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Responsibility for Terrorism under Ukrainian Criminal Law: Problems and Prospects for the Normative Legal Regulation of the Future

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Abstract: This article focused on a detailed analysis of the Ukrainian Criminal Code, revealing its fundamental provisions related to terrorist acts, their objective components, and the associated legal responsibilities. The study aimed to contribute to a deeper understanding of the country's approach to addressing terrorism-related challenges by analysing the criminal liability for such crimes in Ukraine.

The study uses a qualitative approach, combining document analysis and a literature review. Document analysis was employed to legally assess Ukraine's legislation on terrorism. A bibliometric review of academic publications from the Scopus and Web of Science databases was conducted to systematise the experience of countering terrorism in other countries. The legislation defines a terrorist act as actively perpetrated, including using weapons, explosives, arson, or other threats to life, health, or property. Countering terrorism's effectiveness is explored through communication impact, socio-political factors, legal implementation, and individual/network security concerns. As a result, this study illuminated the multifaceted nature of countering terrorism within the Ukrainian legal framework. It underscored the central role played by the objective elements of terrorist acts, highlighted the interplay between criminal law and political security, and the vast array of counterterrorism measures to safeguard societal interests. Ukraine's counter-terrorism legal framework is based on specialised legislation and the Criminal Code, which criminalises various terrorist activities and related offences. This includes acts like using weapons or explosives to endanger life and property to instil fear or influence government, as well as planning, financing, or supporting such acts, with the perpetrator's direct intent being an essential requirement for criminal liability.

Keywords: counterterrorism, terrorism offenses, legal framework, Ukrainian Criminal Code, terrorism prevention, legal responsibility.

Introduction

The act of terrorism is a serious violation that undermines the foundation of national security in any sovereign state. In Ukraine, the Criminal Code encompasses provisions that criminalize acts of terrorism. Nevertheless, the extant state of normative legal frameworks governing terrorism within the Ukrainian context reveals a tapestry marked by imperfections (Criminal Code of Ukraine, 2001). A range of challenges emerges concerning the precise delineation of terrorism, the acts categorisation as falling within the purview of terrorism, and the calibration of commensurate punitive measures for such acts.

Research Problem

The research endeavoured to address the intricate legal dimensions of countering terrorism within the legal framework of Ukraine. Specifically, the study sought to explore and analyse the fundamental provisions and principles outlined in the Ukrainian Criminal Code that pertain to acts of terrorism, as well as the broader legal and policy mechanisms established to combat terrorism. The research problem revolved around the understanding of the comprehensive legal approach taken by Ukraine to address the menace of terrorism, encompassing the identification of key legal definitions, the elucidation of the objective elements of terrorist acts, the establishment of criminal responsibility, and the interplay between criminal law and broader counterterrorism policies. Furthermore, the study aimed to uncover the efficacy and implications of Ukraine's legal strategies in countering terrorism, thus contributing to the scholarly discourse on effective counterterrorism measures and their alignment with national and international security objectives.

Research Focus

The primary focus of this research was the legal framework for ensuring public safety in Ukraine from terrorist acts and related activities. The study aimed to examine the key legal provisions within the Criminal Code of Ukraine pertaining to acts of terrorism or directly associated with them, compare Ukrainian legal provisions with international acts establishing guiding principles and methods for countering terrorist activities. Special attention was given to the contemporary criminal responsibility provisions in Ukrainian legislation for committing terrorist acts or engaging in activities related to their planning, financing, training, and so forth. Additionally, the study scrutinised the broader legal and policy measures undertaken by Ukraine to address the multifaceted challenges posed by terrorism, including the establishment of a comprehensive legal framework, collaboration with international

partners, and the safeguarding of national security interests. By extensively examining legislative texts, case law, and scholarly discourse, this research not only enhances our understanding of Ukraine's actions in combating terrorism under the framework of the law, but also illuminates the complexities involved in implementing efficient legal mechanisms and their real-world consequences.

Research Aim and Research Questions

The aim of this research was to provide a comprehensive analysis of the legal and policy measures implemented by Ukraine in its efforts to counter terrorism. By examining the relevant provisions of the Criminal Code of Ukraine and the broader legal framework, the study aimed to contribute to a deeper understanding of the country's approach to addressing terrorism-related challenges. Moreover, the research sought to identify the effectiveness of these measures in mitigating the threat of terrorism and safeguarding national security.

1. What are the key legal provisions within the Ukrainian Criminal Code that define and address acts of terrorism, and how do they align with international legal standards?
2. How does Ukraine's legal framework differentiate between various forms of terrorism, such as acts involving violence, threats, and support for terrorist organisations?
3. What are the criteria for establishing criminal responsibility for acts of terrorism, and how does the legal system address both the objective and subjective elements of these offenses?
4. How does Ukraine's legal framework for countering terrorism reflect its commitment to international cooperation and adherence to relevant conventions and treaties?
5. How do international collaborations and partnerships influence Ukraine's legal approach to countering terrorism, and what are the implications of such collaborations for the country's national security efforts?

Research hypotheses

H1: The key legal provisions within the Criminal Code of Ukraine that define, and address acts of terrorism will be aligned with international legal standards.

H2: Ukraine's legal framework for countering terrorism will differentiate between various forms of terrorism, including acts involving violence, threats, and support for terrorist organizations.

H3: The criteria for establishing criminal responsibility for acts of terrorism in Ukraine will incorporate both the objective and subjective elements of these offenses.

H4: Ukraine's legal framework for countering terrorism will exhibit a strong emphasis on international cooperation and collaboration.

H5: International collaborations and partnerships will significantly influence Ukraine's legal approach to countering terrorism.

Various methods can be employed to test each hypothesis, including legal analysis, comparative law, and empirical research. To illustrate, H1 can be examined by comparing the corresponding provisions of the Crime Code of Ukraine with the international legal standards outlined in international conventions. Similarly, H2 can be investigated by analysing the distinct categories of terrorist offenses defined in the Crime Code of Ukraine and the corresponding penalties for each individual offense. H3 could be tested by analysing the case law of the Ukrainian courts to determine how the courts have interpreted the criteria for establishing criminal responsibility for acts of terrorism. H4 could be tested by examining the various international agreements and treaties that Ukraine has signed or ratified that relate to counterterrorism. H5 could be tested by conducting a survey of experts in the field of counterterrorism to assess their views on the impact of international collaborations and partnerships on Ukraine's legal approach to countering terrorism.

Literature review

The primary goal of countering terrorism is to reduce terrorist acts and risks, as well as to promptly stop terrorist activities and mitigate their consequences. In essence, countering terrorism reflects the level of development of a democratic society, an independent and sovereign state, and the extent to which individual rights are protected. It also serves as an indicator of the level of public awareness and the preservation of both spiritual and material values in society. Given the importance of countering and combating terrorism, this issue has received significant attention in academic doctrine.

The issue of the terrorism threat in Ukraine has significantly escalated, especially against the backdrop of anti-terrorist operations and subsequently, the war. This escalation has led to a considerable number of new publications that address various aspects of countering terrorism.

Popovych (2019) addresses the criminal-legal nature of terrorist acts, focusing on specific features of this phenomenon. The author conducts an in-depth analysis to define the elements of the crime, shedding light on the pressing issues related to the qualification of terrorist activities.

In his research, Popovych (2019) conducts a meticulous examination of the legal dimensions of terrorist acts, delineating their distinct qualities and differences from other criminal offenses. This work provides critical insights for understanding the nature and variability of terrorism, with potential implications for refining legislation and counterterrorism efforts.

Additionally, Popovych (2019) identifies causal connections between terrorist events and their societal consequences, unveiling vital facets of how terrorism has developed in today's world. His analysis underscores the need for more profound investigation and comprehension of issues related to terrorist activities, likely catalysing new dialogues and guiding future research directions.

The criminal-legal perspectives on terrorism presented in Popovych's (2019) conclusions put forth innovative ideas and recommendations for crafting efficacious approaches to mitigate and counter this phenomenon in contemporary society.

Kryvoruchko (2019) conducts a comprehensive study on the scientific and theoretical foundations of countering the activities of terrorist organisations in Ukraine. His research encompasses not only theoretical aspects but also practical facets of counterterrorism. He delves into the methods of combating terrorist organizations, providing an assessment of their effectiveness.

Kryvoruchko (2019) underlines the necessity of formulating novel approaches to address terrorism by leveraging criminal justice and legal tools. His work bears substantial relevance for practical implementations in law enforcement and augmenting the efficacy of counterterrorism efforts.

The conclusions stemming from Kryvoruchko's (2019) research markedly enrich the academic dialogue regarding the advancement of tactics and techniques to counter terrorism in Ukraine, accounting for the distinct attributes and progression of this phenomenon in present-day contexts.

Mokliak (2020) identifies the patterns and trends in the development of terrorist activities in Ukraine. The author formulates strategic directions for the development of state anti-terrorist policies and proposes enhancements to counter this form of criminality. This study can serve as a basis for the development and implementation of effective security measures, ensuring more efficient counteraction against terrorist activities in Ukraine.

The results of this study underscore the necessity for continual improvement of counterterrorism measures and the utilisation of strategic approaches to ensure the national security of Ukraine.

The educational handbook "Fundamentals of Terrorology," authored by Kudinov et al. (2021), represents a critical source of information concerning the conceptual foundations of anti-terrorist security. The handbook presents a comprehensive educational insight into terrorist threats and

strategies to combat terrorism. It covers a broad spectrum of information, ranging from socio-philosophical aspects of terrorism to the analysis of terrorist threats in crisis situations.

The handbook allows for the examination of terrorism as a complex social and political phenomenon, enabling the identification of causal relationships and functions it performs. Furthermore, the authors analyse various terrorist strategies and terror-generating factors that may lead to an escalation of terrorist threats, making this handbook an essential tool for understanding and analysing this phenomenon. The emphasis is on the necessity of an interdisciplinary approach to studying and analysing terrorism, beneficial for both students in social sciences and professionals in the field of security and law enforcement.

Kvasha (2021) investigates the activities of criminal organizations such as "DNR" and "LNR." The author underscores these organizations' evident agenda of forcibly transforming and toppling the established constitutional order to usurp governmental control in Ukraine and achieve territorial alterations. The research stresses the necessity of individually assessing the driving incentive behind such groups' acts, which contrasts the lawful classification of terrorism. By identifying the motives propelling these unlawful entities' behaviour, the examination emphasizes that while they may be designating as contributors to terrorist incidents, their ultimate ends fail to reflect the legal definition of terrorism itself. This vital inquiry facilitates refining legal frameworks and comprehending the precise attributes of the referenced organizations' activities.

Zherebets (2021) offers a systematisation of terrorist acts across various aspects. The study highlights key points in understanding the scope of interests of terrorist organizations, their motives, and targets. It stands out by not only analysing motivation but also describing diverse methods of influence that may trigger terrorist activity. This approach facilitates a better understanding of the nature and mechanisms of terrorism in the modern world.

The researcher proposes a typology of contemporary terrorism based on aspects such as:

1. Scale of interests of terrorist organisations:

- Local terrorism
- International terrorism

2. Motives for terrorist activities:

- Socio-economic
- Ethnonational or separatist
- Religious

3. Objects of terrorist targets, consisting of:

- Object of influence
- Object of control
- Object of encroachment

4. Mode of influence: bacteriological, biological, technological, ecological, moral-psychological, among others.

We wholeheartedly support this approach.

Leonov and Lykhov (2021) shed light on the tasks and principles of enhancing the nationwide system to counter terrorism in Ukraine. They address crucial issues such as analysing causes and conditions contributing to terrorism proliferation, as well as refining legislative and organisational

frameworks to counter this phenomenon. Special attention is given to optimising measures to ensure the life, security, rights, and freedoms of citizens from terrorist attacks.

The authors propose a wide range of methods and strategies to enhance the counter-terrorism system. They particularly focus on improving informational, scientific, personnel, and material-technical support for all entities involved in this struggle. This research serves as a vital foundation for the development and improvement of the counter-terrorism system in Ukraine.

Melnyk (2022) focuses on developing a structure for the indicators of criminological characteristics of terrorism financing and analysing determinants and peculiarities of the terrorist sponsor. This study could serve as a basis for further analysis and synthesis of information to develop effective measures to counter this type of criminality in Ukraine. Emphasis is placed on the specifics of terrorism financing in the context of hostilities in Ukraine, emphasising the need for analysis and development of adequate prevention strategies for this phenomenon.

Likarchuk (2020) rightfully underscores the close connection of political terrorism with conflicts in societal relations. The author reasonably argues that political terrorism is a result of unresolved conflicts, which is critically important for the subsequent resolution of conflicts. The work serves as a source for understanding and analysing the nature of political terrorism and its impact on society in conditions of unresolved social disparities.

After the review of recent scientific works and publications on the researched problem, it should be emphasised that the issue of regulating punishment assignment and determining the elements of crimes that can be attributed to the group of terrorist acts is often superficially reviewed or not reflected in the content of the studies at all.

To gain a clearer understanding of the essence of terrorist crimes and to determine the object of counter-terrorism activities, Kubalskyi (2022) developed a classification of terrorist crimes. The author also examined the issue of restricting the rights and freedoms of citizens in the context of countering terrorism, particularly the legal framework for anti-terrorism operations. In this regard, he proposed changes to anti-terrorism legislation aimed at aligning it with international legal norms in this sphere.

Wróblewski (2022) made a significant scientific contribution to the criminological study of terrorism and the analysis of terrorist threats to Ukraine. In this research, the scientific focused on studying organisational, legal, and criminological approaches, methods, and measures to enhance existing and develop new approaches for effectively addressing terrorism prevention in Ukraine. He also explored the moral-psychological and criminal-legal characteristics that define the profile of a terrorist and determine the typological features of this category of criminals. In addition, this scholar has developed a comprehensive system for preventing terrorism, which is based on an analysis of the nature and origins, as well as the mechanism of formation and functioning of terrorist structures, the motivation of subjects engaged in terrorist activities, and more.

Research Methodology

General Background

This article's investigation into the legal framework addressing terrorism in Ukraine was conducted through a qualitative approach. The study aimed to provide a thorough understanding of the relevant legal provisions and their implications within the broader context of counterterrorism policy.

A combined approach of documentary and bibliometric analysis methods was applied to achieve the research objective. The techniques of documentary analysis involved content analysis of Ukrainian legislation in the field of counterterrorism. A literature review was conducted to identify and systematise similar foreign practices.

Document Analysis

An in-depth analysis of the Ukrainian Criminal Code, with a specific focus on relevant sections pertaining to terrorism (Articles 258, 258-1-258-6), was conducted. The analysis aimed to dissect the objective and subjective elements of terrorist acts, legal definitions, gradations of offences, and associated penalties.

Bibliometric Analysis

A comparative bibliometric analysis contextualised Ukraine's legal approach within the broader international legal landscape. This involved examining how other jurisdictions address terrorism-related offences, providing insights into the strengths and limitations of Ukraine's legal framework.

The search for relevant academic publications was conducted in the Scopus and Web of Science databases from 2005 to 2022 using the keywords "counterterrorism measures," "terrorism offences," and "terrorism prevention." Only publications in English were considered.

Legislative History

An exploration of the legislative history and amendments related to terrorism within the Ukrainian legal system was conducted. This historical analysis revealed the evolution of legal provisions and the motivations behind legislative changes.

Legal Doctrine

Insights from legal scholars, experts, and practitioners were consulted to gather diverse perspectives on the effectiveness and adequacy of the Ukrainian legal framework in addressing terrorism. This engagement with legal doctrine enriched the analysis with expert opinions.

Data Interpretation

The findings from the literature review, legal analysis, comparative study, case studies, legislative history, legal doctrine, and documentary analysis were synthesised and interpreted to present a comprehensive picture of Ukraine's legal response to terrorism.

The combination of these research methodologies facilitated a holistic exploration of the legal framework for countering terrorism in Ukraine. By integrating legal analysis with multidisciplinary insights, the study aimed to provide a nuanced understanding of the complexities surrounding terrorism-related offences and the efficacy of the legal measures.

Results

The study revealed that countering terrorism in Ukraine is regulated by specialised legislation as well as the Criminal Code, which defines criminal responsibility for various forms of terrorist acts and related activities. The legal framework encompasses a wide range of offenses, from committing actual terrorist acts to incitement, preparation, financing, or support of such actions.

The specialised legislation: This includes the Law on Countering Terrorism, which defines terrorism and sets out the legal basis for combating it. The law also establishes several institutions and mechanisms for countering terrorism, such as the National Security and Defence Council, the Security Service of Ukraine, and the State Border Guard Service.

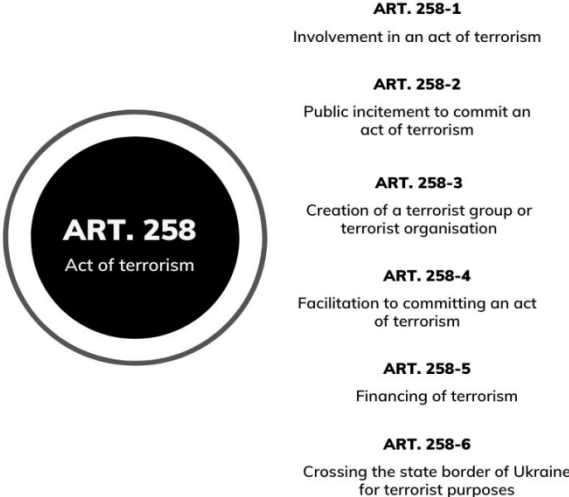
The Criminal Code of Ukraine: This criminalises a wide range of terrorist acts, including the use of violence or the threat of violence to intimidate the public or a government; the seizure of aircraft, ships, or other means of transportation; and the use of nuclear, biological, or chemical weapons. The Criminal Code also criminalises several related activities, such as financing terrorism, providing training to terrorists, and recruiting people for terrorist groups.

The dual legal framework provides Ukraine with a comprehensive legal basis for combating terrorism. The specialized legislation provides a clear definition of terrorism and sets out the specific measures that can be taken to counter it. The Criminal Code provides criminal penalties for a wide range of terrorist acts and related activities, deterring individuals from engaging in such behaviour.

The system of criminal norms is depicted in Figure 1.

Figure 1

Articles in the Criminal Code of Ukraine Dedicated to Terrorism



The analysis of the Composition of Crimes under Articles 258, 258-1 to 258-6: Tab 1 identifies the main common and distinctive features of offenses specified in the relevant articles of the Criminal Code of Ukraine. The objective attributes specific to these crimes are outlined, including the use of weapons, explosive devices, arson, or other hazardous actions that endanger human life, health, or property. It is also established that these actions are intended to provoke fear, disrupt public safety, or influence government decisions. A crucial criterion for criminal responsibility is the direct intent of the perpetrator to commit actions that correspond to the legal definition of terrorism. Intent encompasses not only the physical acts but also the underlying motives and purpose behind them.

Table 1

Composition of Crimes of Terrorism

	The objective side of the crime	The object of the crime	The subjective side of the crime	The subject of the crime
art. 258	1) the use of weapons, detonation, arson, or other actions that posed a danger to human life or health or caused significant property damage or other severe consequences; 2) the threat of committing the mentioned actions. 3) The use of radioactive, poisonous, and infectious substances, bioterrorism, flooding, collapses, landslides, gas attacks, destruction of buildings,	Public safety as a generic object of crimes represents safety from sources of increased danger, namely: criminal organisations, terrorist groups, and other	Direct intent. In the case of a threat, it does not matter whether the person making the threat actually intended to carry it out.	Any person who has reached the age of 14.

	structures, roads, communication facilities, damage to environmental objects, oil fields, life support systems, etc.	criminal associations, weapons, objects that pose an elevated danger to the environment, fire, and so on.		
art. 258-1	1) involvement of a person in the commission of a terrorist act; or 2) forcing someone to commit a terrorist act using deception, blackmail, the vulnerable state of the person, or through the use of or threat of violence.		Direct intent.	Any person who has reached the age of 16.
art. 258-2	1) public incitement to commit a terrorist act; 2) dissemination, production, or storage with the intent to disseminate materials containing such calls.		Direct intent and the purpose of inciting the commission of a terrorist act.	Any person who has reached the age of 16.
art. 258-3	1) creating a terrorist group or terrorist organisation; 2) leading a terrorist group or terrorist organisation; 3) participating in a terrorist group or terrorist organisation; 4) providing material, organisational, or other support for the creation or activities of a terrorist group or terrorist organisation.		Direct intent. A mandatory condition for the creation of a terrorist group or organisation, leadership of such a group or organisation, or participation in it is the intention to commit a terrorist crime. The purpose and motive for supporting the creation or activities of a terrorist group or organisation can vary.	
art. 258-4	1) recruiting a person to commit a terrorist act; 2) arming a person to commit a terrorist act; 3) training a person to commit a terrorist act; 4) using a person to commit a terrorist act.		Direct intent.	Any person who has reached the age of 16.
art. 258-5	Actions carried out with the intent of providing financial or material support to 1) an individual terrorist or a terrorist group (organisation), 2) organise, prepare for, or commit a terrorist act, 3) involve others in the commission of a terrorist act,		Direct intent. The presence of the intent to provide financial or material support to an individual terrorist or a terrorist group (organisation), the organisation, preparation, or commission of a terrorist act, involvement in the commission of a terrorist act, public incitement to commit a	Any person who has reached the age of 16.

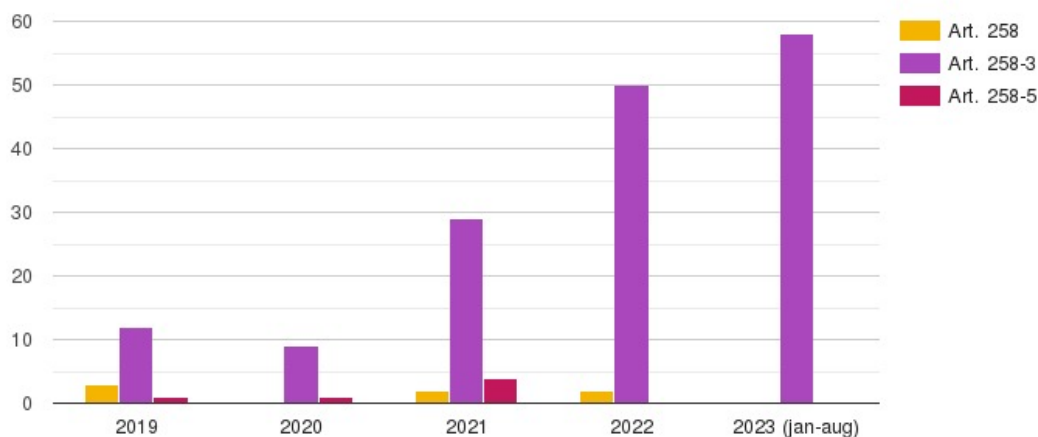
	4) publicly incite the commission of a terrorist act, 5) facilitate the commission of a terrorist act, 6) create a terrorist group (organisation).	terrorist act, facilitating the commission of a terrorist act, and creating a terrorist group (organisation).	
art. 258-6	Crossing the state border of Ukraine to engage in activities that, according to the law, are considered terrorist.	Direct intent and the purpose to participate in terrorist activities.	Any person who has reached the age of 16.

Source: Author's summary derived from analytical examination Law of Ukraine (2019).

The analysis of Judicial Practice in Terrorism Cases (2019-2023): An analysis of verdicts in criminal cases related to crimes affecting public safety shows a significant increase in sentences under Article 258-3 of the Criminal Code of Ukraine, "Creation of a terrorist group or terrorist organisation," from 12 in 2019 to 58 in the first 8 months of 2023 (see Figure 2). Additionally, 7 verdicts were issued under Article 258, "Terrorist Act," and 6 under Article 258-5, "Financing of terrorism."

Figure 2

Verdicts in Terrorism Cases (2019-2023)



Counterterrorism Policy: The pivotal role of counterterrorism policy in the Ukrainian legal system is underscored through the approval of the "Concept of Combating Terrorism in Ukraine" by the President of Ukraine and the enactment of several laws aimed at combating terrorism, money laundering, and the financing of terrorism. The state's strategic approach is directed towards neutralising terrorist threats, minimising their consequences, and addressing root causes. This encompasses not only criminal legal measures but also a broader socio-political influence aimed at strengthening societal stability and security (President of Ukraine Decree, 2019).

Conclusion: this research demonstrates that the Ukrainian legal system effectively addresses issues related to terrorism by establishing criminal responsibility for actions that can be defined as terrorism or support for terrorism. A detailed analysis of legislative provisions and scholarly discourse indicates that the Ukrainian legal system has a solid foundation for countering terrorism. In the context

of the ongoing conflict with separatist groups in Ukraine, identifying such groups as terrorist organisations becomes increasingly complex, and distinguishing these crimes from offenses against the foundations of Ukraine's national security is one of the key challenges to be addressed by Ukrainian courts and legislators.

Discussion

The phenomenon of terrorism has been studied by researchers from various scientific fields, including philosophy, sociology, political science, jurisprudence, psychology, and others. The investigation of this phenomenon has led to a pluralism of approaches in its understanding. The primary contributions in this direction belong to foreign legal scholars. Setting aside political evaluations, it is necessary to acknowledge that scholars have attempted to substantiate the content and scope of the concept of "terrorism" and have worked on creating relevant counter-terrorism legislation at the level of the respective state (Kantsir, 2010).

The fight against terrorism within the territory of Ukraine should primarily be grounded in legislatively defined national principles, considering the fundamental provisions of the United Nations Global Counter-Terrorism Strategy and the Counter-Terrorism Strategy of the European Union. It is worth noting that in accordance with the Concept of Combating Terrorism approved by the Decree of the President of Ukraine dated March 5, 2019, No. 53/2019, the achievement of tasks aimed at enhancing the effectiveness of counterterrorism requires an improvement of the functioning mechanism of the nationwide anti-terrorism system (President of Ukraine Decree, 2019).

This involves implementing a set of coordinated measures, including ensuring the full implementation of international agreements in the field of combating terrorism concluded within the framework of the United Nations and other international organisations of which Ukraine is a member. Additionally, enhancing and expanding cooperation between entities involved in counterterrorism and law enforcement agencies, as well as special services of foreign states, anti-terrorism structures of the UN, OSCE, NATO, EU, and other international organizations engaged in counterterrorism, is envisioned based on international agreements (Kostenetskyi, 2020).

The criminal justice system in Europe has undergone a substantial transformation since the 1950s, with a fundamental change in the exercise of authority and jurisdiction. This shift is intricately tied to the Council of Europe, as domestic criminal justice systems have become intricately linked to the legal framework and standards set by the Council (Vervaele, 2019). Terrorism, in all its various forms and expressions, represents one of the most significant threats to international peace and the safety of citizens. To address this pressing challenge, the Council of Europe has been actively involved in shaping relevant standards in this domain for many years. This commitment is evident through capacity-building initiatives that involve sharing expertise through peer exchanges and promoting cooperation across borders.

The Council of Europe achieves these objectives primarily through the Council of Europe Committee on Counterterrorism (CDCT). This steering committee, appointed by the Committee of Ministers, is entrusted with the responsibility of overseeing, and coordinating the Council of Europe's efforts in countering terrorism. The CDCT serves as a platform for discussions on regional counterterrorism policies, the development of legally binding and non-binding instruments, and the exchange of information among member states regarding their respective national legislations and policies related to counterterrorism.

The international legal instruments ratified by Ukraine in the field of counterterrorism include:

1. The Convention for the Suppression of Unlawful Seizure of Aircraft (ratified by the Presidium of the Supreme Council of the Ukrainian SSR on December 27, 1971, with reservations; entered into force for Ukraine on March 23, 1973).

2. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (ratified by the Presidium of the Supreme Council of the Ukrainian SSR on January 16, 1973, with reservations).

3. The International Convention against the Taking of Hostages (Ukraine acceded in accordance with the Decree of the Presidium of the Supreme Council of the Ukrainian SSR on May 8, 1987, with reservations).

4. The Convention on the Physical Protection of Nuclear Material (Ukraine acceded in accordance with the Resolution of the Verkhovna Rada of Ukraine on May 5, 1993).

5. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (ratified by the Verkhovna Rada of Ukraine on December 17, 1993).

6. The Convention on the Marking of Plastic Explosives for the Purpose of Detection (ratified based on the Law of Ukraine "On Ratification of the Convention on the Marking of Plastic Explosives for the Purpose of Detection" dated December 3, 1997).

7. The International Convention for the Suppression of Acts of Nuclear Terrorism (ratified based on the Law of Ukraine "On Ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism" dated November 29, 2001).

8. The International Convention for the Suppression of the Financing of Terrorism (ratified based on the Law of Ukraine "On Ratification of the International Convention for the Suppression of the Financing of Terrorism" dated September 12, 2002).

9. The International Convention for the Suppression of Acts of Nuclear Terrorism (ratified based on the Law of Ukraine "On Ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism" dated March 15, 2006).

10. The European Convention on the Suppression of Terrorism (ratified based on the Law of Ukraine "On Ratification of the European Convention on the Suppression of Terrorism" dated January 17, 2002).

11. The Council of Europe Convention on the Prevention of Terrorism (ratified with declarations and reservations based on the Law of Ukraine "On Ratification of the Council of Europe Convention on the Prevention of Terrorism" dated July 31, 2006).

12. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ratified based on the Law of Ukraine "On Ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism" dated November 17, 2010).

Ukraine has provided information to the Council of Europe Committee on Counter-Terrorism (CDCT) regarding its ongoing efforts to ratify the Additional Protocol to the Convention on the Prevention of Terrorism (CETS No. 217). Additionally, there have been notable international developments, including:

1. The resolution 2463 (2022) of the Parliamentary Assembly of the Council of Europe, adopted on October 13, 2022, which calls upon member States of the Council of Europe to classify the current Russian regime as a terrorist entity (para. 13.7).

2. The resolution 476 of the NATO Parliamentary Assembly, adopted on November 21, which urges member governments and parliaments of the North Atlantic Alliance to recognize the Russian Federation as a state that supports and perpetrates terrorism and war crimes.

3. The European Parliament's Joint Motion for a Resolution, titled "Recognising the Russian Federation as a state sponsor of terrorism" (20222896(RSP)), adopted on November 21, 2022.

4. The resolutions passed by several national parliaments, including those of Estonia, Latvia, Lithuania, and Poland, declaring the Russian Federation as a state sponsor of terrorism.

The Verkhovna Rada of Ukraine has enacted several key legislative measures that establish the legal and organizational framework for addressing this perilous issue. These acts delineate the authority and obligations of government bodies, citizen groups, and organisations, as well as officials and individuals, in combatting terrorism. They also establish guidelines for coordinating their efforts and ensuring the legal and social security of citizens involved in this fight. Additionally, these legislative measures establish a legal mechanism to combat the legalization of illicitly gained assets or the financing of terrorism (2019), and ensure the formation of a nationwide multi-source analytical information that enables law enforcement agencies of Ukraine and foreign states to identify, verify, and investigate crimes related to money laundering and other illegal financial transactions, the following should be mentioned:

1. The Law of Ukraine "On Combating Terrorism" dated March 20, 2003 (Law of Ukraine, 2003).
2. The Law of Ukraine "On Prevention and Counteraction to Legalization (Money Laundering) of Criminally Obtained Incomes or Financing of Terrorism" dated November 28, 2002.

Modern criminal law demonstrates a deep differentiation of responsibility, specialisation of norms, and the incorporation of new norms into the law, which unfortunately are often just a legislative attempt to demonstrate effective counteraction, particularly to emerging socially dangerous manifestations (Kudinov, 2022). The Criminal Code of Ukraine (hereinafter referred to as the CCU) establishes liability for actions classified as terrorist activities under the Law of Ukraine "On Combating Terrorism," including:

- Article 258 (terrorist act);
- In connection with the preparation for the ratification of the Council of Europe Convention on the Prevention of Terrorism, the CCU was supplemented with Article 258-1 (involvement in the commission of a terrorist act);
- Article 258-2 (public calls for committing a terrorist act);
- Article 258-3 (creation of a terrorist group and a terrorist organization);
- Article 258-4 (assistance in the commission of a terrorist act, undergoing terrorism training);
- In order to implement international standards for combating money laundering obtained through criminal means and financing terrorism and to comply with point 25 of Chapter 2.1 "Political Dialogue and Reform" of the 2006 Action Plan Ukraine-EU, the CCU was supplemented with Article 258-5 (financing terrorism);
- Also, in connection with the ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, Article 258-6 (crossing the state border of Ukraine for terrorist purposes) was added (Barba, 2023).

The legal analysis of the crimes associated with terrorist activities can be conducted from both legal and social perspectives. From a social perspective, terrorist activities manifest various shades of conflict situations that arise in social life (political, religious, ethnic, etc.) (Siegel et al., 2019).

In a wide-ranging context, the types and spread of terrorist activities differ. Nevertheless, when viewed from a perspective of criminal law, terrorist activities must exhibit distinct qualities and evident factors. This is due to the formal nature of the law and the requirement to establish substantial justification for holding someone accountable for criminal actions. In criminal law, the amalgamation of components that constitute a crime acts as the foundation, representing an unambiguous classification of a particular socially hazardous act as a criminal offense (Homolar & Rodríguez-Merino, 2019). The

qualification of the offense may change during the process of investigating a criminal case as information about the committed crime is collected.

According to Article 2, Part 1, and Article 11, Part 1 of the Criminal Code of Ukraine (2001), the criminal legislation of Ukraine establishes criminal liability solely for specific socially dangerous culpable acts (actions or omissions) defined by law as crimes. The establishment of the objective side of the crime is paramount, as law enforcement agencies, upon discovering a crime, primarily encounter its objective features, namely the specific act of behaviour of the subject in the form of action or inaction, which is always carried out in a particular objective situation, in a specific place, and at a specific time. The objective side of a terrorist act is an element of this crime and serves as the basis for criminal liability. Therefore, a person can be held criminally liable only when all the features of the objective side of this crime are established in their action, along with other elements of the crime. The objective side serves as the practical realisation of the subject's criminal intentions. This is particularly evident in deliberate crimes that are premeditated (Krainyk & Zatochna, 2019; Semenyshyn, 2020). One such crime is a terrorist act. When considering a terrorist act, it should be noted that it has a specific nature, which involves intimidation through the commission or threat of commission of socially dangerous acts that can result in the loss of life or other serious consequences. As defined by the legislator in Article 258 of the CCU, a terrorist act is committed exclusively through actions (active conduct). Therefore, a terrorist, with the intention of achieving their criminal goals, must use weapons, cause an explosion, arson, or other actions that create a danger to human life or health or cause significant material damage or other severe consequences (Part 1, Article 258, CCU). In addition, the objective side of a terrorist act may manifest itself in the threat of committing the aforementioned actions (Part 1, Article 258, CCU), as well as in the directly related special forms provided by the legislator as separate elements of crimes: involvement in the commission of a terrorist act (Article 258-1, CCU); public appeals for the commission of a terrorist act (Article 258-2, CCU); creation of a terrorist group or terrorist organization (Article 258-3, CCU); assistance in committing a terrorist act, undergoing terrorist training (Article 258-4, CCU); financing of terrorism (Article 258-5, CCU); crossing the state border of Ukraine for terrorist purposes (Article 258-6, CCU).

Terrorism is a type of unlawful activity that is distinguished by its deliberate nature. However, the motivation behind terrorists varies from that of individuals who commit murder, robbery, or other crimes. In situations involving murder or robbery, there are typically two parties involved: the criminal and the victim. However, terrorism often involves a third party – the authorities or the general public – who the terrorist organisation or individual seeks to appeal to. Unlike other criminal acts where the victim is the primary target, terrorists may not necessarily have a direct interest in their victims. Instead, their actions are primarily aimed at achieving specific objectives, such as gaining public attention, instilling fear within the population, or influencing government officials. This lack of concern for the well-being of victims can lead to acts of extreme cruelty and the devastating loss of innocent lives on a large scale.

The subject of these groups of crimes is general, i.e., a natural convictable person who committed a crime at an age where criminal liability can arise according to the CCU. The term "natural person" is used in contrast to the term "legal entity," which signifies a legal fiction. The latter, under the current criminal legislation, cannot be a subject of a crime (Grekova & Zozulia, 2019). Traditionally, in the theory of criminal law, it is considered that recognizing legal entities as subjects of crime would contradict the principles of criminal law (the principle of personal responsibility of an individual for the committed crime, according to which no other person can be held criminally liable for acts they did not commit, and the principle of guilt, under which only persons who committed a crime intentionally or through negligence can be subject to criminal liability) (Nyadera & Bincof, 2019; Sinnar, 2019). For certain criminal acts that occur during the activities of a legal entity, the culpable natural person who committed such acts is held accountable.

In the elements of crimes provided for in Articles 258, 258-2, 258-4, 258-5, 258-6 of the CCU, there is a direct indication by the legislator of the purpose of committing the respective socially dangerous actions. This is also widely recognized in the theory of criminal law and forms the basis for recognising the presence of only direct intent in the relevant crime composition (Hodwitz, 2019). The Supreme Court correctly noted that the intentional form of guilt involves the correct reflection in the subject's consciousness of both the factual and legal elements of the crime, with the prerequisite of culpability (Mawlood, 2023).

The motive for a crime is the consciously internal impetus that induces the intention to act in a certain way. The purpose is a specifically formulated conception of the desired outcome of one's actions and the directedness towards achieving it in the chosen manner. Motivation and purposefulness are features of an individual's conscious volitional activity. The manifestation of such features is impossible in cases of impaired mental functions, where the person is incapable of comprehending the nature and significance of their actions and controlling them. The presence of a clearly formed intent in accordance with Article 24 of the CCU, as well as the motive and purpose, as features of the subjective side of a crime, is incompatible with a state of non-immutability. Therefore, only about a culpable person can the presence of intentional guilt be established.

Terrorist violence constitutes a clear and often particularly appalling threat to the wellbeing of individuals, communities and states (Schuurman, 2019). The fight against terrorism is a crucial component of national security, and accordingly, the state policy to counter terrorism holds significant importance. This concept serves as a driving force in shaping the policy of national security, with its primary goal being the protection of the nation's interests and the determination of leadership strategies for combating terrorism (Morse, 2019). The essence of the state policy to counter terrorism involves a collection of actions by state authorities and elements of the political system of society, which must be purposeful and systematically carried out to ensure political and public safety, as well as to eliminate the root causes of terrorism and minimize or eradicate the terrorist threat.

The state policy to counter terrorism encompasses efforts related to the political provision of counter-terrorism activities by specialised services and law enforcement structures, the reduction of terrorist threats, and other activities aimed at safeguarding the vital interests of the state and its citizens (Al-Suwaidi & Nobanee, 2021). The objects of the state policy to counter terrorism encompass social strata dissatisfied with their socio-economic, socio-political, or any other status, social groups that indirectly or covertly support terrorists, individuals and organisations whose activities are recognised as terrorist, as well as the ideology of terrorism, conditions, and causes contributing to the emergence of a terrorist threat (Lisitsyna et al., 2020; Teichmann, 2019).

The main part of the system of norms concerning terrorist offenses, also known as the mother, primary norm, is the norm pertaining to a terrorist act, as established in Article 258 of the CCU. This involves the use of weapons, committing explosions, arson, or other actions that create a danger to human life or health or cause significant material damage or other severe consequences if such actions were undertaken with the intent of disrupting public security, intimidating the population, provoking armed conflict, international complications, or influencing decision-making or actions by state authorities or local self-government bodies, their officials, associations of citizens, legal entities, or drawing public attention to specific political, religious, or other views of the perpetrator (terrorist), as well as threatening to commit such actions for the same purpose (Part 1 of Article 258 of the CCU). Meanwhile, alternative norms concerning a terrorist act are specified in Parts 2 and 3 of Article 258 of the CCU, encompassing:

- 1) a terrorist act committed repeatedly or by a pre-arranged group of individuals, or if such actions resulted in significant material damage or other severe consequences (Part 2 of Article 258 of the CCU);

2) a terrorist act resulting in the death of a person (Part 3 of Article 258 of the CCU) (Shchurikova, 2022).

Distinguishing a criminal act as terrorism is a complex endeavour, shaped by precise legal definitions and public perceptions. While law enforcement agencies are bound by the criminal code when categorising violent extremist crimes as acts of terrorism, politicians, commentators, and the media often use symbolic labels to describe these acts, regardless of whether they precisely align with legal definitions (Taylor, 2019). Evidently, by its nature, a terrorist act is a compound crime, encompassing offenses covered by other criminal law norms (against life, health, property, environment, road safety, etc.) if committed with the intent of disrupting public security, intimidating the population, provoking armed conflict, international complications, or influencing decision-making or actions by state authorities or local self-government bodies, their officials, associations of citizens, legal entities, etc. In essence, the norm concerning a terrorist act is specific (variant) in relation to corresponding general norms concerning intentional homicide, bodily harm, threats, intentional destruction or damage to property, obstruction of transportation communications (Hrabchuk, 2023; Tymoshenko, 2023). Clearly, the nature of the societal danger posed by terrorist-oriented crimes is determined by their multifaceted nature. They simultaneously infringe upon public safety and the normal functioning of government bodies, the lives and health of citizens, and the property of individuals and legal entities (Banks, 2022). Concurrently, while being a variant (special) norm concerning offenses of this kind, the norm about a terrorist act serves as the primary (mother) norm for other terrorist-oriented offenses (Articles 258-1–258-4 of the CCU).

From 1970 through 2019, a total of 3,901 terrorist attacks occurred in Eastern Europe, inflicting 5,391 deaths and 9,538 injuries. Of those, 72.3% occurred in Russia and Ukraine (Tin et al., 2022). Criminal legal policy in the field of countering terrorism is pursued through several directions, including defining the criminal unlawfulness of terrorist actions, establishing penalties, and applying other criminal legal measures (Rocha-Salazar et al., 2021). The main objective of implementing criminal legal policy in these directions is to exert effective criminal legal influence on criminality, particularly terrorism. The effectiveness of criminal legal influence relies on evaluating the impact of criminal legal regulation on communication, the criminal-political climate, the implementation and understanding of laws at various levels of social interaction. This corresponds to the sense of security felt by individuals or groups involved in criminal legal relations (Petrychenko, 2021). A criminal legal characterisation of the system of measures of a criminal legal nature aimed at countering terrorism will enable determining the quality of just one facet of the criminal legal impact on criminal manifestations of terrorism.

The fight against terrorism constitutes a crucial component of national security, emphasising the significance of the state's counterterrorism policy (Shahav, 2023). This concept serves as a pivotal factor in defining the framework of the national security policy, with its primary goal being the safeguarding of national interests and the formulation of strategies to combat terrorism. The essence of the state's counterterrorism policy encompasses a series of actions by state authorities and elements of the political system. These actions must be deliberate and carried out to ensure political and public security, address the root causes of terrorism, and minimize or eliminate terrorist threats.

Central to the system of norms pertaining to crimes of a terrorist nature is the principal norm, colloquially referred to as the "mother norm" or the "general norm." This norm encompasses the act of committing a terrorist act, as stipulated in Article 258 of the Criminal Code of Ukraine. The provision entails the utilisation of weapons, perpetration of explosions, arson, or other actions that pose a danger to human life or health or result in significant property damage or other severe consequences. Such actions, when performed with the intention of disrupting public security, intimidating the populace, instigating military conflict, causing international complications, or influencing decisions or actions of government bodies, officials, citizen associations, legal entities, or attracting public attention to certain political, religious, or other beliefs of the perpetrator (terrorist), fall under the purview of this provision

(Homza, 2022). Additionally, the norm encompasses the threat of committing the aforementioned acts with the same intent. Ukrainian criminal law includes identical legal provisions pertaining to accountability for the same criminal offense – the deliberate killing of a hostage and hostage taking (Sainchyn et al., 2021).

The criminal legal policy within the realm of countering terrorism operates through multiple avenues, including defining the criminal illegality of terrorist acts, setting penalties, and implementing other criminal legal measures (Melnyk & Leonov, 2022). Its core objective is to exert a potent criminal legal influence on criminality, with a particular emphasis on terrorism. The efficacy of this influence hinges on evaluating the communicative impact of criminal legal regulation, the criminal-political landscape, nuances in legal realization and interpretation across various tiers of social interaction, all while aligning with individuals' or networks' perception of safety within the framework of criminal legal relations.

Conclusions and Implications

Ukraine's counter-terrorism efforts are based on a dual legal framework, which includes specialised legislation and the Criminal Code of Ukraine. This legal framework defines criminal liability for various forms of terrorist acts and related activities, covering a wide range of offenses from committing actual terrorist acts to inciting, planning, financing, or supporting such acts. Analysis of the relevant articles of Ukraine's Criminal Code reveals common and distinctive elements of the offenses stipulated therein. The common elements include the use of weaponry, explosive devices, arson, or other dangerous activities that endanger human life, well-being, or property. These actions are deliberately carried out to instil fear, disrupt public safety, or influence government decisions. A fundamental requirement for criminal liability is the perpetrator's direct intent to engage in activities that meet the legal definition of terrorism. This intent encompasses not only the physical acts but also the motivations and objectives that underpin them. Our analysis of verdicts in criminal cases that impact public safety reveals a significant increase in convictions under Article 258-3 of Ukraine's Criminal Code, which criminalizes the creation of a terrorist group or terrorist organisation. The number of such convictions rose from 12 in 2019 to 58 in the first 8 months of 2023. Additionally, 7 verdicts were handed down under Article 258, which criminalizes terrorist acts, and 6 under Article 258-5, which criminalizes the financing of terrorism. Counterterrorism policies in Ukraine's legal framework are supported by the President's endorsement of the "Concept of Combating Terrorism in Ukraine" and the enactment of several laws aimed at combating terrorism, money laundering, and the financing of terrorism. The country's strategic Ukraine's strategic approach to countering terrorism involves neutralizing threats, mitigating consequences, and tackling root causes. This includes both legal actions and wider socio-political approaches aimed at promoting societal stability and security. One effective approach is the enforcement of relevant provisions in the Criminal Code to bring offenders to justice.

Suggestion for Future Research

The Ukrainian legal system has a strong foundation for countering terrorism, as evidenced by its establishment of criminal liability for acts that are considered terrorism or supportive of it. Identifying separatist groups as terrorist organizations becomes progressively challenging due to the ongoing conflict in Ukraine. Ukrainian courts should work to develop clear and consistent criteria for distinguishing such crimes from offenses against the fundamental principles of Ukraine's national security. In addition to the research that has already been conducted, possible areas for further scientific research include the distinction between the concepts of terrorist organization and illegal military formation. An important area for further research remains the timely implementation of international law into Ukrainian legislation and the interaction of state bodies engaged in counterterrorism activities with foreign organizations to attract assistance in overcoming terrorist measures within the country. Additional research could analyse how evolving security dynamics impact the classification of armed

groups and application of relevant criminal charges. Ukraine's integration into the global community presents opportunities to implement international best practices and collaborate with partners to enhance counterterrorism capacity. An adaptive approach will strengthen the justice system's ability to prosecute terrorism while upholding rule of law. The comparative analysis of counterterrorism approaches in nations with similar experiences could identify effective strategies and legal practice. Evaluating interagency coordination, resource allocation, and community outreach to ensure a holistic, resilient counterterrorism posture should be mentioned too. Ukraine's legal framework will consistently uphold justice and national security amidst shifting threats due to ongoing research and adaptation efforts.

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Conflict of Interest

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