have addressed issues of modern international law, particularly crimes against humanity, the following authors should be noted: N.V. Driomina, N.A. Zelinska, A.A. Maievska, among others. However, certain aspects of this issue remain subject to academic debate and require further scholarly exploration, especially in light of the full-scale invasion of Ukraine by the Russian Federation.

The purpose of this study is to conduct a theoretical analysis and explore the feasibility of establishing Joint Investigation Teams in the investigation of criminal offenses against peace and the security of mankind.

2. Investigation of Criminal Offenses Against Peace and the Security of Mankind

Following February 24, 2022, the war that the Russian Federation had been waging against Ukraine since 2014 entered a phase of full-scale armed conflict. This significantly altered not only the domestic political situation in Ukraine but also the international legal landscape. The

Russian aggression has been unequivocally condemned by the majority of the world's nations and has become the subject of investigations in international courts, including the International Criminal Court (ICC) and the International Court of Justice (ICJ).

According to the data of the Prosecutor General's Office of Ukraine (hereinafter – PGO), as of mid-April 2023, **86,820** crimes of aggression and war crimes had been registered, including:

1. **Violations of the laws and customs of war** (Article 438 of the Criminal Code of Ukraine – CCU);

2. **Planning, preparation, initiation, or waging of an aggressive war** (Article 437 CCU);

3. **War propaganda** (Article 436 CCU).

In addition, **17,128** offenses against the foundations of Ukraine's national security have been recorded, with information about them also entered into the Unified Register of Pre-Trial Investigations. Among them:

1. **Encroachment on the territorial integrity and inviolability of Ukraine** (Article 110 CCU);

2. **High treason** (Article 111 CCU);

3. **Collaborationist activities** (Article 111-1 CCU);

4. **Aiding the aggressor state** (Article 111-2 CCU);

5. **Sabotage** (Article 113 CCU).

In the principal case concerning the aggression of the Russian Federation, **647 individuals** have already been identified as suspects (Official website of the Prosecutor General's Office: statistical information, 2024).

These figures demonstrate the unprecedented scale of war crimes and crimes against Ukraine's national security, necessitating a systematic approach to their investigation. It is crucial not only to document each individual instance but also to build a comprehensive evidentiary base for future judicial proceedings, particularly before the ICC.

The national criminal proceedings conducted by Ukraine are closely interconnected with international cases. For instance, the Prosecutor General's Office cooperates with the International Criminal Court, Eurojust, other international organizations, and national law enforcement agencies of partner countries. This interaction enables not only the documentation of crimes but also the provision of international legal support for prosecution.

One of the avenues of Ukraine's cooperation with the international community in the context of forming Joint Investigation Teams (JITs) is through collaboration with **Eurojust** (the European Union Agency for Criminal Justice Cooperation). Eurojust plays a crucial role in

coordinating national investigations, especially with regard to crimes of a transnational nature. Its mechanisms allow countries to exchange evidence, align legal strategies, and avoid duplicating investigative measures.

Additionally, Eurojust's efforts are focused on supporting JITs, as the agency facilitates real-time operational information exchange between participating states and simplifies legal cooperation among national authorities (The work of the joint investigative group in the process of documenting crimes of the Russian Federation: the military experience of Ukraine, 2023).

Key aspects of JIT operations under Eurojust coordination include:

- **Simplified evidence exchange** – participating countries can share evidence more quickly and efficiently, which is critical for collecting materials in war crimes cases.

- **Coordination across jurisdictions** – ensures a unified legal approach and prevents duplicate investigations in multiple countries.

- **Preparation for a potential international tribunal** – collected evidence may serve as the foundation for future international prosecution of perpetrators.

- **Strengthening the role of the United States in investigations** – the Memorandum of Understanding with the U.S. Department of Justice allows for the involvement of American experts, which is of strategic importance for future proceedings.

A vital step in ensuring effective investigation of international crimes committed during the war is cooperation with the International Criminal Court. Legislative amendments to Ukraine's Criminal Procedure Code that permit ICC representatives to conduct procedural actions on Ukrainian territory are a significant element of this collaboration.

Eurojust plays a pivotal role in ensuring the effective functioning of JITs, especially in the context of global and highly complex investigations such as those concerning war crimes. Thanks to the operational, analytical, legal, and financial support of Eurojust, participating countries can focus on the core investigative tasks while minimizing logistical and organizational burdens (Official website of the European Union Agency for Criminal Justice Cooperation, 2023).

The main aspects of support provided by Eurojust include:

- **Technical support.** Ensuring that the joint investigation teams (JITs) are equipped with the necessary tools for communication and information processing—such as mobile phones, laptops, scanners, and printers—enables efficient and uninterrupted work, even under field conditions.

- **Financial support.** Reimbursement of travel, accommodation, and other essential expenses significantly reduces the financial burden on participating countries and ensures the continuity of JIT operations. This type of funding is crucial, as it allows for the uninterrupted involvement of necessary experts and specialists, regardless of financial constraints.

- **Analytical support.** The structuring of available data and evidence allows for the effective organization of investigations and the establishment of a foundation for subsequent legal actions at both the national and international levels. Eurojust contributes to forming a comprehensive picture of events, which is critical in complex cases such as war crimes (Official website of the European Union Agency for Criminal Justice Cooperation, 2023).

Overall, Eurojust plays an indispensable role in investigations that require international coordination and resource pooling, particularly in cases involving war crimes and crimes against humanity.

The creation of the **Core International Crimes Evidence Database (CICED)** represents a significant step forward in enhancing international criminal justice and the coordination of investigations into international crimes such as war crimes, crimes against humanity, and genocide. CICED is designed to serve as a vital tool for storing, processing, and analyzing evidence collected during such investigations, and it plays a key role in facilitating access to this information for various actors within the legal process.

Key features and advantages of CICED include:

- **International coordination.** CICED allows for the centralized storage of evidentiary materials originating from multiple jurisdictions. This is particularly important in cases where suspects are located in different countries and witnesses or victims are dispersed globally. The database facilitates information sharing and ensures coherent cooperation among international bodies such as the International Criminal Court, law enforcement agencies, and non-governmental organizations.

- **Analytical functionality.** Given the vast volume of data stored in CICED—including thousands of events, testimonies, and pieces of evidence translated into multiple languages—the database plays a crucial role in processing and analyzing information. This functionality enables investigators and prosecutors to quickly locate relevant testimonies and facts that support or refute specific allegations, thereby contributing to more efficient judicial proceedings.

- **Multilateral access.** To ensure effective use of CICED, access is granted to a broad

range of investigative stakeholders, including law enforcement officials, prosecutors, judges, international institutions, and human rights NGOs. This ensures that all parties have access to verified and standardized information, thereby promoting transparency and fairness in legal processes.

It is important to emphasize that CICED is not limited to the war in Ukraine. It was designed to serve as a **universal tool** for processing evidence in all international crimes investigated by Eurojust and its international partners. In the future, the database may also be utilized in connection with other armed conflicts occurring elsewhere in the world, which significantly enhances its relevance in the global context.

Thus, CICED has the potential to become a powerful instrument for improving the **efficiency of international investigations**, enhancing coordination among states and institutions, and ensuring greater transparency and reliability in evidence collection and processing. Ultimately, this contributes not only to more effective justice but also to securing accountability and redress for victims of international crimes.

3. International Cooperation in the Investigation of Criminal Offences Against Peace and Security of Humanity

The establishment of the **International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA)** marks a significant step in strengthening international cooperation to ensure accountability for the crime of aggression committed against Ukraine. The Centre is expected to contribute to the reinforcement of the international legal system and play a key role in the investigation and collection of evidence related to the crime of aggression.

As previously noted, the primary objective of the ICPA is to support and enhance investigations into the crime of aggression. This includes securing the collection and analysis of relevant evidence, which is of critical importance for the formulation of international indictments and the prosecution of responsible individuals.

The ICPA operates as an integral part of Eurojust's support within the **Joint Investigation Team (JIT) for Ukraine**. This enhances the potential for information exchange and coordination of efforts at the international level, as centralized support allows for more efficient and timely investigations. Such coordination can be decisive for obtaining additional evidence and ensuring clear interaction among partner countries.

In addition, the ICPA aims to provide **financial, operational, and logistical support** to partner countries. This includes funding for investigative activities, reimbursement of logis-

tical expenses, and assistance in the mobilization of resources necessary for evidence gathering. These forms of support contribute to the more effective implementation of investigations and promote international cooperation.

Importantly, the establishment of the Centre provides partner states with access to essential resources and opportunities to participate in investigations into the crime of aggression. This fosters **greater international cooperation and engagement** across jurisdictions and facilitates the involvement of a broader range of countries in efforts to achieve justice for the victims of aggression.

The investigation of crimes of aggression involves complex work related to gathering evidence that may be difficult to access or of strategic importance. Accordingly, the ICPA plays a crucial role in creating mechanisms for the **collection, preservation, and analysis** of such evidence, thereby strengthening international criminal justice.

Moreover, Eurojust provides substantial legal support by assisting in the **preparation of agreements**, such as the one establishing the JIT in Ukraine, and ensuring compliance with international legal standards. This enables national authorities to operate effectively within the framework of international legal procedures and promotes **harmonization** between national and international legal mechanisms.

When joint investigations are required, parties typically rely on a **model agreement** adopted in 2003, as recommended by relevant international guidelines. This model is designed to be flexible and adaptable to the specific circumstances of each case, which is essential given the unique features and demands of every investigation.

According to legal experts, the agreement establishing a JIT constitutes an **international treaty**, and as such, should be treated accordingly under international law. A key issue, however, is that national legislation—specifically the **Criminal Procedure Code of Ukraine (CPC)**—does not always clearly regulate the process of concluding such agreements, which complicates the legal integration of international standards into domestic practice.

Currently, **Ukrainian legislation does not adequately regulate this matter**. Neither the existing CPC of Ukraine nor **Draft Law No. 7330** (on amending the CPC to improve the operation of JITs), which is under consideration in the Verkhovna Rada, provides detailed regulation on the formation of JITs, including the procedure for concluding agreements with competent authorities of foreign states.

This creates a degree of **legal uncertainty**, as the establishment of JITs often requires a clear

legal framework to prevent potential conflicts between national and international procedures. Therefore, it is essential that Ukraine addresses this issue through appropriate legislative action in the near future (Criminal Procedure Code of Ukraine, 2012; Draft Law No. 7330, 2022).

Thus, **Ukraine's national criminal procedural legislation requires improvement**, particularly concerning the mechanisms and procedures for the establishment and functioning of JITs (Criminal Procedure Code of Ukraine, 2012). While this mechanism is actively used, its legal regulation needs to be more precisely defined to ensure effective cooperation between states in the context of international investigations.

We believe that **the procedure for establishing JITs, their powers, and scope of activity must be clearly prescribed in national legislation**. This would eliminate legal ambiguities during the creation of such groups and ensure their effective functioning.

One of the main challenges is the need to **harmonize procedures for the collection, exchange, and disclosure of evidence** among countries. Legislation should clearly define rules governing this process to ensure **confidentiality, security, and legal admissibility** of the evidence collected.

Considering **data protection requirements**, especially in the context of international investigations, it is essential to develop procedures that ensure proper legal safeguards for data exchanged between states. This also applies to compliance with **human rights standards**, particularly in cases involving the collection of information about individuals under investigation. Furthermore, mechanisms for cooperation with international bodies—such as **Eurojust, the International Criminal Court**, and other states—must be well-established. This would allow Ukraine to effectively integrate into the **international system of justice** and ensure a high level of legal cooperation. Such mechanisms should also address the **legal status of seconded investigators and prosecutors**, including provisions related to the use of equipment or even weapons, if necessary, to ensure the safety of investigative operations.

The current **Criminal Procedure Code of Ukraine** does not provide detailed regulation on the operation of **Joint Investigation Teams (JITs)** but merely permits their establishment within the framework of international cooperation. Specifically, **Article 571** of the CPC allows for the creation of JITs for pre-trial investigations into offences committed in the territories of multiple states or where the interests of multiple states are affected. However, as previously noted, the article does not provide a clear procedural framework or mechanisms for the organi-

zation and functioning of such teams (Criminal Procedure Code of Ukraine, 2012).

At present, the **Office of the Prosecutor General of Ukraine (OPG)** is designated as the authority responsible for reviewing matters related to the establishment of JITs. This means that the OPG acts as the central body coordinating and deciding on the creation of these teams. However, the initiative for creating a JIT may come from either Ukrainian pre-trial investigation authorities (such as investigators or prosecutors) or competent bodies of foreign states who may approach the Ukrainian side with such a request.

In addition to legal and regulatory challenges, there are numerous **practical difficulties** associated with investigating international crimes during wartime. These challenges extend beyond organizational issues and include **serious security threats to investigators**, as well as **technical and legal complexities**.

As mentioned earlier, **investigative activities often take place in areas that are mined or located near the frontline**. This poses severe risks to the lives and health of investigators, sappers, and other personnel involved in the process. Addressing this issue requires **specialized demining resources**, proper planning, coordination with security forces, and the involvement of international demining experts.

Evidence collection in active combat zones is also a highly complex process that demands careful handling. The gathered evidence must be **properly documented and preserved** to ensure its admissibility in court. In particular, documenting crime scenes is extremely difficult in wartime conditions due to ongoing shelling and constantly changing environments. In such circumstances, adhering to **evidence preservation standards** becomes a major challenge.

Exhumation of bodies, especially in combat areas, is an extremely complex and dangerous task. It requires **significant resources, time, and specialized equipment** to be carried out safely. Given that many bodies may be buried in **temporary graves** or even located in **current frontline zones**, well-organized **logistics** are essential for the transportation and forensic examination of the remains.

The **mass displacement of people** and changes in territorial control complicate the identification of **witnesses and victims' locations**. Moreover, involving them in further investigative actions—such as interrogations or investigative experiments—can be difficult due to security concerns, restricted mobility, and limited transportation options.

As the war in Ukraine is being waged by a state that systematically violates **international humanitarian law**, a number of legal challenges arise in the process of establishing facts related

to crimes of aggression and war crimes. It is essential that states cooperating within international investigation teams adhere to **common standards and principles** for evidence collection and its legal admissibility. Moreover, there may be difficulties with the **execution of international arrest warrants** or the **enforcement of judicial decisions** during ongoing hostilities.

The use of **modern technologies** for evidence collection and preservation—such as digital traces, mobile phone data, drone footage, and satellite imagery—may be hampered by the **destruction of infrastructure, disruptions in communication, or cyberattacks** on internet resources. This necessitates the engagement of **highly skilled specialists** and the use of **advanced tools** to ensure proper documentation and preservation of information.

4. Conclusions

In the context of war crimes and general legislative uncertainty, a key component in the investigation of international and war crimes is the use of existing **international tools and strategic guidelines**, along with the development of **national investigative practice**. The following instruments and recommendations are of critical importance for ensuring the proper conduct of investigations:

1. **The Guide to Collecting Evidence for the International Criminal Court and Documenting International Crimes** – This is one of the key resources for upholding standards in the collection and documentation of evidence admissible in international courts. Proper evidence gathering forms the foundation for establishing the guilt of perpetrators and ensuring that such evidence is recognized at the international level. Although wartime conditions complicate this process, the existence of such guides helps minimize errors and deficiencies related to the technical aspects of evidence collection (Guide to Collecting Evidence for the International Criminal Court and Documenting International Crimes, 2019).

2. **The Bournemouth Protocol on the Protection and Investigation of Mass Graves** – This document is crucial for the effective identification and documentation of mass graves, which often constitute primary evidence in war crimes investigations. Since such graves may result from international crimes (e.g., mass killings), it is essential to define clear procedures for their investigation and the handling of related evidence. The protocol ensures an appropriate level of protection and prevents evidence distortion during the investigative process (Bournemouth Protocol on the Protection and Investigation of Mass Graves, 2022).

3. **The Minnesota Protocol on the Investigation of Potentially Unlawful Deaths** – This document provides guidelines for investigating

cases where there is a suspicion that a person's death resulted from human rights violations or war crimes. In the context of war crimes, it enables the collection of crucial data on the cause and circumstances of death, which is an integral part of the investigation (Minnesota Protocol on the Investigation of Potentially Unlawful Deaths, 2022).

4. **The Manual for Forensic Experts on the Investigation, Recovery, and Analysis of Human Skeletal Remains** – In situations where the victims of international crimes are buried or discovered in a condition requiring specialized forensic analysis, this manual plays a vital role in ensuring the correct procedures for the recovery and examination of remains. Such analysis can provide key insights into the method and time of death, as well as evidence of potential violence.

Thus, the role of **international organizations** such as the **International Criminal Court (ICC)**, the **United Nations**, **Eurojust**, and others becomes critical. These bodies not only provide **technical and financial support**, but also facilitate **coordination among states** and offer a common **scientific and practical foundation** for the investigation of international crimes. This cooperation helps strengthen the evidentiary base and increases the likelihood of successfully holding perpetrators accountable.

Joint Investigation Teams (JITs) play a central role in ensuring effective coordination between states, enabling the exchange of vital information and evidence. They also allow for faster responses to newly emerging facts and greatly simplify evidence collection in territories under enemy control or in active conflict zones.

To ensure the **reliability of the evidentiary base**, it is essential to employ **technological tools** such as digital technologies for data collection, storage, and exchange, as well as tools that enable on-site documentation of human rights violations (e.g., video recordings, photographs, geospatial data, etc.).

Taking this into account, there is a pressing need to further **enhance both national and international investigative mechanisms**, integrating domestic practices with international standards. Such alignment will allow for a more effective response to the challenges of investigating war crimes amid the realities of modern armed conflict.

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СТВОРЕННЯ СПІЛЬНИХ СЛІДЧИХ ГРУП ПРИ РОЗСЛІДУВАННІ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ ПРОТИ МИРУ ТА БЕЗПЕКИ ЛЮДСТВА

Анотація. **Метою** дослідження є теоретичний аналіз та розгляд можливості створення спільних слідчих груп при розслідуванні кримінальних правопорушень проти миру і безпеки людства. **Результати.** У статті розглянуто особливості створення спільних слідчих груп при розслідуванні воєнних злочинів. Зазначено, що питання воєнних злочинів та притягнення винних осіб до відповідальності є одним із ключових викликів сучасного міжнародного права. Україна, працюючи над документуванням злочинів РФ, керується нормами міжнародного гуманітарного права та співпрацює з міжнародними організаціями, зокрема Міжнародним кримінальним судом. Зазначено, створення бази даних CICED (Core International Crimes Evidence Database) є важливим етапом у вдосконаленні міжнародного кримінального правосуддя та координації розслідувань, пов'язаних з міжнародними злочинами, такими як воєнні злочини, злочини проти людяності та геноцид. CICED має стати важливим інструментом для зберігання, обробки та аналізу доказів, що виникають під час таких розслідувань, і відігравати ключову роль у забезпеченні доступу до цих доказів для різних учасників правового процесу. Слід додати, що Євроюст надає важливу юридичну підтримку, допомагаючи в підготовці угод, як, наприклад, угода щодо створення ССГ в Україні, а також у забезпеченні юридичної відповідності міжнародним нормам. Це дозволяє національним органам ефективно діяти в межах міжнародних процедур та забезпечує гармонізацію національних та міжнародних правових механізмів. Ми вважаємо, що на рівні національного законодавства має бути чітко прописана процедура створення спільних слідчих груп, їх повноваження та межі діяльності. Це дозволить уникнути правової невизначеності при створенні таких груп і забезпечить їх ефективну роботу. **Висновки.** Однією з основних проблем є необхідність узгодження процедур збору, обміну і розкриття доказів між країнами. Законодавство повинно чітко визначати правила для цього процесу, щоб забезпечити конфіденційність, безпеку та юридичну допустимість зібраних доказів. Враховуючи вимоги захисту даних, особливо в контексті міжнародних розслідувань, важливо розробити процедури, які дозволять забезпечити належну юридичну захищеність даних під час їх обміну між державами. Це також стосується дотримання стандартів щодо захисту прав людини, зокрема, у випадках, коли мова йде про збирання інформації щодо осіб, які підлягають слідству. Також важливо налаштувати механізми співпраці з міжнародними організаціями, такими як Євроюст або Міжнародний кримінальний суд, та іншими державами. Це дозволить Україні ефективно інтегруватися в міжнародну систему правосуддя і забезпечити належний рівень правового співробітництва. Це включає визначення правового статусу відряджених слідчих та прокурорів, а також питання щодо використання таких засобів, як зброя, у разі потреби для забезпечення безпеки розслідування.

Ключові слова: воєнні злочини, розслідування, Міжнародний кримінальний суд, спільні слідчі групи, кримінальні правопорушення проти миру та безпеки людства.