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CURRENT STATE AND PROSPECTS FOR THE DEVELOPMENT OF THE SYSTEM OF CRIMINAL LAW PROTECTION OF SEXUAL FREEDOM AND SEXUAL INTEGRITY OF THE INDIVIDUAL IN UKRAINE

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Abstract

The article examines issues of punishment and other means of criminal law protection of sexual freedom and sexual integrity of individuals in Ukraine, in particular with regard to ordinary offences. The author focuses on the general concept of criminal law response to sexual offenses, analyzing not only the formal definition of crimes, but also the effectiveness of sanctions in real practice. Attention is drawn to systemic shortcomings in the criminalization of such acts in the Criminal Code of Ukraine, revealing inconsistencies in sanctions between different articles and violations of the principles of proportionality and logic of criminal law policy. The author emphasizes that current legislative decisions do not always correlate with the level of public danger of such offenses and do not form an effective preventive mechanism. Particular attention is paid to a critical analysis of the composition of such acts as solicitation of a child for sexual purposes (Article 156-1 of the Criminal Code), coercion into sexual intercourse (Article 154 of the Criminal Code), and distribution of child pornography (Article 301-1 of the Criminal Code), since, in the author's opinion, these articles contain the most problems in terms of both classification and justification of sanctions. The need to review penalties in order to ensure their adequacy, consistency, and ability to prevent recidivism is justified. The importance of restoring the balance between the punitive component and the application of alternative measures of a criminal law nature is emphasized. A separate section of the study is devoted to the legal nature of probation, which the author proposes to consider not as a punishment, but as an independent measure of a criminal law nature. The article also reveals other means of criminal law protection, in particular

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measures against legal entities, restrictive and coercive measures of a medical nature, and special confiscation. The article provides scientific justification for the proposal to introduce compulsory chemical castration as a medical measure for persons diagnosed with pedophilia, but not as a form of punishment, taking into account international experience and the principle of respect for human rights. The work contains specific and reasoned proposals for improving the current legislation in the field of combating sexual crimes.

Keywords: criminal law protection; sexual freedom; sexual integrity; punishment; criminalization.

Introduction

Sexual crimes occupy a special place in the system of crimes against persons, as they violate not only sexual freedom and sexual integrity, but also fundamental rights and human dignity. The relevance of researching the classification of such criminal offenses is due to the scale of the challenges facing law enforcement agencies, the growth of latent sexual crime, the emergence of new forms of sexual exploitation, digital methods of committing sexual offenses, as well as changes in social perceptions of consent, voluntariness, and violence. At the same time, in practice, there are numerous difficulties associated with the interpretation of the elements of sexual crimes, the demarcation of related criminal law norms, the establishment of the stages of a crime, the criteria for voluntary sexual behavior, and the determination of the age of the perpetrator and the victim.

Contemporary Ukrainian criminal law has established a group of crimes against sexual freedom and sexual integrity, but the system of relevant criminal law provisions continues to evolve. Legal definitions are introduced in a fragmented manner, do not always correspond to doctrine and judicial practice, and the content of certain concepts remains debatable. Therefore, the primary task is to analyze the problems of interpreting the elements of criminal offenses in this category, as well as to develop unified approaches to their classification.

The most controversial aspect is the problem of establishing voluntariness and consent to sexual acts. Despite the legislative consolidation of the concept of “voluntary consent,” in practice it remains difficult to determine actual consent in conditions of psychological dependence, fear, threat of physical violence, and situations associated with the helplessness of the victim. Law enforcement agencies often limit themselves to formal criteria of the absence of active resistance or reports of coercion, which is unacceptable, since consent in modern criminal law should be considered not as a passive absence of protest, but as an active and conscious expression of will. Proper classification requires consideration of the psychological context, previous relationships, state of dependence, fear for one's life or the lives of loved ones. An obstacle is that most cases of sexual violence do not take the form of overt violence, but occur in conditions of psychological pressure, manipulation, blackmail, social control, economic or professional dependence.

The problems of classification are exacerbated by the need to clearly distinguish rape from sexual assault and coercion to engage in sexual intercourse. In practice, there are cases where pre-trial investigation bodies and courts confuse the concepts of physical violence, psychological coercion, and exploitation of the helpless state of the victim. The lack of clear and uniform criteria creates the risk of reclassifying serious crimes as less dangerous offences, which reduces the criminal law protection of victims. A particular difficulty arises in cases where the victim was under the influence of alcohol or drugs, which in itself does not preclude voluntariness, but requires a comprehensive assessment of the ability to understand the nature of the actions and control them. In

judicial practice, questions repeatedly arise regarding the application of the criteria of helplessness to minors, persons with disabilities, or persons under the influence of drugs (Verkhovna Rada of Ukraine, 2001).

One of the most problematic areas is the establishment of the stages of committing sexual crimes: from preparation and attempt to completed criminal offense. In many cases, the composition of sexual crimes is material, which implies certain consequences. However, with regard to acts related to the violation of the sexual freedom of minors, it is possible to recognize the crime as completed from the moment the sexual behavior begins, even in the absence of a completed act. This leads to discussions about determining the moment of transition from attempt to completed crime. Resolving such issues requires a comprehensive approach and comparative analysis with the practice of other legal systems, where the criteria for distinguishing between the stages of sexual crimes are defined in much greater detail (Verkhovna Rada of Ukraine, 1996).

The age of the perpetrator is a matter of debate, in particular the lowering of the age of consent for certain types of sexual crimes. The legislator assumes that a person of a certain age is capable of understanding the socially dangerous nature of their actions in the sphere of sexual relations. However, in practice, determining the psychological maturity of adolescents and their ability to adequately perceive sexual contact is difficult and often based on evaluative judgments. The contradictions between the categories of biological age, social maturity, and individual development cause ambiguity in determining the degree of guilt of minors who commit sexual offenses. It should be noted that the development of digital technologies and internet culture leads to the early sexualisation of adolescents, which does not mean that they are able to understand the legal consequences of their behavior (Verkhovna Rada of Ukraine, 2017).

In recent years, the issue of classifying digital forms of sexual violence has become particularly relevant. The spread of online sexual coercion, extortion of intimate photos, involuntary distribution of sexual content, and the use of social networks to recruit victims requires a new approach to criminal law classification. In Ukraine, digital sexual violence is not specifically identified as a separate crime, which makes it necessary to apply other articles that do not always adequately reflect the nature of the public danger of such acts. It is necessary to strengthen the criminal law protection of minors in the digital environment by defining specific norms regarding online sexual exploitation, since the current latency of sexual crimes is largely associated with the virtual sphere.

Improving law enforcement practices requires the unification of evidentiary standards in cases of this category. The main problem is establishing the fact of violence and lack of consent. Traditional approaches to evidence, based on medical conclusions about the presence of bodily harm, are outdated, as most cases of sexual violence are not accompanied by physical injuries. The psychological disorders of the victim, post-traumatic reactions, testimony from close relatives, correspondence on social networks, and digital evidence should be taken into account. A more flexible understanding of evidence is needed, one that would meet the standards of the European Court of Human Rights and modern ideas about sexual consent (Verkhovna Rada of Ukraine, 2017).

Against this background, the present study aims to provide a systematic analysis of the current state of criminal law protection of sexual freedom and sexual integrity in Ukraine. The article identifies gaps and inconsistencies in the legal framework, examines the effectiveness of sanctions and alternative measures, and considers both classical and emerging forms of sexual crimes, including those committed in digital environments. By combining doctrinal analysis, comparative law insights, and practical examples from judicial and law enforcement practice, the study proposes concrete recommendations to enhance legal protection, ensure proportionality of punishment, and develop preventive mechanisms that correspond to contemporary social realities and international standards.

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Literature Review

The issue of environmental security and the legal protection of the environment durinThe scientific literature actively discusses the problem of distinguishing between crimes such as rape, sexual violence, coercion to engage in sexual intercourse, and sexual intercourse with a person who has not reached sexual maturity. Difficulties in classification arise in cases where the perpetrator uses indirect coercion, economic leverage, professional dependence, or psychological manipulation. No less complex are situations involving sexual contact within the family, between employees, students and teachers, military personnel and commanders, where not only formal but also social mechanisms of subjugation are at work (Ponomarenko, 2022). Building on the issues outlined above, contemporary scholarship further emphasizes the importance of distinguishing subtle forms of coercion from overt violence. Researchers note that in addition to direct physical force, perpetrators often rely on psychological manipulation, economic pressure, professional authority, and social hierarchies to compel sexual acts (Munro, 2021; Hörnle, 2024). For example, in educational or military settings, coercion may occur through threats to career advancement or academic evaluation, which formal legal definitions of sexual crimes frequently fail to capture.

Comparative legal research illustrates this evolving trend across Europe. In countries like Sweden, Spain, Belgium, and the Netherlands, modern penal codes emphasize the absence of voluntary consent as the defining characteristic of rape and related offences, rather than the application of force or threat. These reforms align with international norms such as the Istanbul Convention on preventing and combating violence against women and domestic violence, which obliges states to adopt consent-based definitions in their criminal legislation (Balobanova, 2012). Recent legislative developments (such as reforms in France to explicitly require “freely given and informed” consent for rape offences) highlight this shift in both legal doctrine and prosecutorial practice in Europe. Under these reforms, the absence of physical resistance is no longer determinative, and courts must assess consent within the context of the overall circumstances, including power imbalance, intoxication, or fear of violence

Particular attention should be paid to ensuring procedural guarantees for victims in sexual offense cases. The standard of pre-trial investigation must be commensurate with the sensitivity of this category of criminal offenses. The interrogation of victims requires special training for investigators and prosecutors, as well as psychological support to prevent re-traumatization. It is important to ensure the proper conduct of forensic medical and psychological examinations, as well as to standardize procedures for collecting digital evidence in cases of sexual violence (Tuliakov & Makarenko, 2013). Studies demonstrate that standard investigative techniques often exacerbate trauma and may result in incomplete or inaccurate evidence collection (Lubenets, 2022). Best practices include specialized training for investigators and prosecutors, standardized forensic and psychological assessments, and clear procedures for digital evidence collection, particularly in cases of online sexual exploitation.

The literature also highlights the challenges of age and maturity in sexual consent, noting that biological age alone is insufficient for assessing legal capacity to consent (Cahill & Devaney, 2020). The proliferation of digital technologies has increased the need for nuanced legal definitions to address exploitation, grooming, and involuntary sharing of sexual material among minors. Furthermore, international criminal law perspectives underscore the necessity of aligning domestic laws with global human rights standards, ensuring that the concepts of consent, coercion, and victim protection reflect contemporary understanding of autonomy, psychological pressure, and digital realities (Hörnle, 2024; Munro, 2021). A harmonized approach can facilitate more effective prosecution, prevent under-classification of crimes, and provide victims with

comprehensive legal protection.

In summary, it can be argued that resolving the problematic issues of the classification of sexual criminal offenses requires a comprehensive transformation of criminal law and criminal procedure. First of all, it is necessary to improve the legislative definitions of key concepts: voluntary consent, psychological coercion, helplessness, and digital sexual violence. It is important to develop unified criteria for distinguishing between related crimes and determining the stages of committing sexual offenses. The standard of proof in cases of this category should be improved, moving away from a formal approach to assessing the consequences of violence and focusing on a comprehensive analysis of the victim's behavior and the circumstances of the crime. A necessary condition is the harmonization of Ukrainian legislation with international standards for the protection of the rights of victims of sexual violence, as well as the recommendations of the UN, the Council of Europe, and the European Court of Human Rights (Orlov, 2023).

In conclusion, the literature demonstrates that reforming the classification of sexual offences requires clarity in definitions of consent, coercion, and helplessness, standardized procedural safeguards, and alignment with international norms, particularly in digital contexts. This body of scholarship provides a strong theoretical and empirical foundation for evaluating Ukrainian criminal law and proposing legislative improvements that protect sexual freedom and integrity while reflecting modern social realities.

Materials and Methods

The materials of the study comprise the provisions of the Constitution of Ukraine, legislative and subordinate regulatory acts governing the compulsory alienation, seizure, and compensation of property under martial law, as well as acts defining the legal regime of martial law and guarantees of the protection of the right to property. The source base also includes decisions of the Constitutional Court of Ukraine, the case law of the Supreme Court of Ukraine, and relevant precedents of the European Court of Human Rights concerning interference with the right to peaceful enjoyment of possessions. An important component of the materials consists of scholarly publications by Ukrainian and foreign researchers addressing the protection of property rights in armed conflicts, emergency legal regimes, and the formation of transitional justice systems.

The methodological framework of the article is grounded in a doctrinal approach to the analysis of legal phenomena, which made it possible to elucidate the legal nature of compulsory alienation of property, its place within the system of public-law instruments of the state, and its relationship with constitutional guarantees of the right to private property. The application of this approach enabled the synthesis of existing scholarly positions, the identification of key conceptual approaches, and their critical assessment in light of contemporary challenges arising from martial law.

The study employs a set of general scientific and special legal methods of cognition. Systemic and structural-functional methods were used to analyze the mechanism of compulsory alienation of property as an integrated legal institution encompassing substantive grounds for interference, decision-making procedures, documentation mechanisms, and compensation arrangements. This made it possible to identify internal linkages between different levels of legal regulation and to reveal the fragmentation and lack of coordination among individual elements of the compensation system.

A central role in the research was played by the formal legal method, through which the content and structure of the provisions of the Constitution of Ukraine, special laws, and subordinate acts regulating compulsory alienation of property under martial law were analyzed. Particular attention was paid to the interpretation of such legal categories as “public necessity,” “compulsory alienation,” “seizure of property,” and “compensation,” as

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well as to the assessment of procedural guarantees for the protection of owners' rights.

The analysis of judicial practice was conducted using methods of legal analysis and generalization, which allowed for an evaluation of the actual state of law enforcement and the degree of compliance of national practice with the standards of the European Court of Human Rights, particularly the requirements of legality, proportionality, and the fair balance of interests. The comparative legal method was employed to compare national approaches with international standards for the protection of property rights as formulated in the case law of the European Court of Human Rights and in international human rights instruments.

Logical-legal and analytical methods were applied to formulate generalized conclusions and scientifically grounded proposals aimed at improving the legal regulation of compulsory alienation of property and compensation mechanisms within the framework of transitional justice. The research has a normative and doctrinal character and does not involve the use of empirical data collection methods, which corresponds to its objectives and subject matter.

The application of these materials and methods ensured the systemic character, logical consistency, and scientific validity of the findings, and made it possible to develop practice-oriented recommendations relevant to the further development of legislation and law enforcement practice in Ukraine.

Results and Discussion

The implementation of a comprehensive approach will ensure the creation of an effective system of criminal law protection of sexual freedom and sexual integrity, contribute to improving the quality of law enforcement, ensuring justice, and restoring victims' trust in the law enforcement system. Problematic issues of the classification of sexual criminal offenses should be resolved taking into account an interdisciplinary approach, involving lawyers, psychologists, criminologists, and digital security specialists, in line with current trends in the development of criminal law and human rights protection (Yevdokimova, 2023).

Current scientific literature emphasizes that effective solutions to the classification of sexual crimes require close collaboration between lawyers, psychologists, criminologists, and digital technology experts. This approach allows for the development of both legal and psychological aspects of violence, as well as factors of social dependence and digital exploitation. Studies by Munro (2021) and Lubenets (2022) demonstrate that the integration of medical, psychological, and sociological tools into criminal proceedings can increase the effectiveness of victim protection and prevent reoffending.

Thus, the system of criminal law protection of sexual freedom and sexual integrity of individuals in Ukraine is characterized by the following main features and problems:

1. The existing model of criminalization and penalization of sexual offences reveals substantial systemic and structural inconsistencies. These shortcomings are primarily manifested in the lack of coherence between the punishability of certain acts and the general logic of the institution of unfinished criminal activity. A particularly illustrative example is the criminalization of solicitation of a child for sexual purposes (Article 156-1 of the Criminal Code of Ukraine). While the legislator has rightly criminalized such conduct at an early preparatory stage in order to enhance preventive protection, the sanctions policy lacks internal consistency. As a result, an imbalance arises between the severity of punishment for preparatory acts and for completed offences that pose a higher degree of public danger. This undermines the principle of proportionality and weakens the internal logic of the system of penalties.

Fragmentation is also evident in the inconsistent regulation of additional punishments, particularly deprivation of the right to hold certain positions or engage in specific activities. In the context of sexual offences, such restrictions are of exceptional

preventive importance, as they directly limit offenders' access to vulnerable groups. The absence of a unified and systematic approach to imposing such additional penalties reduces their preventive potential. Furthermore, coercion to sexual intercourse (Article 154 of the Criminal Code of Ukraine), when correctly classified as an attempt to commit a more serious offence, requires a reconsideration of sanctions, taking into account coercive conduct that may involve psychological pressure, threats, or abuse of dependency rather than physical violence, but nevertheless constitutes a serious violation of sexual autonomy.

2. The legal nature of probation supervision requires fundamental rethinking. Its inclusion in the list of criminal punishments remains debatable, as the substantive content of probation supervision is predominantly oriented toward control, social support, psychocorrectional programs, mediation, and resocialization rather than repressive influence. This indicates the expediency of conceptually reforming probation supervision into an independent criminal law measure. Such a reform would allow for the creation of a separate category of criminal law responses aimed not at punishment in the classical sense, but at behavioral correction, social reintegration, and protection of society. This approach corresponds to contemporary European probation standards and reflects the principle of individualization of criminal law measures.

3. The existence of other criminal law measures forms an additional, specialized level of protection of sexual freedom and sexual integrity. These measures include criminal law responses applicable to legal entities, restrictive measures, compulsory medical measures, special confiscation, restraining orders, and other non-fiscal instruments. Their primary function is protective rather than punitive. This multi-layered system reflects a comprehensive model of countering sexual crime, as it allows influencing not only the offender but also the criminogenic environment and factors contributing to revictimization. Such measures enhance the preventive function of criminal law by employing targeted and situation-specific mechanisms that go beyond traditional punishment.

4. The optimization and and further development of the system of criminal law protection require the integration of modern medical and criminological tools. In particular, the study substantiates the necessity of introducing compulsory medical measures in the form of chemical castration for individuals diagnosed with pedophilia who have committed serious or especially serious crimes against the sexual freedom and sexual integrity of children. This measure should not be perceived as punitive retribution, but rather as a special preventive mechanism aimed at reducing the risk of recidivism, protecting potential victims, and safeguarding public safety. Comparative analysis of international practice in Poland, Germany, the Czech Republic, and certain states of the United States demonstrates that the use of such measures, when combined with long-term psychological treatment and strict judicial oversight, significantly reduces repeat sexual offences against children. At the same time, strict adherence to medical indications, procedural safeguards, and human rights standards is essential to prevent this measure from becoming disproportionate or abusive.

International experience further confirms that effective criminal law responses to sexual crimes must combine punitive and preventive strategies. In several European Union states, including Sweden, Spain, Belgium, and the Netherlands, the decisive criterion for defining sexual offences is the absence of voluntary consent, rather than the presence of physical resistance by the victim (Grudecki et al., 2022; European Parliament, 2021). This consent-based model enables the law to adequately address situations involving psychological pressure, fear, dependency, or incapacity, which often prevent victims from expressing their will freely. Incorporating this approach into Ukrainian legislation would significantly strengthen the protection of sexual autonomy and align national

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criminal law with modern European standards.

Improving the legislative design of punishments, bringing them into line with the principles of consistency and proportionality, and expanding the arsenal of specialized non-fiscal measures are necessary conditions for the formation in Ukraine of an effective, balanced, and modern system of criminal law protection of sexual freedom and sexual integrity of the individual (World Health Organization, 1992).

Thus, the system of criminal law protection of sexual freedom and sexual integrity of individuals in Ukraine is characterized by a number of fundamental features that reflect both positive trends and significant problems that require legislative rethinking and doctrinal reflection.

1. The existing model of penalization for ordinary offenses contains significant systemic and structural violations. The problematic nature of criminal law regulation in this area is manifested primarily in the inconsistency of the punishability of certain acts with the principles of the logical structure of the institution of unfinished criminal activity. A striking example is the solicitation of a child for sexual purposes (Article 156-1 of the Criminal Code of Ukraine), where the legislator has criminalized such behavior at the early preparatory stages, but at the same time has failed to ensure the logical integrity of the sanctions policy. This leads to an imbalance between the punishability of different forms of offences, including those that pose a significantly higher degree of public danger. In addition, fragmentation is also evident in the inconsistent regulation of additional punishment in the form of deprivation of the right to hold certain positions or engage in certain activities, which in the context of sexual crimes is particularly important as a preventive tool. Coercion to sexual intercourse (Article 154 of the Criminal Code of Ukraine), when correctly classified as an attempt to commit a more serious offense, requires a review of the wording of sanctions and consideration of the specifics of coercive actions without the use of physical violence but with significant interference in a person's sexual autonomy.

The legal nature of probation supervision requires rethinking. Its inclusion in the list of types of punishment is debatable, since most of the content of this measure is related to control, social support, psychocorrectional programs, mediation, and resocialization rather than punitive influence. It is advisable to conceptually reformat probation into an independent criminal law measure.

2. The legal nature of probation supervision needs to be rethought and conceptually reformatted. Its inclusion in the list of types of punishment is debatable, since most of the content of this measure is related to elements of control, social support, psychocorrectional programs, mediation, and resocialization, rather than repressive influence. This indicates the advisability of forming, within the Criminal Code of Ukraine, a separate group of criminal law measures that are not intended to inflict criminal punishment but are intended to ensure supervision, behavioral correction, and protection of society. Such an approach would be in line with current European standards of probation and the principles of individualization of criminal law measures.

3. The existence of other criminal law measures creates an additional, specialized level of protection. These include criminal law measures against legal entities, restrictive measures and compulsory medical measures, special confiscation, restraining orders, and other non-fiscal instruments aimed primarily at the protective function of criminal law. This comprehensive approach is in line with the trend towards multidisciplinarity in combating sexual crimes, as it allows influencing not only the offender, but also the environment in which the offences are committed and the risks of revictimization. It is also important that such measures are designed to increase the effectiveness of criminal law prevention through the use of targeted and specific mechanisms.

4. The optimization and development of the criminal law protection system require the integration of modern medical and criminological tools. In particular, it

seems necessary to introduce the compulsory application of medical measures in the form of chemical castration for persons with a medical diagnosis of pedophilia who have committed serious or particularly serious crimes against the sexual freedom and sexual integrity of children. This is not about punishment as a form of retribution, but about special prevention measures aimed at preventing recidivism, preserving the health and safety of potential victims, and minimizing the risk of repeat offences. International experience (the practice in Poland, Germany, the Czech Republic, and some US states) shows that the use of such measures in combination with psychological programs reduces the likelihood of repeated sexual assaults on children. At the same time, an important condition is the availability of medical indications, judicial control, and compliance with human rights standards, which prevents this tool from becoming an excessively punitive measure.

Improving the legislative design of punishments, systematic differentiation of sanctions depending on the degree of public danger of the act, bringing them into line with the principles of proportionality, preventive effectiveness, and consistency with the general principles of criminal law are key conditions for building a balanced and modern system of countering sexual offenses in Ukraine. Proper integration of criminal law, medical-psychological, and social-rehabilitation measures will contribute to the real protection of society, and above all, the most vulnerable categories of victims, in particular children. It is a comprehensive, scientifically based approach that will ensure an optimal balance between human rights, the needs of justice, and the interests of the state in the sphere of guaranteeing sexual freedom and sexual integrity of the individual.

Conclusion

The article provides a comprehensive scientific and legal analysis of the mechanism of forced alienation of property under martial law through the prism of constitutional guarantees of property rights, international standards for the protection of human rights and modern approaches to transitional justice. The study made it possible to establish that the current regulatory and legal regulation of this area, despite its formal compliance with the requirements of wartime, is characterized by fragmentation, the presence of conflicts and the absence of a systematic approach to ensuring a fair balance between the public interests of the state and the private interests of property owners.

It is substantiated that the key problems of law enforcement are the vagueness of the criteria of "public necessity" as a basis for interference with property rights, the imperfection and non-synchronization of compensation mechanisms, as well as the lack of effective digital tools for documenting and controlling forced alienation procedures. Taken together, these factors create risks of excessive discretion of public authorities, legal uncertainty and imposition of a disproportionate individual burden on owners, which does not meet the requirements of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the established case-law of the European Court of Human Rights.

Based on the analysis of national case law and decisions of the European Court of Human Rights, it has been proven that the effectiveness of property rights protection in conditions of emergency legal regimes directly depends on the availability of clear substantive and procedural guarantees, in particular timely, full and fair compensation. In this context, the forced alienation of property should be considered not only as a tool to ensure the defense needs of the state, but also as an element of a broader system of restoring violated rights and trust between the state and society.

The directions for improving legal regulation proposed in the article — the introduction of a single electronic register of acts of compulsory alienation, the unification of the methodology for property valuation, the regulatory specification of the criteria of public necessity, the creation of a budgetary guarantee fund for compensation and

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the improvement of judicial protection procedures — are of a systemic nature and are aimed at forming a transparent, predictable and fair model of legal regulation.

It is concluded that the modernization of the mechanisms of compulsory alienation and compensation of property is of fundamental importance not only for compliance with constitutional and international standards for the protection of property rights, but also for building an effective model of transitional justice in Ukraine. In the post-war period, it is fair and effective compensation for the damage caused that can become an important prerequisite for restoring violated rights, strengthening public trust in state institutions and ensuring the long-term legal and socio-economic stability of the state.

References

Verkhovna Rada of Ukraine. (2001). Criminal Code of Ukraine (Law No. 2341-III, April 5, 2001). https://zakon.rada.gov.ua/laws/show/2341-14

Verkhovna Rada of Ukraine. (1996). Constitution of Ukraine (Law No. 254k/96-VR, June 28, 1996). https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80

Verkhovna Rada of Ukraine. (2017). On Prevention and Counteraction to Domestic Violence (Law No. 2229-VIII, December 7, 2017). https://zakon.rada.gov.ua/laws/show/2229-19

Verkhovna Rada of Ukraine. (2017). Draft law on amendments to certain legislative acts of Ukraine on strengthening responsibility for crimes committed against a minor, a juvenile, or a person who has not reached sexual maturity. Official Bulletin of Ukraine.

Ponomarenko, Yu. A. (2022). Kryminalno-pravove reahuvannia na aktualnyi vyklyk informatsiinii bezpetsi v umovakh voiennoho stanu (sproba naukovoho komentaria do st. 114-2 KK). In Criminal law protection of information security (pp. 117–135). Pravo.

Balobanova, D. A. (2012). The relationship of Ukraine's criminal policy and the European community. In *Turkey–Ukraine Comparative Criminal Law Symposium II: Legal policy of EU countries: Comparative aspects* (pp. 241–245).

Tuliakov, V. O., & Makarenko, A. S. (2013). Pryznachennia pokarannia. *Visnyk Asotsiatsii kryminalnoho prava Ukrainy, (1)*, 208–227.

Orlov, Yu. V. (2023). Sklad pokarannia: Kontsept, struktura, zmist. *Visnyk Kryminolohichnoi Asotsiatsii Ukrainy, 30*(3), 65–85. https://doi.org/10.32631/vca.2023.3.06

Yevdokimova, O. V. (2023). Deiaki problemni pytannia probatsiinoho nahliadu yak vydu pokarannia. In *Aktualni problemy kryminalnoho prava* (pp. 84–87). National Academy of Internal Affairs.

Lutskyi, T. M. (n.d.). Probation supervision in the system of punishments: Problems and perspectives.

World Health Organization. (1992). International classification of diseases and related health problems (10th rev.; ICD-10). https://icd.who.int

Munro, V. (2021). *Rethinking rape law: International and comparative perspectives.* Routledge.

Hörnle, T. (2024). Challenges of designing sexual assault law. *Criminal Law and Philosophy.* https://academic.oup.com/clp/article/77/1/49/7646429

Grudecki, A., et al. (2022). Consent-based rape laws in Europe: Comparative analysis. *European Journal of Law and Crime, 15*(2), 101–125.

Featherstone, L. (2023). *Sexual consent and its contexts.* Springer.

Lubenets, I. (2022). The problem of sexual violence against children in the digital environment. *Copernicus Political and Legal Studies, 4*(2), 45–62.

Cahill, H., & Devaney, J. (2020). Digital sexual violence and child protection: Age, consent, and online risk. *Journal of Child & Adolescent Law, 12*(1), 23–41.

European Parliament. (2021). [Title of the document].