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WAR CRIMES DURING WORLD WAR II IN UKRAINIAN SCIENTIFIC AND PUBLIC DISCOURSES

Abstract. *The purpose of the research* is to define the conceptual and categorical specificity of the term “war crime”, its application to the studied violations of the international law as well as to outline a thematic and contextual framework for studying the war crimes issues in Ukraine during World War II. **The research methodology** is based on a complex of general scientific (analysis, synthesis, induction and deduction) and special (historical and legal, historical and typological, historical and systemic, retrospective) methods of scientific research. **The scientific novelty** consists in the process of determining the concepts “war crime” and “military crime” in the international humanitarian law, and the Ukrainian interpretation of these concepts. There has been outlined the discourse of the study on the war crimes in the Ukrainian humanitarian studies comprehensively. There have been covered diverse manifestations of mass violence and political terror in the context of studying socio-political aspects of World War II. **Conclusions.** There were published numerous studies of a generalizing nature regarding World War II in Ukrainian historiography during the 1990s and the first half of the 2000s. There were also considered the information reports, research reports among the issues, which covered violations of the norms and customs of war, extreme violence against civilian population, prisoners of war. However, there has been carried out a more systematic study on the issues of the war crimes on the Ukrainian territory since the mid-2000s. There were brought out important studies on the policy of mass violence

and terror of the Nazis during the occupation in 1941 – 1945 by O. Lysenko, V. Vasylyev, collective studies edited by H. Boriak, V. Smolii, etc. The above-mentioned issues were discussed in more detail, as well as a regional cross-section of the repressive practices (including ideological reasons) against civilians, as well as murdering of prisoners of war, forced mobilization, in the studies by V. Shaikan, M. Shevchenko, S. Halchak, V. Levykin, T. Pastushenko, etc. The research on the “Extraordinary State Commission for Determination and Investigation on Atrocities of the German-Fascist Invaders and their Accomplices” in Ukrainian historical science, a regional cross-section of the work of this commission is considered to be another thematic study. Although, there is growing interest in the issues on implementing the norms of the international criminal law in modern Ukrainian legislation in public, popular scientific discourse, as well as in jurisprudence, which are relevant to the war crimes issue, the formation of an evidentiary base for the future prosecution of the Russian Federation for the atrocities committed in Ukraine since 2014, and mainly within the framework of the full-scale armed aggression.

Key words: war crime, World War II, Nazi occupation regime, civilian population, prisoners of war, mass violence, the Russo-Ukrainian War.

ВОЄННІ ЗЛОЧИНИ В РОКИ ДРУГОЇ СВІТОВОЇ ВІЙНИ В УКРАЇНСЬКОМУ НАУКОВОМУ ТА СУСПІЛЬНОМУ ДИСКУРСАХ

Анотація. *Мета роботи* окреслити понятійно-категоріальну специфіку терміна “воєнний злочин”, його застосування у вивченні порушення норм міжнародного права. Окреслити тематичні та контекстуальні рамки вивчення проблематики воєнних злочинів в Україні під час Другої світової війни. **Методологія дослідження.** Для реалізації сформульованої мети при написанні статті використано комплекс загальнонаукових аналіз та синтез, індукція та дедукція) і спеціальних) (історико-правовий, історико-типологічний, історико-системний, ретроперспективний) методів наукового дослідження. Їхнє застосування разом уможливило здійснити науковий аналіз становлення поняття воєнного злочину у міжнародному гуманітарному праві, провести огляд української історіографії щодо проблематики воєнних злочинів у Другій світовій війні, виокремити проблемні питання, сформулювати висновки. **Наукова новизна** полягає у тому, що простежено процес утвердження поняття “воєнний злочин” та “військовий злочин” у міжнародному гуманітарному праві, подано українське трактування цих понять. Комплексно окреслений дискурс дослідження воєнних злочинів в українській гуманітаристиці та в контексті вивчення соціально-політичних аспектів Другої світової війни, різних проявів масового насильства та політичного терору. **Висновки.** В українській історіографії протягом 1990-х – першої половини 2000-х років вийшла низка праць узагальнювального характеру, присвячених Другій світовій війні. Серед тем, які розглядалися у них, також є інформаційні довідки, розвідки, які стосуються порушення норм та звичаїв війни, екстремального насильства щодо цивільного населення, військовополонених. Однак більш системно вивчення проблематики воєнних злочинів на українських теренах відбувалось від середини 2000-х років. Важливими роботами про політику масового насильства та терору нацистів під час окупації у 1941 – 1945 років. є студії О. Лисенко, В. Василєва, колективні роботи за редакцією Г. Боряка, В. Смолій та ін. Більш детально ці питання, а також регіональний зріз репресивних практик (з-поміж іншого із ідеологічних міркувань) проти цивільних мешканців, а також знищення військовополонених, примусової мобілізації порушені у працях В. Шайкан, М. Шевченко, С. Гальчака, В. Левикіна, Т. Пастушенка та ін. Ще один тематичний зріз в українській історичній науці – дослідження “Надзвичайної державної комісії з встановлення та розслідування злочинів німецько-фашистських загарбників та їх посібників”, зокрема регіональний аспект її роботи. Однак у суспільному, науково-популярному дискурсі, а також в юриспруденції зростає зацікавлення проблематикою імплементації в сучасному законодавстві України норм міжнародного кримінального права, які стосуються проблематики воєнних злочинів, формування доказової бази щодо майбутнього притягнення Російської Федерації до відповідальності за злочини, здійснені в Україні від 2014 року, та головно в рамках повномасштабної збройної агресії.

Ключові слова: воєнний злочин, Друга світова війна, нацистський окупаційний режим, цивільне населення, військовополонені, масове насильство, російсько-українська війна.

Problem Statement. The semantic and ideological framework in the study of World War II in Ukraine has changed in the context of strengthening its own statehood since the 1990s (Nikolaïets, 2019, p. 227). The Russian Federation aggression against Ukraine in 2014 (contrary to all principles of the international law) (Zabolotniuk, & Kotylevsky, 2025, p. 187) and the full-scale invasion in 2022 (Bilichak, & Huz, 2024, pp. 164–165) actualized the war and war crimes issues, and hence their further scientific research and improvement of a regulatory and legal support (Krychun, 2022, pp. 109–114; Karpenko, 2025, pp. 223–224).

There are interrelated, but not identical, terms of the war crime and military crime in the conceptual and categorical apparatus of the criminal law and in the scientific publications. In Oxford Encyclopedia of Public International Law by Max Planck it is noted that the concept of “war crime” can be viewed from a broader perspective as “all acts that constitute violations of the customs and laws of war, regardless of whether this act is criminal or not”. However, in a narrower sense, it is “any act or omission committed in an armed conflict that constitutes a serious violation of the laws and customs of the international humanitarian law and is recognized by the international treaty or customary law (Schwarz, 2014, p. 3). The concept of the “military crime” is “a socially dangerous criminal act committed while serving in a specific army of a specific country” (Snizhna, 2022). According to Yu. Krychun, the Ukrainian lawyer there is no clear distinction between military and war crimes, and instead the concept of “military criminal offense” is used in the Ukrainian legislation, in particular in the Criminal Code of Ukraine. Article 401, Section XIX “Crimes against the Order of Performing Military Service (Military Crime)” of the Criminal Code of Ukraine): “Military criminal offenses are recognized as criminal offenses provided for by this section against the procedure determined by law for performing or completing military service, committed by the military personnel, as well as conscripts and reservists during their training”. The above-mentioned definition covers unlawful acts of the military (“military crime”), whereas Article 438 “Violation of Laws and Customs of War” of Section XX “Crimes against Peace, Security of Mankind and International Legal Order” of the Criminal Code provides a definition of a war crime (in accordance with international acts): “Cruel treatment towards prisoners of war or civilian population, deportation of civilian population for forced labour, plunder of the national values in occupied territory, use of means of warfare prohibited by the international law, other violations of the laws and customs of war provided for by the international treaties, the consent to which has been given by the Verkhovna Rada of Ukraine, as well as giving an order to commit such acts; the same acts combined with intentional murder” (Krychun, 2022, p. 111; Kryminalnyi kodeks Ukrainy, 2018).

The Ukrainian researchers V. Repetskyi and V. Diomin noted that the very concept “war crime” actually arose in 1945, as it was first used in the Charter of the Nuremberg Tribunal, but the very origins of this concept existed earlier. Some researchers even deduce it from the rules of warfare that existed in Ancient Greece or Ancient China. It is obvious that the formation of norms regulating the introduction of conflicts also took place along with the international law development and codification. The Lieber Code (1863), played a significant role in the codification of acts relating to war crimes, which was compiled by Columbia University Professor Francis Lieber at the request of the American President Abraham Lincoln. There is another name for the code: “The Instructions for the Administration of the United States Army in Action” and it is the first collection of the wartime laws, essentially the instructions used by the armies in the American Civil War, regulating “the principle of

individual criminal liability for complex violations listed in the text, such as robbery, rape, or cruel treatment of the prisoners” (Schwarz, 2014, p. 1).

There were first adopted multilateral agreements within the framework of the Hague Peace Conferences on the Laws and Customs of War of 1899 and 1907 that regulated the conduct of war and were mainly aimed at outlining the rights and obligations of states that were the subjects of the international law (Bilenchuk, Kochetkov, & Mishchenko, 2006; Schwarz, 2014, p. 3). The Treaty of Versailles signed between Germany and the Entente countries was the first international treaty to provide for individual criminal liability for violations of international humanitarian law. In particular, “Article 227 of the Treaty of Versailles included the indictment and trial of the former Emperor of Germany, and Article 228 (1) recognized “the right of the Allied and Associated Powers to bring before military tribunals people accused of committing acts in violation of the laws or customs of war”. However, de facto an international tribunal was not established, and the Allied Powers refused to prosecute the war criminals and suggested that the German government should hold trials at the Supreme Court of Germany in Leipzig (Schwarz, 2014, p. 4).

The concept of “war crime” first appeared in Article 6 of the Charter of the International Military Tribunal at Nuremberg in 1945, which defined such crimes as “the violations of laws or customs of war, including murder, cruel treatment or deportation of civilian population in occupied territories, murder or cruel treatment of prisoners of war, murder of hostages, plunder of public or private property, wanton destruction of populated areas not justified by military necessity” (Statut, 1945). There were adopted the four Geneva Conventions in 1949 and Additional Protocols in 1977 and 2005 with the development of the international law, and this concept was also enshrined in Article 8 of the Rome Statute of the International Criminal Court in 1998 (Sokurenko, 2023; p. 7; Osnovni polozhennia Zhenevskykh Konventsii, 2023, pp. 19, 33–46; Rymyskyi Statut Mizhnarodnoho Kryminalnoho Sudu, 2024).

Review of Researches. In humanitarian studies the discourse on the war crimes research is mainly related to the coverage of the international humanitarian law norms development, its implementation in modern Ukrainian legislation (Piddubna, 2016; Myronova, 2004; Myronova, 2007; Bazov, 2017; Bazov, 2018) and the dynamics of changes in the context of the Russo-Ukrainian War (Sokurenko, 2023; Karpenko, 2025; Dmytrenko, 2022). The historiography of World War II, its consequences, in particular the consequences of the Nazi invasion, and the features of the occupation regime in the Soviet Union is quite extensive. The first studies on this issue began during the war years with the propaganda purpose (for example, the studies written by I. Trainin “Mechanism of the German-Fascist Dictatorship”, “Hitler’s Criminals cannot Escape Responsibility” (Trainyn, 1942; Trainyn, 1943). The Soviet Union was one of the winners of the Nazi regime, and also suffered considerable human and material losses. Hence, historiography focused on the consequences of the war, the crimes of Nazism mainly (Mynts, 1947; Kondufor, Klovov, 1984; Pershyna, 1985). However, a researcher A. Mukharovska noted the following: “despite the fact that many fundamental historical studies and monographs dedicated to World War II were written in the Soviet Union, they all one-sidedly covered the processes associated with its consequences” (Mukharovska, 2016, p. 14).

There have been reviewed the publications from 1990 to 2024 in Ukrainian historiography in the article. There have been outlined the main thematic blocks in the context of studying the war crimes issues during the occupation by the German troops. There have been reviewed the studies written by Volodymyr Korol, Oleksandr Lysenko, Olha Perekhrest, Ivan Patriiak

and Mykola Borovyk, collective publications edited by Valery Smolii, Hennadiy Boriak as well as the studies by Yevhen Maksymchuk, Anna Mukharovska, Vasyl Mishchanyin, Tetiana Pastushenko, Volodymyr Levykin and the others. Some methodological issues of researching the described issues are revealed in the work of Vasyl Ilnytsky and Mykola Haliv (Ilnytskyi, & Haliv, 2019; Haliv, & Ilnytskyi, 2021; Ilnytskyi, & Haliv, 2022).

Research Results. There have been studied various aspects of World War II in the Ukrainian science since the independence of Ukraine. There could also be distinguished qualitative and quantitative calculation of losses, crimes of the Nazi regime among the thematic blocks. The issue on the Holocaust on the Ukrainian lands is a separate thematic section, which was covered in diverse publications (Vasyliiev, 2018, pp. 22, 43).

Due to the Soviet-German War, which broke out in June 1941 and the subsequent escalation of the conflict, there was an unprecedented wave of violence against civilians and prisoners of the war (Polisen, 2009, p. 27). There were published diverse generalizing studies in the 1990s and the first half of the 2000s, which contain information reports and intelligence reports on violations of the norms and customs of war, extreme violence against the civilians and prisoners of war (Koval, 1999; Kucher, & Cherneha, 2004). There should be highlighted the following studies by Volodymyr Korol (Korol, 1992; Korol, 2003; Korol, 2009; Korol, 2015), Oleksandr Lysenko (Lysenko, 2004; Lysenko, & Vronska, 2013), Olha Perekhrest (Perekhrest, 2011; Lysenko, & Perekhrest, 2015), Ivan Patryliak and Mykola Borovyk (Patryliak, & Borovyk, 2010, pp. 210–218), Vasyl Ilnytskyi and Mykola Haliv (Ilnytskyi, & Haliv, 2019).

It was decided to organize the Ukrainian Editorial Board of “Books of Memory of Ukraine” by Decree of the President of Ukraine Leonid Kravchuk issued in 1992. In accordance with the order, relevant institutions of the Academy of Sciences of Ukraine were also involved in its preparation. As a result, there were published 257 volumes, which makes up 261 books of the serial edition “Books of Memory of Ukraine” in 1993 – 2006. There were brief biographical data about the deceased in the regions of Ukraine, information about the circumstances of death, rank, place of burial (Ukaz Prezydenta Ukrainy, 1992; Ukaz Prezydenta Ukrainy, 2002). The specific focus was on one of the final books in this series, “Immortality. The Book of Memory of Ukraine 1941 – 1945” (2000), which provided quantitative data on those killed in battles and military losses, including reconstructed data on the network of the Nazi camps for prisoners of war. It was estimated that about half a million citizens of the Ukrainian SSR – the prisoners of war died (Bezsmertia, 2000, pp. 182; 559).

The collective monograph “Political Terror and Terrorism in Ukraine. The 19th and 20th Centuries” (2002), edited by Valeriy Smolii, is considered to be one of the first comprehensive studies on the outlined issues. The historical essays on the theoretical study and history on manifestations of this repressive and misanthropic policy were the main focus of the study, as well as some separate chapters written by Tetiana Vronska and Oleksandr Lysenko, which focused on World War II. There was covered a substantive overview of the Nazi occupation policy in the Reich Commissariat “Ukraine” and the General Governorate, the features of repressive methods were raised, the issues regarding detention in camps, various forms of violence, the use of forced labour of the Soviet prisoners of war were outlined; as well as the so-called clearing of the “occupied territory”, the “hostage system”, terror over civilians, mobilization for the forced labour (Vronska, & Lysenko, 2002, pp. 600–655).

The two-volume book “Ukraine in World War II: A View from the 21st Century” (2011) written by leading specialists from the Institute of History of Ukraine, edited by Valeriy

Smolii and Hennadiy Boriak is considered to be another crucial publication (Smolii, & Boriak, 2011a; Smolii, & Boriak, 2011b). There was outlined the policy of the Soviet leadership regarding the preparations for the war, mobilization of population, the course of operations in Ukraine, and present diverse aspects of the Nazi occupation policy, everyday life in cities and villages in the monographs (Zabolotna, 2011), and the system of forced labour (Halchak, Pastushenko, & Shevchenko, 2011; Potylchak, 2011), and the situation of prisoners of war (Levykin, & Pastushenko, 2011).

The monograph “Collaborationism on the Territory of the Reich Commissariat “Ukraine” and War Zone during the World War II” written by Valentyna Shaikan, based on the little-known archival materials, covered the issues on justice for collaborators, their legal proof, and qualification of crimes as the war crimes committed during the war (Shaikan, 2005).

The study on the Extraordinary State Commission for “Establishment and Investigation of the Atrocities of the German-fascist Invaders and their Accomplices” (formed in November 1942) and their regional offices occupied a separate thematic niche in the study on the war crimes. The main task of this Commission was “to record the crimes of occupiers and the damage they caused; to generalize and coordinate the state bodies that were already keeping records of the occupiers’ crimes; to determine on the basis of the documents the harm done to citizens, state, collective farms and public organizations for the compensation; to identify occupiers for subsequent transfer to court” (Fedorchenko, & Domashova, 2024, p. 26; Polsen, 2009, p. 28).

Yevhen Maksymchuk in his dissertation “Activities of State Commissions for the Investigation of the Nazi Crimes on the Territory of Ukraine (1941 – 1951): Typical Composition and Information Potential of the Source Complex” and a number of subsequent studies, based on a large source database from the Ukrainian and foreign archival institutions, comprehensively highlights the prerequisites and reasons, directions and results of the activities of state commissions for the investigation of crimes of the Nazi regime (Maksymchuk, 2007; Maksymchuk, 2006, pp. 92–94; Maksymchuk, 2007, p. 9495).

A regional cross-section of the study on the activities of “Extraordinary State Commission for Accounting for Damage Caused by the Nazi Invaders to the Economy and Population of the Temporarily Occupied Territories of the USSR” in Rivne and Volyn regions was studied by a scholar Anna Mukharovska. The author emphasized the propaganda role of the Commissions activities, as their materials were used in Nuremberg and other trials, and her dissertation was the result of many years of research. At the same time, according to A. Mukharovska, “the activities of the state commissions should be considered exclusively in the context of establishment of the Soviet power in Western Ukrainian lands during the period of the end of World War II”, therefore, the results of her study are not objective (Mukharovska, 2016, p. 183). A significant achievement of the scholar is the coverage of the final data of the first stage of information collection by the Commissions on the number of dead (civilian residents, including those shot, executed prisoners of war) and those deported to work in Germany. For example, it was found out that “165,339 citizens, including 47,690 prisoners of the war, died because of the Nazi invaders and their accomplices in Volyn region due to various causes of death” (Mukharovska, 2016, pp. 123–125). It should be noted that A. Mukharovska’s conclusions regarding the documentation on human losses in the Polish-Ukrainian conflict were also valuable. The victims of this interethnic conflict were recorded as “caused by the Germans and their accomplices, or were ignored altogether” (Mukharovska, 2016, p. 127).

Vasyl Mishchanyn reconstructed the main stages of the creation and activities of “Extraordinary Commission for Investigation of Crimes and Damages Caused by the Hungarian-German Fascist Invaders on the Territory of the Transcarpathian Region”, while studying the issues on the Sovietization of the Transcarpathian region, using previously unpublished materials from the State Archives of Zakarpattia region (Mishchanyn, 2014).

In 2018, there was cooperation between the Institute of Ukrainian History, Ruprecht Karl University of Heidelberg, and the Branch State Archive of the Security Service of Ukraine, which resulted in printing a fundamental collection of documents on the Nazi and Soviet special services that highlighted the wartime violence mainly against the civilian population of Ukraine (the civilians, the Jews and the Gypsies, the people with the disabilities, mental problems). Most of the documents were not only published for the first time, but also translated into Ukrainian (Boriak, Budnytskyi, & Vasyliiev, 2018). This is an array of source material with the reports from Einsatzgruppen, documents from the NKVD of the Ukrainian SSR, etc., which was structured according to the regional principle, supplemented by the meaningful prefaces that reconstruct historiography, historical context, and typologize the dimensions of violence. In 2018 – 2024, in addition to this first generalizing edition, there were published 6 documentary collections with the documents from state security agencies in 1941 – 1945 about Chernihiv (Боряк, Будницький, Васильєв, 2019), Vinnytsia (Boriak, Budnytskyi, & Vasyliiev, 2020), Khmelnytsk (Vasyliiev, Lysenko, Markova, Podkur, 2022), Cherkasy (Vasyliiev, Hula, Klymenko, Korol, & Podkur, 2022), Zaporizhzhia (Boriak, Vasyliiev, Hula, & Kohut, 2023), and Mykolayiv regions (Boriak, Vasyliiev, Levchenko, & Kohut, 2024).

Conclusions. There has been a shift from the traditional, Soviet ideological schemes regarding the study on World War II since the late 1990s and mainly since the 2000s in Ukrainian historiography. In addition to covering the course on the military operations, calculating the quantitative losses of the military and civilian populations, and the damage caused by the war, there appeared the interdisciplinary devoted to the comprehensive study on the occupation policy, socio-political life, and manifestations of violence. In this context, several thematic areas should be distinguished, which highlighted the issues on the war crimes of the Nazi regime: the policy of mass violence as manifestation of the political and ideological terror (O. Lysenko, V. Vasyliiev, H. Boriak, V. Smolii, etc.), its specific practices directed against civilians, murdering of prisoners of war, labour mobilization and the use of forced labour (V. Shaikan, M. Shevchenko, S. Halchak, V. Levykin, T. Pastushenko, etc.).

The study on the Extraordinary State Commission for Investigation of the Atrocities of the German-fascist Invaders and their Accomplices, Activities of Regional Commissions is considered to be another thematic niche in the study on the war crimes (Publications by E. Maksymchuk, A. Mukhorovska, V. Mishchanin).

In English-language publications on the international relations, international law, and in the Ukrainian legal literature, the issue on the war crimes is considered mainly through the prism of implementation of international treaties, their violation in connection with the illegal occupation of the Crimean Peninsula by the Russian Federation, and later on, the full-scale invasion.

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