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## Problems of criminal law protection of the national security of the state against subversive acts

### Проблеми кримінально-правової охорони національної безпеки держави від диверсійних актів

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#### Abstract

The purpose of the article is to study the main problematic aspects of the regulation of liability for sabotage in the legislation of Ukraine. The subject of the research is the problematic aspects of the regulation of criminal liability for sabotage under the laws of Ukraine. In order to obtain reliable results, a number of methods are applied: dialectical, formal-logical, hermeneutic, logical-semantic, statistical, comparative-legal, etc. The results of the conducted research: modern threats to the national security of any state require effective measures of counteraction, including the qualitative criminal legislation. The main shortcomings of the regulation of liability for sabotage under the laws of Ukraine are due to the imperfection of the components of this criminal offense, as well as the misinterpretation of its provisions by the enforcer. In addition, it is determined that one of the important problems of liability for such action is the parallel existence of a terrorist act in the criminal legislation of Ukraine, and the components of a terrorist act by its content and nature in most cases coincides with the components of sabotage. A number of

#### Анотація

Метою статті є дослідження основних проблемних аспектів регламентації відповідальності за диверсію у законодавстві України. Предметом дослідження є проблемні аспекти регламентації кримінальної відповідальності за диверсію за законодавством України. Для одержання достовірних результатів використано низку методів дослідження, а саме: діалектичний, формально-логічний, герменевтичний, логіко-семантичний, статистичний, порівняльно-правовий тощо. У результаті проведеного дослідження доведено наступне: сучасні загрози національній безпеці будь-якої держави вимагають ефективних засобів протидії, у тому числі якісне кримінальне законодавство; основні недоліки регламентації відповідальності за диверсію за законодавством України зумовлені як недосконалістю складу цього кримінального правопорушення, так і неправильним тлумаченням його положень провозастосувачем; крім того, визначено, що однією з вагомих проблем відповідальності за

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changes and additions to the criminal legislation of Ukraine on elimination of the specified problems are proposed.

**Key words:** criminal liability, criminal offense, national security, sabotage, terrorist act.

## Introduction

Ensuring the national security is one of the main tasks of any state. This task requires significant resources, efforts and qualitative tools. The latter, in turn, includes a set of counteraction measures both to internal and external threats. Criminal law is means, which is not only created to punish perpetrators of crime, but also to be a significant deterrent. Accordingly, the quality of the law directly affects the protection of the state against various threats. Despite the fact that the Criminal Code of Ukraine provides for a separate section, which covers all encroachments on the national security of Ukraine, the quality of these norms sometimes deserves reasoned criticism. Sabotage is one of such encroachment. Taking into account the fact that the components of this crime have been provided for by criminal law for many decades, its content is not changed significantly over the years, and it is not because the legislator has so successfully formulated its corpus delicti. The provisions of Art. 113 of the Criminal Code of Ukraine did not actually apply to the events that began in Ukraine in 2013, but modern realities have led to the emergence of relevant law enforcement and judicial practice in cases of this category. Moreover, the practical application of the provisions of this article revealed a number of critical problems that obviously need to be solved.

In view of this, in theory, the problems of the components of sabotage, which are caused by unsuccessful formulation of the subject matter of this criminal offense; impossibility of applying the provisions of Art. 113 of the Criminal Code of Ukraine in case of committing a subversive act by omission; unreasonable extension of the content of the objective side of this offense; unsuccessful formulation of certain features of this crime; difficulty in determining the moment of its completion; restrictions on the extension of the provisions of the analyzed article to new threats, in particular cyber sabotage, etc. have remained little studied or not studied at all.

таке діяння є паралельне існування в кримінальному законодавстві України складу терористичного акту, який за своїм змістом та характером у більшості випадків збігається із складом диверсії; запропоновано низку змін та доповнень до кримінального законодавства України щодо усунення вказаних проблем.

**Ключові слова:** кримінальна відповідальність, кримінальне правопорушення, національна безпека, диверсія, терористичний акт.

In addition, the European integration processes taking place in Ukraine necessitate, among other things, the harmonization of its legislation with the legislation of the European Union, as well as the legislation of its member states. Unlike Ukraine, EU legislation does not provide for the components of sabotage, such actions constitute a terrorist act. Theorists and legislators should also consider the possibility of making appropriate changes to the Criminal Code of Ukraine.

## Methodology

The complex application of philosophical, general and special scientific methods contributed to the comprehensive disclosure of the subject of the research. In the course of the research, a number of methods of scientific cognition are used, namely the dialectical method allows investigating the development of scientific thought on the content of the features of the analyzed criminal offense, the development of the Ukrainian legislation on liability for sabotage. This, in turn, allowed us to study the development of Ukrainian legislation concerning liability for subversive acts, to establish both the positive aspects of such changes and the shortcomings of the legislative process in this field. In particular, taking into consideration the lack of judicial practice until 2013, it is proved that during the development of the criminal legislation of Ukraine the components of sabotage did not actually change. The features of this crime were formed by the doctrine of criminal law of the Soviet era and, accordingly, do not take into account modern threats. This made it possible to reveal further directions for research.

The hermeneutic approach makes it possible to apply interpretive techniques using various methods of legal interpretation to analyze the content of criminal law sources, their understanding, which contributes to an in-depth

understanding of the features of sabotage. It is established that there is no unified approach to understanding the content of certain features of sabotage in the theory of criminal law and in law enforcement and judicial practice. Scholars have different interpretations of the content of important industrial or defense facilities, the end of this crime, and so on. The existence of these problems is confirmed by the analysis of law enforcement and judicial practice.

The use of the logical-semantic method allows analyzing the content of the basic concepts related to the subject of this research. This method made it possible to reveal a number of problematic aspects related to the terminological flaws of the provisions of Art. 113 of the Criminal Code of Ukraine, to investigate their content, as well as to suggest possible ways to solve them.

The comparative legal method makes it possible to compare the features of the sabotage and the terrorist act, to identify common and different features. The statistical method is used to analyze indicators of law enforcement and judicial practice in this category of cases. The study examines the sentences of the courts of Ukraine on the facts of committing criminal offenses under Art. 113 of the Criminal Code of Ukraine for the period from 2013 to 2021, which in turn made it possible to determine those problematic aspects that arise in the process of practical application of the provisions of this norm.

### Literature Review

The problems of criminal liability for sabotage, taking into consideration that this criminal offense is absent in the legislation of European countries, have been the subject of the research only by scientists from the so-called post-Soviet camp. Their works deal with the analysis of a terrorist act, other encroachments on the national security. The publications of Bissell, and Schottenfeld (2018), Bruevich et al (2019), Macdonal, Correia and Watkin (2019), Andrés (2020), Gómez (2001), Terreros (2014) are of direct importance for the subject of this research. Ukrainian scholars both in their articles and in theses directly consider the issue of the components of sabotage. Klymosiuk's dissertation (2018a) is one of the monographs devoted to the corpus delicti of this criminal offense. In his work, the author comprehensively investigates a number of key issues that are important for the correct clarification of the content of this act, among which should be highlighted the study of the relationship between

sabotage and terrorist act, as well as the research on improving criminal liability for sabotage and ways to solve it. Bantyshev and Shamara (2010) carry out a comprehensive study of the components of this criminal offense, however, as part of a general study of all crimes against the foundations of national security. Chuvakov (2017) conducts a similar study on criminal law counteraction to crimes against the basics of the national security. Some aspects of the components of this crime are considered within scientific articles or other scientific publications. Peleshchak (2017) give the characteristics of a special type of sabotage, namely cyber sabotage, Pasyeka (2018b) reveals the main problems related to the regulation of liability for sabotage etc.

### Results and Discussion

The events that have taken place in Ukraine since 2014 led to the significant application of certain provisions of criminal legislation, especially in criminal offenses against national security. Taking into account their special features, either they did not previously find their practical implementation, or their judicial practice was scanty. Art. 113 of the Criminal Code of Ukraine was one of such norms. Despite the long existence in the legislation of Ukraine, it has begun to be actively used to prosecute the perpetrators by the judiciary only for the last eight years. Despite the establishment of this norm and the presence of a number of fundamental works to determine the components of this criminal offense and their individual features in the doctrine of criminal law, the practice of applying the provisions of this article clearly shows a number of problems. These problems complicate the law enforcement process and lead to errors in law enforcement and judicial activities.

The analysis of the components of the criminal offense under the provisions of Art. 113 of the Criminal Code of Ukraine, theoretical developments of scientists who studied the components of sabotage, as well as judicial practice on cases of this category testify to the existence of a number of problems that need to be resolved as quickly and effectively as possible. Given the significant number of such problems, this article deals with the most critical problems that require special theoretical thinking and urgent legislative changes.

The research proves that following problems are:

1. The first and one of the main problems of the components of this crime is the failed

definition of its subject matter. Art. 113 of the Criminal Code of Ukraine defines important industrial or defense facilities as one of the subject matters. The difficulty of determining the subject matter of sabotage is due to several factors. First, the use of the concepts of "important industrial facilities" or "important defense facilities" in the provisions of Art. 113 of the Criminal Code of Ukraine without defining their content directly in the law can hardly be called a good idea. Secondly, instructions on other subject matters of the crime in the provisions of Art. 113 of the Criminal Code of Ukraine are not contained at all, and their presence only logically follows from the provisions of certain forms of the objective side of this crime (actions aimed at spreading epizootic or epiphytic diseases – objects of fauna and flora). Third, the subject matters of sabotage in some cases coincide with the subject matter of other criminal offenses provided for in other sections of the Special Part of the Criminal Code of Ukraine. It requires consideration in the qualification of other distinguishing features, and this question is a difficult (or impossible) task in some cases.

Therefore, first, the problem is that there is no legislative definition of these concepts, and this leads to an arbitrary interpretation of its content by both theorists and practitioners. In addition, the legislator failed to define the very concept of "important industrial or defense facilities". In this regard, it is not clear what criteria make such facilities "special", and the use of the term "industrial" is a post-Soviet property in general, and not the best, because this concept does not take into account modern realities. A number of such problems have been drawn to the attention of scientists. Although the scientists united in determining what is the subject matter of this crime (important industrial or defense facilities; objects of radioactive contamination; objects of fauna; objects of flora), but there is no unity about what exactly belongs to it (Melnyk, Khavroniuk, 2019). That is why in the doctrine of criminal law there is a misunderstanding of the content of this feature of the criminal offense. It led to the emergence of a number of scientific publications, in which the authors diametrically describe the content of this concept. Thus, some authors include property, i.e. important industrial or defense facilities, objects of fauna and flora, environment to the subject matter of this crime (Bantyshev, 2014). The others – human life and health, important constructions and communications of industrial or defense purpose (factories, plants, bridges, dams, railway stations,

power plants, gas pipelines, warehouses, etc.), herds of animals (horses, cows, pigs, sheep), poultry farms, plants (fodder crops), fish in reservoirs, agricultural crops or other crops, forests, etc. (Kartavtsev, 2004). The third – enterprises, institutions; ways and means of communication; oil pipelines; ships and aircraft; locality; air; reservoirs; any animals; pastures, lands, forests (Seletskyi, 2008). In the scientific literature, one can also find opinions about the fact that the subject matter of this crime should also include computer information, which is intentionally destroyed or distorted in order to weaken the state (Bantyshev, Shamara, 2010).

For the objectivity of the research, it will be relevant to give examples of the judicial practice of Ukraine concerning the subject matter of sabotage in the commission of real crimes.

Thus, according to the Unified State Register of Court Decisions of Ukraine from 2013 to 2021, there are 16 sentences for crimes under Art. 113 of the Criminal Code of Ukraine, in which the subject matter of sabotage was usually objects of railway and road traffic (bridges, roads, rolling stock), and only in one case it was a military unit where fuel and material values were stored. Accordingly, the analysis of the judicial practice does not make it possible to determine a complete list of such objects.

Considering the analysis of the subject matter of this crime, it should be pointed out that only some of these concepts are reflected directly in the legislation of Ukraine, namely the concept of "objects of fauna" and "objects of flora". This, in turn, necessitates to define a general list of important industrial or defense facilities and objects that may be subject to radioactive contamination (in the latter case, it can be any object), and, in addition, to determine important industrial or defense facilities from them. Regarding the latter, it should be noted that today the person who will investigate the case, certainly, taking into account all the circumstances of the case, would intuitively decide the determination of the «important facilities». This indicates the inefficiency of the legislator's use of such a formulation of the subject matter of sabotage, and, accordingly, requires amendments to Art. 113 of the Criminal Code of Ukraine.

In view of the above, it is obvious that the subject matter of sabotage needs to be adjusted. Moreover, the legislation facilitates this task in some ways, as Ukraine has developed the Draft Law "On Critical Infrastructure and its

Protection" (Draft Law of Ukraine No. 5219, 2021), which defines the concept of such facilities, and they are the most valuable objects for the national security by their content. Therefore, the subject matter of this crime should be identified as objects of critical infrastructure. Such a proposal has already been reflected in the literature (Pasyeka, 2018a).

2. A debatable issue in the theory of criminal law is also to determine the possibility of sabotage not only by actions but also by omission.

Some scholars argue that the objective side of sabotage is characterized only by actions, while others support the position that this crime can be committed by either action or omission. Thus, according to some researchers, the provisions establishing the forms of the objective side of sabotage indicate that the crime can be committed only by actions. The legislative wording of Art. 113 of the Criminal Code of Ukraine proves it. The Article emphasizes this circumstance with the phrases "committing for any purpose ...", "... or other actions ...", "... committing, for the same purposes, actions ...". Thus, both the legislator and most well-known researchers support the thesis that such a crime can be committed only by actions (Chuvakov, 2017).

Instead, other authors argue the opposite, emphasizing that sabotage can be committed by both action and omission. Moreover, as noted by researchers, it is possible to commit all forms of sabotage by omission (Smirnov, 1974). In this case, it is obvious that the opinion, which was defended by scientists half a century ago, is still relevant today.

Considering the provisions of Art. 113 of the Criminal Code of Ukraine, the legislator rejects the commission of sabotage by omission, as the objective side indicates the need for the perpetrator to commit actions ("explosions, fires, or other actions"). However, it is not difficult to imagine the possibility of committing sabotage by omission, and there are many examples in this case. For example, if an employee of the station for the task of special services of a foreign state deliberately does not reduce the temperature in the reactor and this leads to an accident, then such omission under the current wording of Art. 113 of the Criminal Code of Ukraine is not sabotage only for the reason that the crime was committed not by action but by omission. It clearly indicates the shortcomings of this wording of the Article and the expediency of its correction.

3. The legislator failed to expand the objective side of sabotage by pointing to "other actions", because in this case any action, even at the preliminary stage, such as the purchase of explosives for further explosion already forms sabotage. However, it is obvious that in this case, to distinguish the completed sabotage from its preparing will be quite a difficult task, and the social danger of such actions is quite different.
4. The next problematic aspect, which directly relates to the practical component of the application of the provisions of Art. 113 of the Criminal Code of Ukraine is use of plurality to denote the forms of the objective side. Thus, for unknown reasons, Part 1 of this Article indicates the commission of explosions, fires and other actions, which proves the presence of a crime in the actions of a person only when committing at least two explosions, two fires or other actions. This assumption arises in view of the interpretation of similar provisions in other articles of the Criminal Code of Ukraine (for example, ballots – Art. 158, ammunition – Art. 262 of the Criminal Code of Ukraine, etc.). Accordingly, all existing judicial practice is in fact contrary to the law. Therefore, it is obvious that it is expedient to express the objective side of this crime in the singular.
5. In scientific works, the authors point out that the presence of a significant number of forms of the objective side led to a discussion on establishing the end of this crime (Pasyeka, 2018b). Thus, some scholars recognize sabotage as a completed crime from the moment of actual destruction or damage to the object of encroachment, as well as after committing mass poisonings or spreading epidemics and epizootics (Berzin, 2012). Others note that such a moment is recognized as the committing actions directly aimed at harming the object of this crime (Klymosiuk, 2018a).

In addition, some scholars make mention of the formal components of sabotage, indicating that sabotage is a completed crime from the moment of explosion, fire, submersion, collapse or other actions of the appropriate direction, regardless of whether certain consequences actually occurred. For example, explosion due to low power may not have any noticeable consequences at all: the rain may not ignite the burning shelter, or poison or pathogen will be ineffective. Adding to this that the presence and severity of actual consequences in the form of death, damage to their health, destruction or damage to certain

objects, radioactive contamination, mass poisoning, epizootic or epiphytic diseases are taken into account by the court in sentencing (Melnik & Khavroniuk, 2019). Others classify sabotage as inchoate crime, recognizing it as a completed crime from the moment of committing at least one of the actions specified in the law (explosions, fires or other actions for the purposes of the occurrence of dangerous consequences specified in the law), regardless of the actual death, bodily injury, radioactive contamination, etc. (Tatsii et al, 2020).

6. Certain difficulties in classifying cyber-attacks as relevant to sabotage are also noteworthy today. Researchers point out that despite the established mechanism of legal regulation of cybercrime in Ukraine, some of its manifestations are either not criminalized at all, or punishment sometimes does not correspond to the level of social danger of such an act (Serkevych et al, 2019). In this case, the problem is that a cyber-attack may be part of sabotage, if such actions are aimed at destroying or damaging important industrial or defense facilities or objects of radioactive contamination. However, it can be assumed that unauthorized access to the computer may be aimed at simply stopping the operation of the relevant strategic enterprise or other object, while the destruction or damage of such an object does not occur, respectively, and the components of the crime under the analyzed article are absent. That is why the scientific community is considering the possibility of introducing such a concept as cyber sabotage into circulation, including legislative one. Some scholars consider cyber sabotage within the current wording of this Article and point to the problems caused by the inconsistency of the subject matter of the crime under Art. 113 of the Criminal Code of Ukraine with cyber sabotage (Peleshchak, 2017). Others point to the need to make appropriate changes in Art. 113 of the Criminal Code of Ukraine in terms of expanding its objective side by unauthorized access to the work of computers, their networks or distributing malicious software (viruses, Trojans) with all other features of sabotage (Bezsusidnia, 2017). Moreover, a separate group of researchers considers committing such actions not within the concept of cyber sabotage, but within cyber terrorism (Dovhan, 2011). We believe that the best alternate is to expand the content of the objective side of the terrorist act, which will cover all possible manifestations of

terrorist activity, including the cyber defense of the state.

7. The problematic feature of the components of sabotage is another feature that characterizes its subjective side, namely the purpose (Artemenko, 2018). Other researchers have also drawn attention to this problem (Klymosiuk, 2018b). Since the legislator directly stated in the Article that any purpose prejudicial to the State is an obligatory feature of sabotage, its absence indicates that there is no *corpus delicti* of this crime. This, in turn, makes it possible for the person who actually committed the sabotage to evade criminal liability completely. Thus, if it is impossible to prove the criminal intent of the perpetrator to achieve this purpose in, for example, the destruction or damage of important industrial or defense facilities, his actions cannot be qualified under Art. 113 of the Criminal Code of Ukraine. If these actions caused damage in a large amount (250 or more non-taxable minimum incomes, as of 2021 it is 283,750 hryvnias, or \$ 10,133), they can be qualified under Art. 194 of the Criminal Code of Ukraine. If the damage is smaller, the *corpus delicti* in the actions of the person is absent.

In addition, some scholars study certain actions that can form components of a terrorist act and sabotage by their nature, but due to their special features may be outside the scope of criminal law (Macdonald et al., 2019).

Significant difficulties in law enforcement and judicial practice arise in distinguishing the analyzed crime from a terrorist act, as the main feature for the distinction is a special purpose. It is not in vain that some researchers point to the special need for special knowledge in the qualification of these actions (Bruevich et al., 2019). Other scientists (Bissell & Schottenfeld, 2018) considered certain aspects of this issue.

No less significant in this aspect is the judicial practice, in which there are cases when courts qualify committing identical acts differently, in one case as sabotage, in another as a terrorist act. Moreover, despite the binding nature of a special purpose, in all of the analyzed sentences for crimes of this category, evidence or other data that would indicate the presence of the special purpose in the actions of perpetrators are not produced. This fact eliminates the theoretically substantiated for centuries postulates on the *corpus delicti* of a criminal offense and its significance.

8. Each of the above problems causes at least one other, related to the delimitation of sabotage with related criminal offenses. In this case, the correct choice of the article of the Special Part of the Criminal Code of Ukraine will depend on the object of encroachment, and its subject matter, and purpose and other components of the criminal offense. It is clear that this is a problem, as the content of these features is sometimes a difficult task. For example, someone else's property is the subject matter of crimes against property: willful destruction or endamage of property (Art. 194 of the Criminal Code), willful destruction or endamage of electricity facilities (Art. 194<sup>1</sup>), negligent destruction or endamage of somebody else's property (Art. 196 of the Criminal Code), etc. However, important industrial or defense facilities that are the subject matter of sabotage are also somebody else's property. Objects of flora and fauna, which can also be the subject matter of sabotage, are the subject matter of illegal hunting, animal cruelty, ecocide, etc. In this case, the subject matter of the crime, which comes to the fore, can "disguise" the direct object of a particular criminal offense.

Finding out the purpose of the crime is a mandatory task in distinguishing sabotage from a terrorist act, premeditated murder by explosion, fire or other dangerous means, willful destruction or endamage of property in the same way, and so on. However, it is obvious, and this is quite clearly evidenced by the judicial practice, this task is quite difficult, and in some cases not possible. That is why some publications point out the expediency of excluding the purpose as a mandatory feature from sabotage.

It is obvious that these issues of criminal law regulation of liability for subversive acts are not limited, but the above may serve as a basis for further more thorough researches in this area.

### Conclusions

Thus, the paper proves the relevance of the chosen topic, because encroachment on the national security of the state is one of the most serious crimes, the negative consequences of which extend to a wide range of public relations and interests. It is obvious that this group of crimes, as well as crimes of the so-called terrorist activities, is not a problem of a single state. This problem is global and requires joint concerted actions by both the scientific world community,

the legislatures of each state, and various international institutions.

Accordingly, the above indicates that the activities of special services, high-quality and clear legislation, an effective law enforcement and judicial system should be as consistent as possible with modern threats.

Within the framework of this article, an attempt to investigate only a certain aspect of the protection of state interests, the interests of society and individual citizens is made, but this research also reveals many problems caused by various factors. However, there are possible ways to solve them.

Summing up, several ways to solve the declared problems are proposed: 1) to change the wording of Art. 113 of the Criminal code of Ukraine by definition of the critical infrastructure objects as a subject matter of this crime, and exclusion of any purpose prejudicial to the State from its obligatory features; 2) to exclude Art. 113 from the Criminal Code of Ukraine in general, instead, to expand the components of the terrorist act, which would cover all possible terrorist and subversive acts.

### Bibliographic references

- Andrés M.B. (2020). *Ciberdelitos 2.0: amenazas criminales del ciberespacio*. 2<sup>a</sup> edición actualizada y ampliada. Buenos Aires: Astrea, 184 p. Retrieved from [https://www.moisesbarrio.es/libro/ciberdelitos-2-edicion\\_9789877063578](https://www.moisesbarrio.es/libro/ciberdelitos-2-edicion_9789877063578)
- Artemenko, D.S. (2018). Problems of distinguishing between sabotage and terrorism. *Young Scientist*, No. 5 (57), pp. 229–231. Retrieved from <http://molodyvcheny.in.ua/files/journal/2018/5/56.pdf>
- Bantyshev, O.F. (2014). *Criminal liability for crimes against the foundations of the national security of Ukraine: problems of qualification* (Monograph). Kyiv: National Academy of Security Service of Ukraine, 122 p. Retrieved from <http://er.dduvs.in.ua/xmlui/handle/123456789/6197?show=full>
- Bantyshev, O.F., & Shamara, O.V. (2010). *Criminal liability for crimes against the foundations of the national security of Ukraine: problems of qualification* (Monograph). 2<sup>nd</sup> edition. Kyiv: National Academy of Security Service of Ukraine, 168 p. Retrieved from <https://www.twirpx.com/file/3074151/>

- Bezsidnia, Yu. (2017). Social conditionality of criminalization of cyber-attacks as a socially dangerous act against the national security of Ukraine. *Scientific journal "Enterprise, Economy and Law"*, No. 8, pp. 149–153. Retrieved from <http://pgp-journal.kiev.ua/archive/2017/8/32.pdf>
- Bissell, E.P., & Schottenfeld, J.R. (2018). Exceptional Judgments: Revising the Terrorism Exception to the Foreign Sovereign Immunities Act. *The Yale Law Journal*, 127(7), pp. 1890–1915. Retrieved from <https://digitalcommons.law.yale.edu/yj/vol127/iss7/3/>
- Bruevich, M.Y., Gubanova, O.A., Leinova, O.S., Tsechoev, K.I., & Sitkova, K.E. (2019). The use of special knowledge in the investigation of terrorism-related crimes. *Amazonia Investiga*, 8(21), pp. 707–711. Retrieved from <https://amazoniainvestiga.info/index.php/amazonia/article/view/159>
- Chuvakov, O.A. (2017). Criminal law counteraction to crimes against the basics of the national security of Ukraine: theory and practice. (Doctoral Dissertation), I.I. Mechnikov Odesa National University, Ministry of Education and Science of Ukraine, V.M. Koretskyi Institute of State and Law, the National Academy of Sciences of Ukraine. Odesa, 468 p. Retrieved from <http://dspace.onu.edu.ua:8080/handle/123456789/29968>
- Dovhan, O.D. (2011). Cyber terrorism as a threat to the information sovereignty of the state. *Scientific journal "Information security of man, society, state"*, No. 3 (7), pp. 49–53. Retrieved from <https://scholar.google.com/scholar?cluster=16574392351421601313&hl=en&oi=scholar>
- Draft Law of Ukraine No. 5219. On Critical Infrastructure and Its Protection. Official site Verkhovna Rada of Ukraine, Kyiv, Mart 09, 2021. Retrieved from [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=71355](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=71355)
- Gómez M. M. (2001). El sabotaje informático: entre los delitos de daños y desórdenes públicos. *Actualidad informática Aranzadi: Revista de Informática para Juristas*, N° 10, p. 8. Retrieved from <https://dialnet.unirioja.es/servlet/articulo?codigo=289097>
- Kartavtsev, V.S. (2004). Criminal liability for crimes against the foundations of the national security of Ukraine (scientific principles of qualification). Kyiv: National Academy of Security Service of Ukraine, 57 p.
- Klymosiuk, A.S. (2018a). Criminal liability for sabotage. (PhD Dissertation). Kharkiv: Yaroslav Mudryi National Law University, 247 p. Retrieved from [http://nauka.nlu.edu.ua/download/diss/Klimosuk/d\\_Klimosuk.pdf](http://nauka.nlu.edu.ua/download/diss/Klimosuk/d_Klimosuk.pdf)
- Klymosiuk, A.S. (2018b). The correlation between diversion (Article 113 of the Criminal Code of Ukraine) and terrorist act (Article 258 of the Criminal Code of Ukraine). *Problems of Legality*, No. 140, pp. 78–92. Retrieved from [https://dspace.nlu.edu.ua/bitstream/123456789/14854/1/Klymosyuk\\_78-92.pdf](https://dspace.nlu.edu.ua/bitstream/123456789/14854/1/Klymosyuk_78-92.pdf)
- Macdonald, S., Correia, S.G., & Watkin, A.L. (2019). Regulating terrorist content on social media: automation and the rule of law. *International Journal of Law in Context*, Vol. 15, Special Issue 2: Law, Liberty and Technology: Criminal Justice in the Context of Smart Machines, pp. 183–197. Retrieved from <https://www.cambridge.org/core/journals/international-journal-of-law-in-context/article/regulating-terrorist-content-on-social-media-automation-and-the-rule-of-law/B54E339425753A66FECDD1F592B9783A1/share/1d55283cd33ab8df494c2dc3f02df2ac26eb4b7a>
- Melnyk, M.I., & Khavroniuk, M.I. (2019). Scientific and practical commentary on the Criminal Code of Ukraine. 11<sup>th</sup> edition. Kyiv: Dakor Publishing House, 1387 p.
- Pasyeka, O.F. (2018a). Possible ways to improve the corpus delictae of the crime under Art. 113 of the Criminal Code of Ukraine. Pre-trial investigation: current problems and ways to solve them: Proceedings of the Permanent Scientific and Practical Seminar of the Institute of Legal Personnel Training for the Security Service of Ukraine of Yaroslav Mudryi National Law University, pp. 236–239. [PDF file]. Retrieved from [https://www.lvduvs.edu.ua/documents\\_pdf/biblioteka/nauk\\_konf/konf\\_20\\_09\\_2018.pdf](https://www.lvduvs.edu.ua/documents_pdf/biblioteka/nauk_konf/konf_20_09_2018.pdf)
- Pasyeka, O.F. (2018b). Some problems of criminal liability for sabotage in the criminal legislation of Ukraine. IV Lviv Forum of Criminal Justice “Criminal Justice: quo vadis?”. Proceedings of the International scientific-practical conference. Lviv: Lviv State University of Internal Affairs; OSCE; Security Service of Ukraine, pp. 142–147. Retrieved from <http://www.lfcj.com.ua/wp-content/uploads/2019/02/zbirnyk-tez-2018.pdf>
- Peleshchak, O.R. (2017). Cyber sabotage as a modern form of sabotage activity. *Scientific Bulletin of Lviv State University of Internal*

- Affairs, No. 3, pp. 225–243. Retrieved from [https://www.lvduvs.edu.ua/documents\\_pdf/visnyky/nvsvy/03\\_2017/26.pdf](https://www.lvduvs.edu.ua/documents_pdf/visnyky/nvsvy/03_2017/26.pdf)
- Seletskyi, S.I. (2008). Criminal law of Ukraine. A Special Part. Kyiv: Center for Educational Literature, 496 p. Retrieved from [http://library.nlu.edu.ua/POLN\\_TEXT/CUL/22-Kriminalne\\_pravo\\_OSN\\_CH-Seleckiy.pdf](http://library.nlu.edu.ua/POLN_TEXT/CUL/22-Kriminalne_pravo_OSN_CH-Seleckiy.pdf)
- Serkevych, I., Yevkhutych, I., Hazdayka-Vasylyshyn, I., Sozanskiy T., & Pasyeka O. (2019). Mechanism of legal regulation of fight against cybercrime in Ukraine. *Journal of Legal, Ethical and Regulatory Issues*, 22(6), pp. 1–6. Retrieved from <https://www.abacademies.org/articles/mechanism-of-legal-regulation-of-fight-against-cybercrime-in-ukraine-8810.html>
- Smirnov, E.A. (1974). Particularly dangerous state crimes (qualification issues in connection with the application of criminal norm). Kyiv: Kyiv Higher School Publishing House, 180 p.
- Tatsii, V.Ya., Borysov, V.I., & Tiutiuhin, V.I. (2020). Criminal law of Ukraine: Special part. Kharkiv: Pravo, 768 p. Retrieved from [https://pravo-izdat.com.ua/image/data/Files/877/3\\_Krim%D1%96nalne\\_pravo\\_Ukra%D1%97ni\\_Osobliiva\\_vnutri.pdf](https://pravo-izdat.com.ua/image/data/Files/877/3_Krim%D1%96nalne_pravo_Ukra%D1%97ni_Osobliiva_vnutri.pdf)
- Terreros F. V. (2014). Delitos Informáticos. *Revista de la Asociación IUS ET VERITAS*, № 49. p.p. 284-304. Retrieved from <https://revistas.pucp.edu.pe/index.php/iusetveritas/article/view/13630/14253>.