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CRIMINOLOGICAL FOUNDATIONS OF THE ACTIVITIES OF PROSECUTION AUTHORITIES IN PREVENTING CRIMES RELATED TO THE IMPLEMENTATION OF THE STATE MIGRATION POLICY: FORMATION OF A CONCEPTUAL AND CATEGORICAL FRAMEWORK

Abstract. Purpose. The purpose of the article is to systematize and generalize existing scholarly views on the criminological analysis of migration crime and the role of the prosecution service in the prevention system, as well as to develop a coherent conceptual and categorical framework for further theoretical substantiation and improvement of the criminological foundations of the activities of the prosecution authorities of Ukraine in preventing crimes related to the implementation of the state migration policy.

Results. The article examines the criminological foundations of the activities of the Ukrainian prosecution authorities in preventing crimes associated with the implementation of the state migration policy. The relevance of the problem is driven by the need for interdisciplinary integration of knowledge about the phenomenology of crime under conditions of instability and armed conflict, as well as by the absence of a direct definition of the crime prevention function in the current Law of Ukraine "On the Prosecution Service," which necessitates theoretical interpretation of its role. The developed conceptual and categorical framework includes key definitions such as "*criminological foundations of the activity of the prosecution service*", defined as the theoretical and methodological basis for the implementation of the prosecution's preventive function through identifying, analyzing, and eliminating the causes and conditions of crime. It is established that "*migration policy*" is interpreted as a complex and structured system of measures, resources, and mechanisms aimed at regulating migration processes and achieving socio-economic and security objectives. "*Migration crime*" is considered as a set of criminal acts that includes crimes committed by migrants, crimes committed against migrants (human trafficking, exploitation), as well as crimes related to the organization of illegal migration. It is determined that "*crimes related to the implementation of the state migration policy*" include not only direct migration-related offenses but also corruption by authorized officials and transnational organized crime, which undermine the state's ability to properly implement its policy. **Conclusions.** The article identifies the critical importance of criminological foundations, which provide prosecutors with scientifically grounded tools for exerting systemic influence on the root causes of crime (primarily corruption) and establish clear supervisory priorities, directing the prosecution service toward combating organized crime and protecting the rights of vulnerable groups (migrants). It is argued that the systematization of scholarly views has enabled the formation of an integrated conceptual and categorical framework, which is an essential prerequisite for further theoretical substantiation and enhancement of the preventive role of the prosecution service in the field of state migration policy.

Key words: criminological foundations of the prosecution service, migration policy, migration crime, crime prevention, anti-corruption, transnational organized crime, preventive function of the prosecution service, conceptual and categorical framework.

1. Introduction

A significant aspect in developing the theoretical principles of the criminological foundations of the activities of prosecution authorities aimed at preventing crimes related to the implementation of the state migration policy is defining the substantive content of the research

object. It is essential to formulate a conceptual and categorical framework concerning the activities of prosecution authorities and its components as an object of the state migration policy associated with crime prevention in this area.

In particular, when examining the criminological foundations of the activities of the prosecution

service under conditions of armed conflict, scholars emphasize the importance of clarifying the essence and meaning of categories such as "activities of prosecution authorities," "criminological foundations," "crime," "armed conflict," "crime under conditions of armed conflict," etc. This is due to the fact that the cognition of any phenomenon requires the use of specific conceptual and categorical tools. Correct formulation of theoretical concepts is essential in the process of interpreting the results of criminological research. At the same time, a structured system of knowledge enables organizing and structuring the domain of social reality related to the identification of crime prevention problems, determining effective means of counteracting crime, and promoting further scholarly inquiry (Kovalevskyi, 2020).

Holovkin B.M. notes that in an era of unstable development, interdisciplinary integration of knowledge about the ontology and phenomenology of crime is inevitable. The development of fundamental and applied criminology is directly affected by the state and trends of crime both in Ukraine and globally (Holovkin, 2020). Combating and preventing crime remains a pressing issue regardless of the level of criminogenic conditions in society. This issue directly influences public safety, citizens' sense of protection by the state, and confidence in the imposition of fair punishment on perpetrators of criminal offenses.

Any actions aimed at combating and preventing crime are carried out by an organized system of authorized entities, which may evolve depending on social needs and the prevalence of certain categories of criminal acts. The prosecution service plays an important role within the law enforcement system of Ukraine as a state institution acting on behalf of the state and society. Its activities are regulated by a number of legal sources, including international treaties and instruments (e.g., the 1948 Universal Declaration of Human Rights, the 1990 UN Guidelines on the Role of Prosecutors), the Constitution of Ukraine, the Law of Ukraine "On the Prosecution Service," the Criminal Procedure Code of Ukraine, and others that determine the functions and tasks of the prosecution service, the legal status of prosecutors, and the principles of prosecutorial oversight (Boreiko, Bronevitska, Lisitsyna, Lutsyk, Navrotska, 2019).

The current Law of Ukraine "On the Prosecution Service" of 14 October 2014 does not explicitly define crime prevention among the direct tasks of the prosecution service. Nevertheless, analysis of the functions and powers of prosecutors allows for identifying certain forms of activity that demonstrate the prosecutor's role in crime prevention (Markov, 2010).

For instance, in exercising prosecutorial oversight over compliance with the law by bodies conducting operational and investigative activities, inquiry, and pre-trial investigation, the Prosecutor General and the leadership of district prosecutor's offices coordinate the activities of law enforcement agencies at the local level by organizing joint meetings, establishing inter-agency working groups, conducting coordination measures, and analyzing crime prevention efforts. Thus, crime prevention is an inherent component of preventing criminal offenses (Komisaruk, 2023).

Accordingly, to develop a conceptual and categorical framework concerning the criminological foundations of the activities of the prosecution authorities in preventing crimes within the sphere of state migration policy, it is necessary to define key terms based on criminological doctrine and the functional purpose of the prosecution service.

Research on the concept of "*criminological activity of the prosecution service*" has been conducted by O.S. Ishchuk, O.H. Kalman, V. Yurchyshyn, V.M. Komisaruk, V.V. Markov, V.M. Kuts, and A.M. Orlean.

The definition of "*migration policy*," which represents an object requiring protection from criminal encroachments, has been examined in the works of S.O. Mosiondz, S.F. Denysiuk, O.H. Babenko, A.L. Shevtsov, and O.I. Shaporenko.

Issues of migration crime and corruption in this field, which lay the groundwork for the diagnostic toolkit of the prosecution service, have been explored by Yu.B. Kuryliuk, A.P. Mozol, V.V. Mozol, M. Puzyrov, V. Shapka, and M. Hradovska.

However, no separate study has yet been devoted to analyzing the level of scholarly development of the criminological foundations of the activities of prosecution authorities in preventing crimes related to the implementation of the state migration policy, through systematizing and generalizing the main research areas in the criminological analysis of migration crime and determining the role of the prosecution service in the prevention system. This gap highlights the relevance of the present research.

The purpose of the article is to systematize and generalize existing scholarly views on the criminological analysis of migration crime and the role of the prosecution service in the prevention system, as well as to develop a coherent conceptual and categorical framework for further theoretical substantiation and improvement of the criminological foundations of the activities of the prosecution service of Ukraine in preventing crimes related to the implementation of the state migration policy.

2. Specific Features of Clarifying the Conceptual and Categorical Framework

In studying the criminological foundations of the activities of prosecution authorities in preventing crimes related to the implementation of the state migration policy, it is essential to clarify the essence and significance of such categories as "*criminological foundations of the activity of the prosecution service*," "*migration policy*," "*migration crime*," and "*crimes related to the implementation of the state migration policy*." These categories allow for a systematic approach to examining and improving the role of the prosecution service as a key actor in combating crime in this specific and socially sensitive sphere.

To determine the essence and significance of the category "*criminological foundations of the activity of the prosecution service*," it is necessary to refer to the dissertation research by O.S. Ishchuk devoted to the criminological activity of prosecution authorities. The scholar defined the priorities and levels of the criminological activity of the prosecution service, characterized the effectiveness, information-analytical support, and scientific accompaniment of such activity, and proposed a mechanism for its implementation (Ishchuk, 2014).

Criminological activity of the prosecutor is also addressed in the work of O.H. Kalman. The scholar argues that, during the pre-trial investigation stage, criminological activity consists of prosecutorial actions connected with the exercise of the following powers:

- a) the prosecutor's participation in investigative actions aimed at identifying and eliminating the causes and conditions that contributed to the commission of a crime;
- b) giving instructions to an investigator or inquiry body to carry out investigative actions aimed at identifying and eliminating such causes and conditions;
- c) returning a criminal case to an investigator or inquiry body for additional investigation due to the failure to identify the causes and conditions that contributed to the commission of the crime;
- d) revoking insufficiently substantiated submissions made by the investigator or inquiry body (Kalman, 2010).

In turn, V. Yurchyshyn concludes that "*criminological activity of the prosecutor*" should be understood as a special supervisory activity aimed at the timely identification by pre-trial investigation bodies of the causes and conditions that contributed to the commission of crimes, as well as the adoption of substantiated procedural and non-procedural measures aimed at eliminating them in order to minimize criminogenic influence (Sydorenko, 2018).

Criminological activity is implemented by prosecutors in several directions: exercising prosecutorial supervision over compliance with and proper application of laws; criminological activity during pre-trial investigation; criminological activity in court proceedings; supervision over the execution of court decisions in criminal cases and over the application of other coercive measures involving restrictions of personal liberty; analytical work; development and planning of crime prevention measures; coordination of law enforcement agencies in combating crime.

In addition, prosecutors must promote preventive activities of the public, participate in legal education, and cooperate with relevant institutions of other states and international organizations in the field of crime prevention and counteraction.

The prosecution authorities are entrusted with the following tasks: protecting the constitutional order of Ukraine, personal rights and freedoms of individuals and citizens, and the foundations of the democratic system from unlawful encroachments; carrying out criminal prosecution and bringing offenders to criminal liability; taking measures to compensate for material and other damages caused by offenses; coordinating the activities of law enforcement bodies in preventing and combating crime; participating in all types of judicial proceedings and identifying causes and conditions of crimes and other offenses; ensuring interaction with foreign law enforcement bodies and specialized international organizations for the purpose of mutual legal assistance in combating organized crime and other especially dangerous offenses; identifying needs for legal regulation in various spheres of social relations and submitting proposals accordingly; ensuring the objective formation of state legal statistics and maintaining specialized records by supervising compliance with law in this area; analyzing legality and law and order at the regional and national levels; participating in the development of plans and programs aimed at combating and preventing crime (Popovych, 2007).

An important component of the activities of prosecution authorities in combating and preventing crime is the submission by prosecutors of representations to relevant state bodies and agencies, containing proposals aimed at strengthening legality and law and order and improving the effectiveness of crime prevention measures. The prosecution service is also tasked with "*informing state bodies and the public about the state of legality and measures taken to strengthen it*," as specified in paragraph 5 of Article 6 of the Law of Ukraine "On the Prosecutor's Office" (Law of Ukraine On the Prosecutor's Office, 2014).

Thus, based on the aforementioned scholarly views, it can be concluded that the category “*criminological foundations of the activity of the prosecution service*” represents the theoretical and methodological basis for the implementation of the preventive function of the prosecution service. It constitutes a set of scientifically grounded fundamental provisions, principles, and approaches that determine the content, methods, and organization of prosecutorial activity aimed at identifying, analyzing, and eliminating the causes and conditions of crime.

In terms of its significance for preventing crimes related to the implementation of the state migration policy, the *criminological foundations of the activity of the prosecution service* provide prosecutors with scientifically grounded tools for influencing the root causes of crime, transforming the prosecution service from a body that reacts to consequences into a key actor within the state's preventive system.

3. Specific Features of Formulating the Concepts of “Migration Policy” and “Migration Crime”

In academic discourse, the definition of the concept of “*migration policy*” remains a matter of ongoing debate. Numerous interpretations exist, depending on the meaning attributed by researchers to the terms “*policy*” and “*migration*.” According to a widely accepted view in the scholarly community, migration policy may be defined as a system or set of measures determined by the state.

For example, S.O. Mosondz understands migration policy as a set of legal, financial, administrative, and organizational measures through which the state purposefully influences the regulation of migration processes in line with migration priorities, the quantitative composition of migration flows, and their structure within the sphere of public administration (Mosondz, 2003).

According to S.F. Denysiuk, migration policy is a set of measures belonging to the sphere of public governance that includes a legally regulated and representative-authority-controlled decision-making process aimed at organizing migration processes (Denysiuk, 2008). Similar approaches to defining “*migration policy*” are found in the works of other Ukrainian scholars.

However, some researchers argue that migration policy should not be limited solely to a system of measures. Thus, O.H. Babenko defines migration policy as a system of measures, resources, and mechanisms through which the state and society purposefully influence social movements and social mobility of both their indigenous population and all allogeneic groups (Babenko, 1997).

A.L. Shevtsov views migration policy as a system of state-level, generally accepted ideas and conceptually integrated means through which, primarily the state as well as its social institutions, adhering to certain principles, plan the achievement of goals relevant to the current and subsequent stages of societal development (Shevtsov, 2013).

O.I. Shaporenko interprets migration policy as a system of conceptually unified instruments through which the state and its social institutions anticipate achieving the objectives of developing external migration processes in accordance with the long-term tasks of the socio-economic development of society (Shaporenko, 2019).

This diversity of interpretations within the Ukrainian academic field reflects the multidimensional nature of the phenomenon under analysis. Migration policy may therefore be conceptualized as a system of measures, resources, mechanisms, instruments, and ideas. Overall, migration policy constitutes a complexly structured system that encompasses coherent ideas, objectives, and strategies, along with interacting measures, resources, mechanisms, and instruments, which collectively enable the state to regulate migration processes.

Depending on territorial characteristics, migration policy takes different forms and reflects the diverse migration processes and challenges inherent to various countries and regions. Territorial differentiation, and consequently differences in migration policy, is a natural response to the unique set of factors and conditions characteristic of each territory, which require an individual approach. Migration policy aims to achieve goals that relate, to varying degrees, to economic, social, political, and other aspects. For example, its role in economic development has been examined in recent studies (Semenets-Orlova, Pylypchenko, 2024).

Thus, *migration policy* seeks to achieve multifaceted objectives that concern economic development, social stability, national security, and other aspects of societal functioning. Its effective implementation requires a deep understanding of migration processes and flexible responses to constantly changing conditions. Migration policy is a key variable determining success or failure in preventing crimes in this sphere. The criminological foundations of the prosecution service's activity provide tools for the systemic protection of migration policy from corruption and inefficiency, which constitute major factors contributing to crimes related to its implementation.

The category of “*migration crime*” represents one of the most complex and sensitive

aspects of contemporary criminology and legal scholarship. It encompasses crimes committed by migrants (foreign nationals and stateless persons) in the host country, crimes committed *against* migrants, as well as crimes associated with the organisation of illegal migration (such as human trafficking and migrant smuggling). Numerous challenges arise in clarifying the essence and significance of the category “*migration crime*,” as various terms are frequently used—sometimes in broader or narrower senses—leading to conceptual ambiguity. Among them are: *migrant crime* (Kuryliuk, 2018), *migration-related crime* (Puzyrov, Shapka, 2023), and *crime in the sphere of migration*. Each of these categories has its own features and characteristics.

Thus, the term “*migrant crime*” refers specifically to crimes committed by foreign nationals or stateless persons within the territory of the host state. It does not cover crimes committed against migrants or crimes related to the organisation of illegal migration. The category “*migration-related crime*” is broader and may include crimes committed both by migrants and against them, as well as crimes resulting from migration processes (e.g., human trafficking, smuggling of migrants). However, the boundaries of this concept may be diffuse.

Finally, “*crime in the sphere of migration*” usually refers to offences directly related to migration processes and their regulation, such as violations of residence rules or illegal border crossing.

Therefore, *migration crime* is not a monolithic phenomenon but a complex of criminal acts. It encompasses three main groups:

1. **Crimes committed by migrants.** These are criminal offences perpetrated by foreign nationals or stateless persons within the host country. It is essential to recognise that migration status itself is not a cause of criminality; such offences may fall across the entire spectrum—from minor thefts to serious crimes—just as among other population groups.

2. **Crimes committed against migrants.** This group includes offences in which migrants are victims, often due to their vulnerability, lack of language proficiency, limited knowledge of the law, or absence of social support networks. Human trafficking is the most striking example, but this category also includes fraud, exploitation, violence, and discrimination.

3. **Crimes associated with the organisation of illegal migration.** These are acts aimed at violating established rules governing the movement of persons, such as migrant smuggling, document forgery for the purpose of legalisation, and schemes facilitating illegal

employment. Such crimes are often organised and transnational in nature.

Addressing the definitional difficulties surrounding the category “*migration crime*” requires a comprehensive approach that accounts not only for legal status, but also the social, economic, and psychological dimensions of migration. Clear delineation of terminology and scientifically grounded conceptualisation of this phenomenon are essential for developing effective and balanced state policies aimed at crime prevention and the protection of the rights of all persons involved. Migration crime functions as a critical diagnostic tool for the prosecution service, shaping its goals, priorities, and methods of activity in preventing crimes within the migration sphere.

Crimes Related to the Implementation of State Migration Policy

It is important to note that uncovering the essence of this category requires recognising that crimes related to the implementation of state migration policy include not only direct violations of migration legislation that constitute criminal acts (such as migrant smuggling), but also other crimes arising in the course of, or as a consequence of, the implementation of such policy, as well as those that hinder its proper execution.

These, in our view, should include:

– **Criminal offences committed by authorised officials**—primarily corruption (unlawful benefit, abuse of power, negligence) within migration authorities.

– **Criminal offences aimed at circumventing migration policy**, particularly migrant smuggling.

– **Criminal offences arising within the migration environment**, including exploitation of migrants and fraud committed against them.

With regard to corruption-related crimes in migration authorities, it is essential to emphasise that despite the measures taken by Ukrainian law enforcement and other public bodies to combat corruption, the scale of this phenomenon remains significant. Corruption in the migration sphere poses a substantial threat to Ukraine’s national security, as it undermines the state’s capacity to implement a migration policy that is adequate to contemporary needs, obstructs the realisation of the state’s foreign policy priorities by compromising its international reputation, and creates conditions conducive to offences linked to illegal migration, such as terrorism, drug trafficking, and human trafficking. Scientific understanding of corruption in the migration sphere is therefore essential for eliminating existing corruption risks, improving the organisation of law enforcement

activity, and should be viewed as one of the key components of ensuring Ukraine's national security (Hradovska, 2018).

The prosecution service plays an exceptionally significant role in combating human trafficking. Primarily, this is done through the exercise of supervisory functions over compliance with the law by bodies conducting operational-search activities, inquiry, and pre-trial investigation, as well as through the prosecution of criminal cases in court. The effectiveness of anti-trafficking measures directly depends on the quality of prosecutorial supervision over compliance with the law by investigative bodies. Therefore, the role of the prosecutor in combating human trafficking through oversight of legality in inquiry and pre-trial investigation is of paramount importance (Kuts, Orlean, 2007).

Thus, the category "*crimes related to the implementation of state migration policy*" is a foundational criminological element of prosecutorial activity. Its significance lies in establishing clear boundaries for the preventive and supervisory functions of the prosecution service, orienting it not only toward reacting to direct violations, but also toward systematic counteraction to corruption and transnational organised crime (human trafficking, migrant smuggling), which undermine the state's capacity to effectively implement its migration policy.

4. Conclusions (English Academic Translation)

The criminological foundations of the activities of the prosecution authorities in preventing crimes related to the implementation of the state migration policy constitute the theoretical and methodological basis for the prosecutorial preventive function in this sphere. These foundations integrate scientific knowledge on the criminological activity of the prosecution service—understood as a special supervisory activity aimed at eliminating the causes and conditions of crime—and on the specific features of migration-related criminality.

Their significance is manifested in several key aspects.

First, they define the essence of the prosecutorial preventive function by shifting the prosecution service from an institution that primarily reacts to the consequences of crimes to a central actor within the national system of crime prevention. This provides prosecutors with scientifically grounded tools for influencing the root causes of criminal behaviour.

Second, these foundations orient prosecutorial activity toward a systemic fight against corruption, emphasising that corruption within migration authorities (unlawful benefit, abuse of power, other forms of official misconduct) constitutes a major threat to national security

and a principal determinant of offences related to the implementation of migration policy. Consequently, they require comprehensive protection of migration policy from inefficiency and abuse.

Third, the criminological foundations help establish the priorities of prosecutorial supervision. They direct prosecutorial oversight not only toward direct violations (such as unlawful facilitation of irregular border crossing) but also toward manifestations of transnational organised crime—such as human trafficking—where migrants constitute the most vulnerable category of victims.

Thus, the developed conceptual and categorical framework ("criminological foundations of prosecutorial activity," "migration policy," "migration-related criminality," "crimes related to the implementation of the state migration policy") serves as an essential basis for further theoretical substantiation and improvement of the role of the prosecution service as an institution ensuring legality and security in this complex and socially sensitive sphere.

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КРИМІНОЛОГІЧНІ ЗАСАДИ ДІЯЛЬНОСТІ ОРГАНІВ ПРОКУРАТУРИ ЩОДО ЗАПОБІГАННЯ ЗЛОЧИНАМ, ПОВ'ЯЗАНИХ ІЗ РЕАЛІЗАЦІЮ ДЕРЖАВНОЇ МІГРАЦІЙНОЇ ПОЛІТИКИ: ФОРМУВАННЯ ПОНЯТІЙНО-КАТЕГОРІАЛЬНОГО АПАРАТУ

Анотація. *Метою статті* є систематизація та узагальнення наявних наукових поглядів щодо кримінологічного аналізу міграційної злочинності та ролі прокуратури в системі превенції, а також формування цілісного понятійно-категоріального апарату для подальшого теоретичного обґрунтування та вдосконалення кримінологічних засад діяльності органів прокуратури України щодо запобігання злочинам, пов'язаним із реалізацією державної міграційної політики. **Результати.** У статті досліджуються кримінологічні засади діяльності органів прокуратури України щодо запобігання злочинам, пов'язаним із реалізацією державної міграційної політики. Актуальність проблеми зумовлена необхідністю міжгалузевої інтеграції знань про феноменологію злочинності в умовах нестабільного розвитку та збройного конфлікту, а також відсутності прямого визначення функції запобігання злочинам у чинному Законі України «Про прокуратуру», що вимагає теоретичного осмислення її ролі. Сформований понятійно-категоріальний апарат включає ключові дефініції, зокрема «кримінологічні засади діяльності прокуратури»: визначені як теоретико-методологічна основа для реалізації прокуратурою її превентивної (запобіжної) функції через виявлення, аналіз та усунення причин і умов злочинності. Визначено, що «міграційна політика» трактується як комплексно структурована система заходів, ресурсів та механізмів, спрямована на регулювання міграційних процесів та досягнення соціально-економічних і безпекових цілей. Встановлено, що «міграційна злочинність» розглядається як комплекс злочинних діянь, що охоплює злочини, вчинені мігрантами, злочини, вчинені проти мігрантів (торгівля людьми, експлуатація) та злочини, пов'язані з організацією незаконної міграції. Досліджено, що «злочини, пов'язані із реалізацією державної міграційної політики» включають не лише прямі міграційні порушення, а й корупцію уповноважених осіб та транснаціональну організовану злочинність, які підривають здатність держави належно втілювати свою політику. **Висновки.** Визначено ключове значення кримінологічних засад, які надають прокурорам науково обґрунтований інструментарій для системного впливу на першопричини злочинності (насамперед корупцію) та встановлюють чіткі пріоритети нагляду, орієнтуючи прокуратуру на боротьбу з організованою злочинністю та захист прав вразливих груп (мігрантів). Доведено, що систематизація наукових поглядів дозволила сформувати цілісний понятійно-категоріальний апарат, який є необхідною умовою для подальшого теоретичного обґрунтування та вдосконалення превентивної ролі прокуратури у сфері державної міграційної політики.

Ключові слова: кримінологічні засади прокуратури, міграційна політика, міграційна злочинність, запобігання злочинам, протидія корупції, транснаціональна організована злочинність, превентивна функція прокуратури, понятійно-категоріальний апарат.