

COUNTERING PROFESSIONAL CRIME AGAINST THE FOUNDATIONS OF NATIONAL SECURITY OF UKRAINE

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Abstract: *The purpose of this study is to highlight problematic issues of countering crimes against the foundations of national security committed by professional criminals, analyse the main legislative provisions on countering such crimes, develop theoretical foundations and practical recommendations aimed at improving and strengthening such counteraction. The results were obtained by applying general scientific and special research methods (system-structural, Aristotelian (dogmatic), comparative, sociological, statistical). Based on a systematic analysis of the current legislation, investigative and judicial practice, as well as scientific approaches to countering crimes against the foundations of national security committed by professional criminals, the following results were obtained: 1) it was established that crimes against the foundations of national security are usually committed by organised groups of professional criminals; 2) a description of crimes against the foundations of national security was provided; 3) scientifically based and practically significant proposals for countering the above crimes were proposed. It is in such aspects that it is necessary to cover the problematics of such crimes and provide suggestions for solving certain problematic issues. The study improved scientific approaches and practical recommendations on countering crimes against the foundations of national security committed by professional criminals. The study identified the shortcomings in the current legislation, as well as possible ways to optimise the provisions of the current criminal legislation of Ukraine.*

Keywords: national security; crime against the state; criminal professionalism; crime prevention; organised crime.

On August 24, 1991, the Resolution of the Verkhovna Rada of the Ukrainian Soviet Socialist Republic "On the Proclamation of Ukraine's Independence" approved the Act of Declaration of Independence of Ukraine¹. By this act, continuing the thousand-year tradition of creating a state in Ukraine, based on the right to self-determination stipulated by the UN Charter² and other international legal instruments, and implementing the Declaration on

¹ Resolution of the Verkhovna Rada of the Ukrainian Soviet Socialist Republic No. 38 "On the proclamation of Ukraine's independence", 1991. Available at <https://zakon.rada.gov.ua/laws/show/1427-12#Text>

² United Nations Charter, 2021. Available at <https://www.un.org/en/about-us/un-charter/full-text>

State Sovereignty of Ukraine³, proclaimed the independence of Ukraine and creation of an independent Ukrainian state – UKRAINE. It was also indicated that the territory of Ukraine is indivisible and inviolable. Having gained self-sustainability and independence, Ukraine as a state faced the problem of active spread of crime in all spheres of public life⁴. Crimes against the life and health of a person; against the will, honour, and dignity of a person; against property; in the sphere of economic activity; in the sphere of trafficking in narcotic drugs, psychotropic substances, their analogues or precursors; in the sphere of state secret protection; against the authority of state bodies; in the sphere of official activity, etc.⁵ Simultaneously with the rapid development of entrepreneurial activity in Ukraine, new types of professional criminal activity that were not typical for Soviet society appeared, among which the main place was taken by smuggling, financial fraud, racketeering as a new type of extortion among private entrepreneurs, heads of enterprises, institutions and organisations, including state ownership. It was racketeering that began to control certain types of criminal activity, namely such illegal acts as prostitution, gambling, the activities of pickpockets, fraudsters, and currency traders⁶. This trend continued in the future⁷.

The authors of this study emphasise that one of the priority tasks of the national policy of Ukraine as an independent state has become ensuring national security by eliminating crime⁸. Thus, law enforcement agencies, through the use of all possible forces and means, took active measures to

³ Declaration on the State sovereignty of Ukraine, 1990. Available at <https://zakon.rada.gov.ua/laws/show/55-12#Text>

⁴ N.V. Smetanina, K.D. Kulyk, “Cost of crime in Ukraine: an empirical analysis”, in *Journal of Criminological Research, Policy and Practice*, vol. 6, no. 2, p. 97-109; S. Denys, O. Aisel, “Evaluation of the results of the historical and legal comparison of the juvenile justice of Ukraine and Poland in the 1920s”, in *Access to Justice in Eastern Europe*, 2021, vol. 4, no. 2, p. 67-85.

⁵ O.V. Haltsova, M.Yu. Kutievov, A.F. Stepaniuk, “Recommendations of the council of Europe as a guide for the development of criminal executive law of Ukraine”, in *International Journal of Criminology and Sociology*, 2020, vol. 9, p. 1557-1566; A.V. Serebrennikova, T.F. Minyaseva, N.S. Kala, A.A. Malinovsky, V.M. Malinovskaya, S.V. Grynchak, “Comparative analysis of foundations of legal regulation of criminal liability for organ trafficking in the Russian Federation, Kazakhstan, and the European Union”, in *Journal of Advanced Research in Law and Economics*, 2020, vol. 11, no. 4, p. 1405-1415; O. Lutsenko, “Bringing civil servants to liability for disciplinary misconduct in judicial practice of Ukraine, Poland, Bulgaria and Czech Republic”, in *Journal of Advanced Research in Law and Economics*, 2017, vol. 8, no. 1, p. 103-112.

⁶ R.V. Shapoval, O.I. Demenko, K.V. Solntseva, “The experience of the European Union in the field of administrative and legal support for asset-grabbing prevention”, in *Journal of Advanced Research in Law and Economics*, 2017, vol. 8, no. 3, p. 994-1008.

⁷ N.K. Makarenko, “Professional crime in Ukraine during the years of independence”, in *Naukovyi Visnyk Natsionalnoi Akademii Vnutrishnikh Sprav*, 2018, vol. 2, no. 107, p. 172-183.

⁸ D. Chyzhov, “The system of organs of state power for securing the rights of the people in the sphere of national security”, in *Scientific Journal of the National Academy of Internal Affairs*, 2021, vol. 121, no. 4, p. 46-52.

overcome and counteract crime. As a result, during the development of Ukraine in 2000–2014, there was a sharp decrease in crime in all spheres of public life. In the context of globalisation and transformation in different countries of the world, there is a change in the value priorities of society, the aggravation of both internal and external political, socio-economic problems, which leads to the emergence of possible threats to the national security of both Ukraine and other countries of the world, the escalation of tension in international relations, the growth of international organised crime, etc.⁹

In the course of this study, the authors identified numerous factors, including the collapse of the USSR, which led to the creation of new independent states in Europe that contributed to the beginning of global political, economic, and social changes in the world¹⁰. During the development of a new statehood, the internal and external functions of states were either consolidated or reinvented. The end of the 20th century was marked by a sharp increase in crime, aggravation of interethnic and interfaith relations, radicalisation and manifestations of extremism, armed conflicts, terrorism and regional wars (Yugoslavia, Iran, Iraq, Afghanistan, Russia, the United States, Spain, etc.)¹¹. This, in turn, prompted states to reconsider their attitude towards the issue of security and develop the latest concepts (aspects) of national (internal and external) and international (common security) based on security theory¹².

Due to the fact that today Ukraine at the international level has strengthened the status of a self-sustained, sovereign, and independent state, has strengthened its positions both in the international arena and internal civil positions in the main strategic areas, has fostered a high patriotic spirit of citizens, it has become the object of interest of foreign special services, politicians, and other foreign elements¹³. Modern crime is described by the properties of organisation, professionalism, and transnational nature. Its activities have particularly serious consequences and threaten not only to the national interests of an individual state, but also to the entire world

⁹ A. Novikovas, A. Tvaronavičiene, R. Shapoval, “National security maintenance by legal measures: Case study Lithuania/Ukraine”, in *Journal of Security and Sustainability Issues*, 2019, vol. 8, no. 4, p. 737-748.

¹⁰ O.Yu. Piddubnyi, L.D. Rudenko, L.V. Hbur, V.V. Nezhevelo, V.P. Oleksiuk, “Legislative support for expanding the land powers of local self-government bodies in Ukraine”, in *International Journal of Agricultural Extension*, 2021, vol. 9, no. Special Issue, p. 55-63.

¹¹ D.V. Lukianov, V.M. Steshenko, H.P. Ponomarova, “Freedom of expression and Islam: Charlie Hebdo’s lessons”, in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 1, p. 61-70.

¹² E. Rothschild, *Introduction for “Common Security in Asia: New Concepts of Human security”*, Tokai University Press, Tokyo, 1995.

¹³ V.V. Komarov, T.A. Tsvivina, “International standard of access to justice and subject of civil procedural law”, in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 3, p. 197-208.

community. Modern crime encroaches on a whole range of crucial social values, such as life and health, honour and dignity, human inviolability and security, the security of society and the state, private, public, and state property, etc. Criminal groups, infiltrating legislative and public administration bodies, law enforcement and judicial institutions, lobby for their illegal interests, cause considerable damage to society and the state, as well as to a particular person who, according to the Constitution of Ukraine, is recognised as a social value in the state¹⁴. Therewith, it can be traced that during 2014-2021, the potential of threats to global and national security reached a level at which, without developing a systematic national policy for protecting national interests and proper mechanisms for its implementation, the question of the existence of Ukraine as a sovereign state may arise. Some researchers believe that the concept of national security, as a philosophy of achieving the sustainability of the state, is associated with events referred to in history as the Peace of Westphalia, during which the concept of a sovereign state governed by an independent ruler became the basis of a new international order in nation-states¹⁵. However, the very concept of national security was applied, for example, in American political discourse only at the level of speeches and discussions from the late 18th century to the 1940s¹⁶.

Based on the system analysis of the current legislation of Ukraine, it should be noted that the general concept of national security of Ukraine is stipulated by the provisions of the Constitution of Ukraine¹⁷, the Law of Ukraine “On National Security”¹⁸, the Resolution of the National Security Council of Ukraine “On the National Security Strategy of Ukraine” of September 14, 2020¹⁹, and other regulations defining the fundamental principles of national policy aimed at protecting the interests and ensuring the security of individuals, society, and the state from internal and external threats. According to Paragraph 9, Part 1, Article 1 of the Law of Ukraine “On National Security of Ukraine”, the national security of Ukraine is defined as the

¹⁴ M.A. Pohoretskyi, *Organized crime in Ukraine: development trends and countermeasures*, Arsis, Kharkiv, 2007; M.A. Pohoretskyi, *Functional purpose of operational and investigative activities in criminal proceedings*, Arsis, Kharkiv, 2007; O. Lutsenko, “Anticorruption compliance: International experience in legal regulation and innovation for Ukraine”, in *Humanities and Social Sciences Reviews*, 2019, vol. 7, no. 5, p. 765-770.

¹⁵ S.N. MacFarlane, Y. FoongKhong, *Human security and the UN: a critical history*, Indiana University Press, Bloomington, 2010.

¹⁶ M.R. Shulman, “The progressive era origins of the national security act”, in *Dickinson Law Review*, 2000, vol. 104, no. 2, p. 289-330.

¹⁷ Constitution of Ukraine, 1996. Available at <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

¹⁸ Law of Ukraine No. 31 “On national security”, 2018. Available at <https://zakon.rada.gov.ua/laws/show/2469-19#Text>

¹⁹ Decree of the President of Ukraine No. 392/2020 “On the National Security Strategy of Ukraine”, 2020. Available at <https://zakon.rada.gov.ua/laws/show/392/2020#Text>

protection of state sovereignty, territorial integrity, democratic constitutional order, and other national interests of Ukraine from real and potential threats. The danger of crimes against the foundations of national security of Ukraine is, first and foremost, that the commission of such crimes threatens not only the state, but also the national security of Ukraine, which is a direct violation of Article 3 of the Constitution of Ukraine, which clearly states that a person, their life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value.

Materials and methods

Given the prevalence of crimes committed against the foundations of national security both in Ukraine and in the world, as well as considering the complexity of their detection, investigation, solution, and counteraction, they were the subject of study among Ukrainian researchers, namely M. A. Pohoretskyi²⁰, R. L. Chorny²¹, and others, as well as new departmental regulations governing the conduct of law enforcement operations, intelligence measures, investigative work and cover investigative operations with the subsequent use of their results in proper counteraction to this kind of crime.

To date, there is no single approach to defining the concept of professional crime either in academia or among practitioners. The problem of defining professional crime was studied by Ukrainian, as well as foreign researchers of various specialities – criminologists, forensic scientists, penitentiaries, sociologists, psychologists, among which the central studies were performed by I. H. Bohatyryov, Ya. I. Gilinskiy, A.I. Gurov, A. P. Zakaliuk, O. M. Dzhuzha, N. F. Kuznetsova, V. Yu. Shepitko²², and others. At the same time, for many years, the problem of this crime has remained one of the most complex, acute, and debatable issues both in scientific discourse and in the implementation of practical measures to counteract this type of crime.

²⁰ M.A. Pohoretskyi, *Organized crime in Ukraine: development trends and countermeasures*, Arsis, Kharkiv, 2007; M.A. Pohoretskyi, *Functional purpose of operational and investigative activities in criminal proceedings*, Arsis, Kharkiv, 2007.

²¹ R.L. Chorny, "Problems of the concept of crimes provided for in Section I of the Special Part of the Criminal Code of Ukraine", in *Naukovyi Visnyk Lvivskoho Derzhavnogo Universytetu Vnutrishnikh Sprav*, 2013, vol. 2, p. 346-357.

²² I.H. Bohatyryov, *Criminology*, Dakor, Kyiv 2018; Ya.I. Gilinskiy, *Criminology*, Piter, Saint Petersburg, 2002; A.I. Gurov, *Professional crime: past and present*, Nadezhda, Moscow, 1990; A.P. Zakaliuk, *Course of modern Ukrainian criminology: theory and practice*, InYur, Kyiv, 2007; O.M. Dzhuzha, V.V. Vasylevych, Yu.F. Ivanov, *Criminology, Pretsident*, Kyiv, 2006; N.F. Kuznetsova, G.M. Minkovskiy, *Criminology*, MGU Publishing House, Moscow, 1994; V.Yu. Shepitko, *Forensics: Course of lectures*, Odissey, Kharkiv, 2003; V. Yu. Shepitko, G. Avdeeva, "Problems of use of scientific and technical means and innovative products in the activities of pre-judicial investigation bodies", in *Theory and Practice of Forensic Science and Criminalistics*, 2006, vol. 20, no. 2, p. 11-26.

One of the most important aspects of clarifying the scientific and theoretical foundations of any research is the choice of appropriate methodological tools. At present, the problem of methodology in criminal procedural, criminal law, and criminological science is one of the most complex and relevant.

In the course of the study of professional crime committed against the foundations of national security of Ukraine, it was determined that one of the priority tasks of the national policy in the field of national security is to create an effective system for countering such crimes. This study has quite logically developed an arsenal of methods aimed at studying this issue. The authors of this study agree with the position that the methodology should not be reduced only to a certain (one) component, for example, to a separate (one) method or to the teaching of only certain means, methods, or techniques, since in this case others will be unreasonably left out, as a result of which the methodology will not be defined exhaustively²³. The chosen research methodology comprised general scientific and special research methods (Aristotelian (dogmatic), system-structural, comparative, sociological, statistical).

The Aristotelian method was used to study the state-legal phenomena using the fundamental laws of formal logic. The most common logical methods are deduction and induction. In the process of scientific cognition, they are not used in isolation, separately from each other. Induction provides an opportunity to engage in cognition from individual facts to general provisions on legal liability, and with the help of deduction, the issue is studied by ascending from the abstract to the concrete, from the general to the special²⁴. Using the Aristotelian method, the authors analysed special general provisions from the standpoint of their compliance with the current criminal legislation.

As for the comparative method, comparative law uses almost the entire methodological arsenal of modern legal science. Therefore, the methodology of comparative studies cannot be limited to the use of an exclusively comparative legal method. Therewith, the latter is the leading and dominant one in the science of comparative law. Thus, comparative law is based on a conscious, theoretically and methodically balanced application of the comparative method as the main scientific method of research²⁵.

Using the statistical method, the authors studied quantitative changes in the structure of professional crime against the foundations of national security of Ukraine. Considering the official statistics, the study investigated the trends in the development of professional crime against the foundations of national

²³ D.A. Kerimov, *Methodology of law: subject, functions, problems of philosophy of law*, SGU, Moscow, 2008.

²⁴ M.M. Tereshchuk, "Research methodology of the institute of legal responsibility in public law", in *Filozofski ta Metodolobichni Problemy Prava*, 2017, vol. 2, no. 14, p. 130-142.

²⁵ V.D. Tkachenko, S.P. Pohrebniak, D.V. Lukianov, *Comparative Law: A textbook for law students of higher education*, Pravo, Kharkiv, 2003.

security of Ukraine considering various indicators of committed crimes of this type, the size and type of damage, etc.

The system-structural method contributed to a comprehensive study of complex systems, their investigation as a whole. Using the system method, the authors identified the main measures aimed at preventing and countering professional crime against the foundations of national security of Ukraine as a complex system.

The methodology used to investigate countering professional crime against the foundations of national security of Ukraine contributed to a clear determination of its boundaries and the possibilities of using the results of the study both for the further development of doctrinal provisions on national security, and to improve the practice of detecting, preventing, and countering such crime.

Results and discussion

For the first time, professional crime as a phenomenon associated with the constant, systematic commission of crimes, primarily against property, was defined at the Heidelberg Congress of the International Union of Forensic Scientists back in 1897. The concept of criminal professionalism as a special type of criminal activity, which is described by such features as special knowledge, experience, and skills that are stable in nature and are a source of subsistence, was formulated in 1990 by the Russian criminologist O. I. Gurov in the study “Professional crime: past and present”, and the term “criminal professionalism” was attributed only to that stable criminal activity that has the characteristics of professions²⁶. The concept of professional crime has changed historically, and the activities of professional criminals are so diverse and many-faced that they cannot be described exhaustively. Furthermore, the intersection of professional crime with organised "white-collar" crime and recidivism obstructs the clear determination of its boundaries²⁷. At the same time, professional crime is a type of crime described by the constancy of committing intentional crimes by subjects of criminal activity through the use of their inherent special knowledge, experience, skills, and abilities to meet their material and spiritual needs²⁸.

Professional crime is a complex anti-social phenomenon that does not depend on state borders and has been accompanying the social and cultural

²⁶ A.I. Gurov, *Professional crime: past and present*, Nadezhda, Moscow, 1990.

²⁷ Ya.I. Gilinskiy, *Criminology*, Piter, Saint Petersburg, 2002.

²⁸ I.H. Bohatyryov, *Criminology*, Dakor, Kyiv 2018; I.V. Horislavska, D.O. Marits, O.Yu. Piddubnyi, D.M. Shatkovska, Y.M. Shatkovskiy, “Tort liability of medical workers in the patient safety system in Ukraine and the world”, in *International Journal of Criminology and Sociology*, 2020, vol. 9, p. 1567-1572.

development of most countries of the world for centuries²⁹. Thus, professional crime is a set of intentional crimes, the subjects of which are persons who consider the commission of crimes to be the main activity and source of profit; specialise in the systematic commission of certain types of lucrative and self-serving violent crimes using special (professional) knowledge, skills, and abilities; strive for consolidation into criminal groups (organisations, communities); have a special criminal subculture.

The sphere of the Ukrainian economy is vulnerable to the consequences of organised crime, since having corruption support, it really threatens the national security of Ukraine, affecting almost all spheres of public life – social, legal, political, etc.³⁰ Modern organised crime in the economic sphere is transnational in nature. Organised groups and criminal organisations create multinational companies that are engaged in criminal business in various economy sectors. Being associated with illegal operations to move tangible and intangible assets across state borders that bring substantial economic benefits, organised groups and criminal organisations, using the favourable market conditions of other states, significant differences in criminal justice systems of different countries, modern communication technologies, banking systems of electronic settlements, penetrate the legal economy of other countries through corruption and violence³¹.

In particular, the results of a survey of employees of investigative units of the Security Service of Ukraine suggest that during the pre-trial investigation, it often turns out that on the territory of Ukraine and abroad, representatives of special services of foreign states actively prepare to commit criminal actions to undermine the economic security and defence capability of Ukraine, conduct intelligence and subversive activities, exploiting the capabilities of controlled officials of government, non-governmental organisations, other business entities, individuals, and citizens. As a result of the above-mentioned activities, using the so-called legislative gaps, it is indeed possible to exert varying degrees of influence on the economic, managerial,

²⁹ N.K. Makarenko, *Professional and organized crime: comparative analysis and interaction*, 2016. Available

at http://elar.naiu.kiev.ua/bitstream/123456789/18083/1/%D0%90%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D1%8C%D0%BD%D1%96%20%D0%BF%D1%80%D0%BE%D0%B1%D0%BB%D0%B5%D0%BC%D0%B8%20%D0%BA%D1%80%D0%B8%D0%BC%D1%96%D0%BD%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%B3%D0%BE%20%D0%BF%D1%80%D0%B0%D0%B2%D0%B0_p068-072.pdf; N.K. Makarenko, “Organized and professional crime in Ukraine: interdependence and interaction”, in *Yurydychnyi Chasopys Natsionalnoi Akademii Vnutrishnikh Sprav*, 2016, vol. 2, no. 12, p. 94–100.

³⁰ O. Shostko, “Promoting the legal protection of anti-corruption whistleblowers in Ukraine”, in *Demokratyzatsiya*, 2020, vol. 28, no. 2, p. 229–245.

³¹ M.A. Pohoretskyi, *Organized crime in Ukraine: development trends and countermeasures*, Arsis, Kharkiv, 2007; M.A. Pohoretskyi, *Functional purpose of operational and investigative activities in criminal proceedings*, Arsis, Kharkiv, 2007.

and commercial activities of strategic enterprises, namely this refers to the influence on the petroleum, gas production, gas transmission, gas distribution industries. The consequence of such influence may be the disruption of state-owned enterprises, institutions, organisations, and other companies of national significance that implement national policy in a strategically important economy sector³².

Among the factors that can affect the economic security of the country in general, both internal and external factors should be identified; therefore, encroachment on economic security in strategically important areas by committing sabotage, espionage, high treason, etc. constitutes a real threat to national security. In particular, Paragraph 19, Section 2 of the Resolution of the National Security and Defence Council of Ukraine “On the National Security Strategy of Ukraine” of 14 September 2020, approved by Presidential Decree No. 392 of 14.09.2020, notes that the special services of foreign states, primarily the Russian Federation, continue intelligence and subversive activities against Ukraine, try to feed separatist sentiments, use organised criminal groups and corrupt officials, seek to strengthen the infrastructure of influence³³. In turn, as the materials of investigative practice indicate, crimes against the foundations of national security, as a rule, are committed not single-handedly, but by organised groups of professional criminals. The authors of this study believe that organised professional criminal activity constitutes the highest type of modern criminal activity, implemented through crimes committed by at least stable groups that form by previous concert³⁴.

According to the degree of public danger, organised professional crime is considerably higher than other crime, since the professional criminal activity of organised groups is described by certain knowledge and practical skills, orientation towards long-term criminal activity, the existence of a professional criminal environment, which ensures the rapid and frequent unhindered achievement of the criminal goal, thereby increasing the precedent of the existence of professional crime. The tactics of criminal activity (criminal

³² A. Ibrayeva, D.V. Sannikov, M.A. Kadyrov, V.N. Zapevalov, E.L. Hasanov, V.N. Zuev, “Importance of the caspian countries for the European union energy security”, in *International Journal of Energy Economics and Policy*, 2018, vol. 8, no. 3, p. 150-159.

³³ Decree of the President of Ukraine No. 392/2020 “On the National Security Strategy of Ukraine”, 2020. Available at <https://zakon.rada.gov.ua/laws/show/392/2020#Text>

³⁴ N.K. Makarenko, *Professional and organized crime: comparative analysis and interaction*, 2016. Available at http://elar.naiu.kiev.ua/bitstream/123456789/18083/1/%D0%90%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D1%8C%D0%BD%D1%96%20%D0%BF%D1%80%D0%BE%D0%B1%D0%BB%D0%B5%D0%BC%D0%B8%20%D0%BA%D1%80%D0%B8%D0%BC%D1%96%D0%BD%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%B3%D0%BE%20%D0%BF%D1%80%D0%B0%D0%B2%D0%B0_p068-072.pdf; N.K. Makarenko, “Organized and professional crime in Ukraine: interdependence and interaction”, in *Yurydychnyi Chasopys Natsionalnoi Akademii Vnutrishnikh Sprav*, 2016, vol. 2, no. 12, p. 94–100.

tactics) are unreasonably forgotten, which determines the typical ways of committing and concealing crimes, the forms of behaviour of the criminal, their psychological portraits, the features of countering the stakeholders, creating pretences and falsifications, etc.³⁵.

This situation has critical consequences in countering crime, public distrust of the authorities in general, and contributes to adverse publicity of the country in the international arena. Underestimating the high level of criminal professionalisation of public relations allows representatives of the scientific community to state the crisis of criminal policy. History shows that in the field of countering crime, first and foremost, its most dangerous forms, arbitrary attitudes and unpredictable decisions are unacceptable. The evidence is clearly erroneous conclusions regarding the weakening of the position of organised crime and related management directives, one of which was the elimination of the structure in the system of the Ministry of Internal Affairs of Ukraine, which was responsible for Combatting Organised Crime³⁶.

Thus, despite the lack of research on the problems of countering crimes against the foundations of national security committed by professional criminals, and considering the current challenges and possible threats from individual foreign states, which are aimed at strengthening the spheres of influence and unbalancing the political, economic, social, and cultural spheres of public life of Ukraine as a self-sustained independent country by carrying out intelligence and subversive activities, espionage, actions aimed at forcibly changing or overthrowing the constitutional order or seizing state power, encroaching on the territorial integrity and inviolability of Ukraine, sabotage, hindering the legitimate activities of the Armed Forces of Ukraine and others military formations created in accordance with the current legislation necessitate the development of a comprehensive, systematic, and effective mechanism for countering such threats³⁷. Considering the above, it is advisable to investigate the issue of the mechanism for countering such and other possible threats to the foundations of national security a little more thoroughly.

Firstly, nowadays, considering modern geopolitical realities an effective mechanism for countering crimes against the foundations of national security

³⁵ V.Yu. Shepitko, *Forensics: Course of lectures*, Odissey, Kharkiv, 2003; V.V. Vapniarchuk, O.V. Kaplina, M.Y. Shumylo, A.R. Tumanyanc, “Proof in the Science of the Criminal Process in Ukraine: Conceptual Approaches to Understanding the Essence”, in *International Journal of Offender Therapy and Comparative Criminology*, 2021, vol. 65, no. 2-3, p. 205-220; B. Karnaukh, “Standards of proof: A comparative overview from the ukrainian perspective”, in *Access to Justice in Eastern Europe*, 2021, vol. 4, no. 2, p. 25-43.

³⁶ N.K. Makarenko, “Professional crime in Ukraine during the years of independence”, in *Naukovyi Visnyk Natsionalnoi Akademii Vnutrishnikh Sprav*, 2018, vol. 2, no. 107, p. 172-183.

³⁷ S.S. Cherniavskiy, B.M. Holovkin, Y.M. Chornous, V.Y. Bodnar, I.V. Zhuk, “International cooperation in the field of fighting crime: Directions, levels and forms of realization”, in *Journal of Legal, Ethical and Regulatory Issues*, 2019, vol. 22, no.3.

of Ukraine is to improve the current legislation of Ukraine by transferring it to a qualitatively new level, which would meet modern challenges and possible threats to the national security of Ukraine. In particular, the authors of this study consider it appropriate to strengthen responsibility for committing the above-mentioned crimes stipulated in certain provisions of the Criminal Code of Ukraine³⁸, as well as improve the possibilities of their further implementation.

Secondly, there is a need to introduce modern innovative technological means in the activities of intelligence and investigative units of the National Police of Ukraine, the Security Service of Ukraine, and the State Bureau of Investigation, as well as to provide them with modern hardware and software tools, automated systems and special devices to facilitate the criminal law intelligence operations and counterintelligence measures, investigative work and covert investigative operations to quickly identify, solve, and counter crimes committed against the foundations of national security of Ukraine. The areas of introduction of technological means and innovative products in investigative activities are as follows:

- development and use of new technological means for identifying, collecting, preliminary research and recording evidence;
- offering the latest information technologies and their use in the work of an investigator;
- creation (development) and proposal for the application of new techniques and methods of individual investigative work and investigating crimes in general³⁹.

To improve the identification and analysis of manifestations of transnational organised crime, identify the causality and predict new causes and conditions that contribute to its spread in Ukraine, it is necessary for the special subjects to introduce and use the SOCTA (Serious and Organised Crime Threat Assessment) methodology, which would enable the application of a unified methodology for assessing threats to transnational organised crime⁴⁰.

Thirdly, a necessary condition for countering the above-mentioned crimes is the education at the government-wide and nationwide levels of national-patriotic consciousness, high morals, education of citizens of Ukraine, as well as a comprehensive, in-depth, and systematic ensuring of a positive

³⁸ Criminal Code of Ukraine, 2001. Available at <https://zakon.rada.gov.ua/laws/show/2341-14#Text>

³⁹ V.Yu. Shepitko, G. Avdeeva, “Problems of use of scientific and technical means and innovative products in the activities of pre-judicial investigation bodies”, in *Theory and Practice of Forensic Science and Criminalistics*, 2006, vol. 20, no. 2, p. 11-26.

⁴⁰ O.O. Tytarenko, “The state of strategic planning and software in the field of crime prevention in modern conditions”, in *Visnyk Kryminolobichnoi Asotsiatsii Ukrainy*, 2019, vol. 1, no. 20, p. 66-79.

image of both the entire country and its citizens, in the international arena, as a powerful self-sustained independent society with high moral and national-patriotic values and readiness to fulfil civil and constitutional duties to protect the interests of Ukraine⁴¹.

Notably, on October 9, 2020, the Resolution of the Cabinet of Ministers of Ukraine No. 1233-r “On Approval of the Concept of the National Programme for Patriotic Education for the Period until 2025”⁴² was adopted. The purpose of the approved Programme is to improve and develop a holistic national policy of national-patriotic education by forming and affirming the Ukrainian civil identity based on the unified socio-state (national) values and universal values, principles of love and pride for the native state, its history, language, and achievements in culture, economy, science, sports, effective assistance to state authorities and local government in preserving and protecting the national statehood of the Ukrainian people, readiness to defend the state independence and territorial integrity of Ukraine, awareness of the civic duty to develop a successful country and ensure personal well-being in it.

The authors of this study argue that in the course of implementing this concept, it is necessary to apply a comprehensive approach, and considering the present-day developments, act accordingly, applying new approaches, methods, and means for its successful implementation and positive results, with their subsequent use to counter crimes against the foundations of national security committed by professional criminals. Therewith, a necessary component for high-quality counteraction to crimes against the foundations of national security committed by professional criminals is a combination of science and practice, in particular, it is considered as expedient in organising and conducting joint research-to-practice activities, a more thorough study of this issue by researchers, according to the results of which there is a need to publish meaningful and practically significant scientific developments, methodological recommendations developed by joint efforts of researchers and practitioners, considering the practical experience of the latter.

These tasks can be performed through the use of proven methods of criminological research. These, in particular, include statistical analysis of current professional crime in comparison with the same period last year (the most reliable results of the dynamics and further trends of professional crime can be obtained by comparing its level for 3, 5, 10 years); generalisation of information contained in the materials of criminal proceedings, about the circumstances that contributed to the commission of crimes by professional

⁴¹ A. Novikovas, L. Novikoviene, R. Shapoval, K. Solntseva, “The peculiarities of motivation and organization of civil defence service in Lithuania and Ukraine”, in *Journal of Security and Sustainability Issues*, 2017, vol. 7, no. 2, p. 369-380.

⁴² Order of the Cabinet of Ministers of Ukraine No. 1233-p “On approval of the Concept of the National Program for patriotic education for the period till 2025”, 2020. Available at <https://zakon.rada.gov.ua/laws/show/1233-2020-%D1%80#Text>

criminals; introduction of an independent section on professional crime in the system of accounting and reporting of law enforcement agencies; introduction of unified databases of professional criminals, electronic surveillance of professional criminals in all criminal justice bodies for the analysis of criminal situations that develop in the environment professional criminals; monitoring public opinion⁴³.

It should also be noted that there is a need for an active exchange of practices in detecting, investigating, and countering crimes against the foundations of national security committed by professional criminals with other countries in Europe and the world in general⁴⁴. Such experience will be useful both for Ukraine and for other countries of the world. Therewith, the forces and means of countering such crimes are unique and specific in their own way, which corresponds to the level of political, economic, social, and cultural development of each individual country. The authors of this study believe that when improving the system of countering crimes against the foundations of national security of Ukraine committed by professional criminals, it is necessary to borrow the positive experience of leading countries in Europe and the world, considering modern challenges, possible threats, and their dynamics. Types of such cooperation can be as follows: establishing cooperation, mutual support, and mutual aid in countering crime; organising official events and meetings with regional representatives of law enforcement agencies and military formations of other countries; expanding the exchange of employees, conducting joint scientific research and best practices for exchanging experience at the international level and making the right decisions in countering professional crime against the foundations of national security.

Conclusions

Having analysed the materials of the investigative practice of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, and judicial practice, namely the practice of the European Court of Human Rights, the authors of this study concluded that on a current necessity of improving and increasing the effectiveness of countering crimes against the foundations of national security. Therewith, at the present stage of development of the theory of criminal law, criminal procedure, forensic science, criminology, law enforcement intelligence operations and intelligence measures, it is becoming increasingly necessary to study and apply any significant information about the

⁴³ N.K. Makarenko, A.M. Poliakh, *Some areas of special criminological prevention of professional crime*, DNDI MVS Ukrainy, Kyiv, 2019.

⁴⁴ D. Chyzhov, "The system of organs of state power for securing the rights of the people in the sphere of national security", in *Law Journal of the National Academy of Internal Affairs*, 2021, vol. 11, no. 2, p. 18-23.

identity of a criminal who has committed crimes against the foundations of national security. This is conditioned by the fact that in most cases the subjects of committing such crimes are so-called professional criminals.

Thus, in this study, based on a systematic analysis of the current legislation, investigative, and judicial practice, as well as scientific approaches of Ukrainian and foreign researchers, the authors have established that the current system of countering professional crime against the foundations of national security of Ukraine requires a high-quality update. It was established that crimes against the foundations of national security are committed, as a rule, by organised groups of professional criminals; the study described crimes against the foundations of national security; improved scientific approaches and practical recommendations for countering crimes against the foundations of national security committed by professional criminals; the authors studied the regulatory framework of national security of Ukraine, namely certain provisions of the Constitution of Ukraine, the Law of Ukraine "On National Security of Ukraine", the Law of Ukraine "On the Security Service of Ukraine", the decision of the National Security Council of Ukraine of September 14, 2020 "On the Strategy of National Security of Ukraine" and other regulations defining the fundamental principles of national security of Ukraine policies aimed at protecting the interests and ensuring the security of individuals, society, and the state from internal and external threats, based on which shortcomings in the current legislation are identified and possible ways to optimise the provisions of the current criminal legislation of Ukraine are proposed; the authors proposed scientifically sound and practically significant proposals for countering such crimes.