

Criminological analysis of the protection of the territorial integrity of Ukraine

Análisis criminológico de la protección de la integridad territorial de Ucrania

Análise criminológica da proteção da integridade territorial da Ucrânia

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Abstract

The State is always unique in its activities and its protection, and for each State to be recognized, its integrity should always be respected – and under no circumstance the territorial integrity of a State should be tampered with. To this end, it becomes the responsibility of the State to ensure that those who criminally affect the territorial integrity should be prosecuted accordingly. Even with this principle put in place, the territorial integrity of the State is always threatened, thus affecting the real essence of the State being that of protecting State sovereignty. This article enunciates that the territorial integrity of every State should always be respected, regardless of the circumstances, and those who disrespect this should be criminally liable. In this question, there will be the essence of analytical research methodology, which will be to ascertain the criminal aspect of the protection of the territorial integrity of Ukraine. From the above methodology, one can say that there are continuous violations of the territorial integrity of Ukraine through the various crimes committed. It is for this reason that something needs to be done in preserving the territorial integrity of the State of Ukraine.

Key words: Analysis, criminology, protection, territorial integrity, Ukraine.

Resumen

El Estado siempre es único en sus actividades y su protección, y para que cada Estado sea reconocido, siempre se debe respetar su integridad; bajo ninguna circunstancia se debe alterar la integridad territorial de un Estado. Para tal efecto, se convierte en responsabilidad del Estado velar por que quienes delictivamente afecten la integridad territorial sean debidamente sancionados. Incluso con este principio establecido, la integridad territorial del Estado siempre se ve amenazada, lo cual afecta la esencia real del Estado que es la protección de la soberanía estatal. Este artículo señala que la integridad territorial de todo Estado debe ser siempre respetada independientemente de las circunstancias, y quienes irrespeten esto deben ser penalmente responsables. En esta pregunta, estará la esencia de la metodología de investigación analítica que determinará el aspecto penal de la protección de la integridad territorial de Ucrania. A partir de la metodología anterior, se puede decir que hay violaciones continuas de la integridad territorial de Ucrania a través de los diversos delitos cometidos. Por esta razón, es necesario hacer algo para preservar la integridad territorial del Estado de Ucrania.

Palabras clave: criminología, protección, integridad territorial, análisis, Ucrania.

Resumo

O Estado é sempre único em suas atividades e em sua proteção, e para que cada Estado seja reconhecido, sua integridade deve sempre ser respeitada; em nenhuma circunstância deve ser alterada a integridade territorial de um Estado. Para tanto, é responsabilidade do Estado garantir que aqueles que afetem criminalmente a integridade territorial sejam devidamente punidos. Mesmo com esse princípio estabelecido, a integridade territorial do Estado está sempre ameaçada, o que afeta a real essência do Estado, que é a proteção da soberania estatal. Este artigo afirma que a integridade territorial de cada Estado deve ser sempre respeitada, independentemente das circunstâncias, e quem desrespeitar isso deve ser responsabilizado criminalmente. Nesta questão, será a essência da metodologia de investigação analítica que determinará o aspecto penal da proteção da integridade territorial da Ucrânia. A partir da metodologia acima, pode-se dizer que há violações contínuas da integridade territorial da Ucrânia por meio dos diversos crimes cometidos. Por esta razão, é necessário fazer algo para preservar a integridade territorial do Estado ucraniano.

Palavras-chave: criminologia, proteção, integridade territorial, análise, Ucrânia.

I. INTRODUCTION

The post-Second World War period has been defined by a rapid expansion in the number of States and a corresponding fall in their average size, despite growth in the total world population. This trend has been termed the 'Age of Secession', defined by "the voluntary withdrawal of a political territory from a larger one in which it was previously incorporated".¹ The international system, particularly in the post-Second World War era, has steadfastly defended the inviolability of existing nation-states' borders, regardless of how and when they were determined. Self-determination as a political force in international society is a relatively recent phenomenon, emerging in the aftermath of the First World War and the breakup of the Ottoman and Austro-Hungarian empires as a demand of national groups seeking to divide territory. Self-determination became officially sanctioned after 1945, when it was included in the United Nations Charter, though it applied to existing States, not to peoples or national groups. However, self-determination quickly evolved from a principle to a right, especially after the 1960 United Nations Declaration on the Granting of Independence to Colonial Peoples, when the term came to denote decolonization. Still, self-determination applied to territories and not to peoples.² There are three dominant explanations for these trends³:

(1) *Culturalist accounts emphasize social identity, including language, ethnicity and religion;*

(2) *Rationalist accounts emphasize utility maximization;*

(3) *Capability accounts emphasize the ways in which institutional and geographic contexts enable and constrain individual decision-making.*

Modern, as well as centuries-old, guarantee of stable development and functioning of the State is the preservation of its territorial integrity. The progressive development of most countries of the world is unable to resolve the issue of territorial integrity and inviolability, as a result of which some States face the problems of annexation, separatism, secession, and the threat of aggressive hostilities.

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- 1 Ryan D. Griffiths. *AGE OF SECESSION*. Cambridge University Press. (2016); Rainer Bauböck. *A multilevel theory of democratic secession*. *ETHNOPOLITICS* 3. 2019. Pp. 227-246.
 - 2 Patricia Carley. *Self-determination: Sovereignty, territorial integrity, and the right to secession*. *PEACEWORKS* 7. 1996.
 - 3 Matthew Louis Bishop, Jessica Byron-Reid, Jack Corbett, Wouter Veenendaal. *Secession, territorial integrity and (non)-sovereignty: Why do some Separatist Movements in the Caribbean succeed and others fail?* *ETHNOPOLITICS*. 2021.

Nowadays, our State has faced several problems that threaten the territorial integrity of Ukraine. For example, the aggression unleashed by Russia against Ukraine, and before that, for almost eight years, Ukraine tried to stabilize the situation in the east of the country, as well as to return the Autonomous Republic of Crimea to Ukraine.

Given the long-term and diversity of existing threats to the territorial integrity of Ukraine, there is an urgent need to study the determination of crimes against the territorial integrity of Ukraine. Timely identification of the causes, conditions, and public relations, and processes that determine crime, as well as the response of State structures to both internal and external encroachments on the territorial integrity of Ukraine, will prevent the dismemberment of State territory (from the outside) and strengthen its internal unity (from the inside).

II. OBJECTIVE AND PURPOSE OF THE STUDY

*Given the above, the purpose of the article is to search for the causes and conditions that generate crimes against the territorial integrity of Ukraine as a whole and in the minds of individual social groups, which will help restore our country's integrity and inviolability. This was done through criminological analysis. The issue here remains being that every State needs to protect its sovereignty and integrity, and under no circumstances this integrity should be affected. There is always a tendency that most of the time there are violations of this integrity by some crime perpetrator who always commits crimes against the territorial integrity of the State. The problem here is not at the level of the integrity, but in trying to know the reasons, or *raison d'être*, of this crime committed against the territorial integrity of the State of Ukraine. We would not only be interested in just looking at the crime committed against the territorial integrity of Ukraine, but also in trying to see what can be done to deal with this great pandemic which has today affected the State of Ukraine. We continue to see constant threat and aggression against the State of Ukraine to the extent that we start questioning whether those who perpetrate crimes in the country understand the need to respect the territorial integrity of the State, which as provided by the law it should be inviolable at every circumstances whether during peaceful times or times of war. The concept of territorial integrity knows no bounds or limitations, since it must be protected under all circumstances.*

III. MATERIALS AND METHODS

Given the specifics of the topic and goals, when writing the article, we used formal logical and dialectical methods, methods of synthesis and analysis, and comparative legal method.

Scientific papers were used to study problems related to the territorial integrity. In particular, various scientific works (articles, book chapters, analytical materials, reports, etc.) were used to cover the topic. In addition, expert opinions, doctrinal ideas and reviews were used. The problem here is not just having the review of the various methodologies put in place, but we have to see the realities of these grave problems that have been a continuous plague and hindrance for the smooth functioning of the State. There is always an attempt to place that link between the realities on the ground and those provided by the various methods. It is clear that the law goes straight to the point by stating in the relevant provisions of the law at the international and even national level that the sovereignty of the State is unique and that everything possible must be done to preserve and conserve the territorial integrity of every State, and nothing should be compromised when keeping and respecting its territory. Establishing rules of law is one thing, and ensuring the respect and enforcement of the principle and law is the other one that needs to be respected. It becomes the responsibility of the State of Ukraine to ensure that everything should be done in preserving its territorial integrity.

IV. REVIEW AND DISCUSSION

In most States, the territorial issues were accompanied by the establishment of a sovereign power, the inviolability of borders, the preservation of the independence of the State, and the search for a new model of national identity. As a result, territorial integrity has gained the appropriate level of institutionalization and legitimization at the international and national levels, thus becoming one of the most pressing problems for modern humanities.⁴ There is an unappreciated and difficult problem to explain why States have positive obligations to perform certain actions, such as providing minimum protection for all those persons in their territories – and, second, that one possible solution is to locate the source of the obligations in the political power that

4 Oleksandr Yu. Dakhno. *State territory and territorial integrity: Structural and functional analysis of the morphology of concepts*. SCIENTIFIC AND THEORETICAL ALMANAC GRANI 7. 2018. Pp. 31-37.

States assume over their territories.⁵ The issue of preserving territorial integrity is reflected for our State not only by the loss, hopefully, temporary loss, of certain parts of the territory, destruction of infrastructure, economic damage and environmental damage, but also by the irretrievable loss of human lives. To resolve this issue, it is necessary to clarify the essence of territorial integrity as a basic feature of the State, the legal nature of which is determined by the sovereign power, jurisdiction, and territorial supremacy of the State.

Undoubtedly, the territory is one of the main features of the State and the most important element in understanding the essence of the State as a form of political organization of society, the basis for building a system of State authorities and local self-government, which is aimed at successfully solving the problems of the rational organization of the State.⁶ From the proposed characteristics of the territory, it is quite obvious that 'territory' is a category not only of the State as a political entity, but also of a certain part of the population living in a specific territory.

The connection between the categories 'territory' and 'State' and 'territory' and 'population' is very close and historically determined. The French Statesman L. Dugi noted that "collectivity can be a State only when it has settled on a territory with certain boundaries. Without it, there is no State. An entire social group may exist, even political power may arise in it, but this collectivity, even reaching political differentiation, does not and cannot constitute a State".⁷ The State, thus, envisages the territory as part of the State organization. In other words, the territory, as part of the Earth's space, is a necessary condition for the existence of the State, the material basis for the life of a society organized in the State.⁸

Having defined the term 'territory', the issue of this territory protection, namely preservation of territorial integrity, quite naturally arises. This issue is the object of study of various sciences (philosophy, law, economics, history), as the preservation of territorial integrity is the key to the geopolitical existence of the State and the free development of the entire population of this State.

5 David L. Attanasio. *The problem of State territorial obligations*. THE JOURNAL OF ETHICS 24. 2020. Pp. 427-448.

6 N. N. Balahurova. *The State is a territorial system*. BULLETIN OF CHELYABINSK STATE UNIVERSITY. SERIES: LAW 90. 2007. Pp. 5-10.

7 L. Dugi. CONSTITUTIONAL LAW. THE GENERAL THEORY OF THE STATE. (Translated by: V. Krasnokutskii, B. Syromiatnikov, A. Yashchenko; Preface: L. Dugi, P. Novgorodtsev). Publishing House of the Society I. D. Sytin. (1908). P. 128.

8 D. I. Baratashvili, A. S. Bakhov, F. I. Kozhevnikov, D. B. Levin, et al. INTERNATIONAL LAW COURSE: THE CONCEPT AND ESSENCE OF MODERN INTERNATIONAL LAW. Volume 3. Science. (1967). P. 113.

Let's consider some concepts devoted to the study of the territorial integrity of the State. Thus, A. Cassese defines the territorial integrity of the State as "an element of State unity characterizing the immutability of State borders, territorial integrity and inviolability of the territory of the State historically formed and people living in a certain territory".⁹ Following this research logic, Cassese assigns an important role in the implementation of the mechanism of ensuring the territorial integrity of the State to judicial instruments for resolving territorial disputes within a single constitutional space. On this basis, the conclusion is that "decisions of constitutional justice bodies, which are directly or indirectly related to the territorial integrity of the State, represent a form of constitutional control over public authorities".¹⁰

Close to the above is the approach of F. Fukujama, within which he makes a methodological attempt at a detailed analysis of the concepts of 'State unity' and 'territorial integrity'. Based on this, Fukujama understands the unity of the State as "an integral condition of State existence and the basis of peaceful coexistence of various State entities, which is the guarantor of their stability, opposes the multiplicity of their division, unpredictability, amorphousness, and uncontrollability".¹¹ This indicates that internal unity is a condition for ensuring the territorial integrity of the State, as various disintegration factors that disrupt unity within the State destroy the potential of its "functional force" and thus serve as a powerful "functional motivator" to disrupt the integrity of its territory. In order to preserve State unity, State and legal relations must be structured, which immanently guarantee the territorial integrity of the State, which is an indicator of "full sovereignty of the State over its entire territory".

Within the framework of political analysis, the concept of A. Eide is of great conceptual value, in which he defines the notions of 'territorial integrity', 'State integrity' and 'territorial inviolability'. Based on this research logic of the analysis of territorial integrity, the author established the relationship between the concepts of 'sovereignty', 'the right of the people to self-determination', 'inviolability of territories', and 'inviolability of State borders'. At the same time, Eide emphasizes the expediency of correct interpretation of the right to self-determination, as in most cases its interpretation is to "authorize and encourage any action that would lead to dismemberment or complete

9 Antonio Cassese. *INTERNATIONAL LAW IN DIVIDED WORLD*. Oxford University Press. (2007). P. 207.

10 *Ibid.* P. 209.

11 Francis Fukujama. *OUR POSTHUMAN FUTURE: THE CONSEQUENCES OF THE BIOTECH REVOLUTION*. Picador Publisher. (2003).

violation of territorial integrity or political unity of sovereign and independent States acting in accordance with the principle of equality and self-determination of peoples".¹²

In order to avoid certain methodological conflicts in the interpretation of the essence of territorial integrity, Eide emphasizes the expediency of using the terms 'movable' and 'immovable territory'. In this regard, by 'immovable State territory' he means "totality of the State territories, including separated from the main territory by the borders of other States and the legal territory of consulates and embassies located abroad, which are also considered the territory of the State". The author refers to ships, planes, space stations, pipelines operating under the flag of a certain State and subject to its laws to the 'movable State territory'.¹³ Given this, "the inviolability of State borders and the stability of the regime established for them serves as a guarantee of the security of the State".¹⁴ Accordingly, the protection of State borders is a strategic component of the security system of the modern State.

The concept of J. Jacobson in this context is also of great importance. The author reveals the essence of territorial integrity in the context of the implementation of the principle of inviolability of borders, which is an important condition for the solution of issues of protection of State borders, which are essential for the provision of international security throughout the world. Based on this, according to the author, in devotion to the protection of the territorial integrity of the State, it is necessary to take into account the nature of the functions of the State border in the modern world. Following the traditional classification, of such functions he refers:¹⁵

- Distributive (barrier) – when the State, with the help of customs policy instruments and legal norms, restricts the possibility of interaction between countries by limiting or stopping the movement of citizens, goods, capital and even information.
- Unifying (contact) – when particularly close contacts are formed within the border areas, which form the so-called "zones of interaction notion of national economies" between neighboring States.

12 Human Security Centre. *HUMAN SECURITY REPORT: WAR AND PEACE IN THE 21ST CENTURY*. Human Security Centre. (2005).

13 *Ibid.*

14 Jonathan Berg. *The right to self-determination*. *PUBLIC AFFAIRS QUARTERLY* 3. 1991. Pp. 211-225.

15 Julius Jacobson. *Notes on self-determination*. *NEW POLITICS: A JOURNAL OF SOCIALIST THOUGHT* 4. 2014. P. 25.

From the concepts above, territorial integrity, as the main attribute of the territory of the State, can be characterized by the following features:

- Territory – an integral feature of statehood, within which the State on behalf of its people exercises territorial supremacy, where State power is the highest authority over all persons, associations and/or organizations located in a given territory.
- Integrity of the territory – the essential characteristics of the territory of a sovereign State, which implies the presence in a certain territory of the sovereignty of a particular State and prevents the spread of power of other States.
- Territorial integrity of the State – determined by the inviolability of its State borders, the legal status of which is defined by national and international law.

Thus, the territory, as a mandatory feature of any State and its integrity, as the status of the State in terms of its spatial parameters (unity and indivisibility), is provided by each individual and the entire international community.

The social value of Ukraine's territorial integrity can be traced through national legislation. The territorial sovereignty of Ukraine was realized by the Declaration of State Sovereignty of Ukraine.¹⁶ Further approval of Ukraine's borders was enshrined in the Declaration of Independence of Ukraine of August 24, 1991, and finally enshrined in the Basic Law of Ukraine, the following in particular: (i) Article 2 of the Constitution of Ukraine,¹⁷ which proclaims integrity and inviolability within the existing border; (ii) Article 17, which defines the protection of territorial integrity as one of the “most important functions of the State, the business of the entire Ukrainian people”; and (iii) Article 157, which prohibits changes to the Constitution in several cases, including when they may be aimed at violating the territorial integrity of Ukraine.

According to the Law of Ukraine “On the National Security of Ukraine” of 21.06.2018, “the State – its constitutional order, sovereignty, territorial integrity, and inviolability are objects of national security” (Part 1 of Article 3), as well as “State sovereignty and territorial integrity, democratic constitutional order, prevention of

¹⁶ Verkhovna Rada of Ukraine. *Declaration of State Sovereignty of Ukraine*. July 16, 1990.

¹⁷ Verkhovna Rada of Ukraine. *The Constitution of Ukraine*. June 28, 1996.

interference in the internal affairs of Ukraine are defined as fundamental national interests of Ukraine" (Part 3 of Paragraph 1 of Article 3).¹⁸

The Decree of the President of Ukraine on the Decision of the National Security and Defense Council of Ukraine of May 6, 2015 "On the National Security Strategy of Ukraine" defines the main goals of this Strategy as "minimizing threats to State sovereignty and creating conditions for restoring the territorial integrity of Ukraine within the internationally recognized State border of Ukraine" (Section 1). As well as the main directions of the State policy of national security of Ukraine defines: "Restoration of the territorial integrity of Ukraine and the integrity of democratic institutions throughout its territory, the reintegration of temporarily occupied territories after their liberation is a strategic task of national security policy" (Part 4 of Paragraph 4.1.).¹⁹

As for the criminal law, territorial integrity is mentioned for the first time in the criminal law only with the introduction of amendments to Article 62 of the Criminal Code of 1960 by the Law of Ukraine of October 11, 1991. Before the entry into force of the Criminal Code, the analyzed composition of the crime was provided for in Article 62 of the Criminal Code of 1960, entitled "Encroachment on the Territorial Integrity of Ukraine" (latest edition December 24, 1993). The current Criminal Code provides for liability for encroachment on the territorial integrity and inviolability of Ukraine (Article 110), and financing actions committed to forcibly change or overthrow the constitutional order or seize State power, change the boundaries of the territory or State border of Ukraine (Article 110-2).²⁰

Thus, the territorial integrity of the State is an obligatory and necessary component of a sovereign State that ensures the viability of the country in a certain and recognized geographical area, characterized by political unity, as well as the inviolability of the constitutional right of the people to change the territory of Ukraine and the right of ownership of the Ukrainian people to objects (land, subsoil, water and other natural resources) within the territory of Ukraine.

Compliance with territorial integrity guarantees the preservation of sovereignty in a certain territory, which is interestingly compared: "[...] for the State, sovereignty is like life for a person".²¹ To continue with this idea, we allow ourselves such a compari-

18 Verkhovna Rada of Ukraine. *On the National Security of Ukraine Law of Ukraine № 2469-VIII*. June 21, 2018.

19 Verkhovna Rada of Ukraine. *The Decree of the President of Ukraine On the Decision of the National Security and Defense Council of Ukraine. "On the National Security Strategy of Ukraine"*. May 6, 2015.

20 Verkhovna Rada of Ukraine. *The Criminal Code of Ukraine*. April 5, 2001.

21 R. V. Mamedov. *State sovereignty is an object of international legal regulation*. ECONOMICS AND LAW. XXI CENTURY 2. 2013. P. 209.

son – the territorial integrity of the State as a body for a person. Thus, the loss of any parts of the body can have negative consequences of a different nature, up to those incompatible with life. Such a conceptually diverse approach to understand the territorial integrity of the State is, of course, necessary in addressing the issue of preventing criminal encroachments on the territorial integrity of the State. The versatility of this issue will make it possible to comprehensively identify and analyze the factors that determine crimes against the assertion and preservation of territorial integrity.

Under the determination of crime is understood the process of interaction of heterogeneous social and natural factors (determinants), which results in the existence of crime, its systematic reproduction, the emergence of its newest varieties and forms of manifestation, and negative changes in the State (growth of the level, complication of structure, geography, etc.). The criminological doctrine of the determination of crime is based on the understanding of the complexity, consistency, multi-level and continuity of the reproduction of crime. In the structural and functional section, the latter acts as the action of separate groups of determinants of phenomena and processes, the existence and action (interaction) of which results the preservation or deterioration of the state of crime.²²

It is well known that crime, as an objectively existing phenomenon, is not something alien to the social organism, as the latter is its genetic source. Society sets the limits of permissible behavior, violates them itself, and suffers from harm caused. Crimes against the territorial integrity of the State have consequences for the entire population of Ukraine, as according to the Constitution of Ukraine, the right to own State land belongs to the Ukrainian people. Thus, only the people of Ukraine, as the sole and full owner, can decide the fate of the territory of the State, and not a separate part of it, or State bodies, or local self-government bodies. Thus, with the violation of the territorial integrity of the State, the constitutional rights of all people, and every citizen, are violated.

Combating crimes against territorial integrity requires the solution of many issues that are directly related to the study of criminology and are the object of its study.

Finding out the causes and conditions of crimes against territorial integrity is not limited to shortcomings in such spheres of society as economic, social, legal and cultural, but also affects the spheres of the country's defense and international relations, national, ethnic, linguistic and religious issues. When establishing the factors that give rise to and contribute to crimes against territorial integrity, it is also necessary to understand the nature of their origin. In this sense, they can be divided into external

22 O. M. Litvinov (ed.). *CRIMINOLOGY. ACADEMIC COURSE*. Condor Publishing House. (2018). P. 63.

and internal, as well as have a dual nature of origin. In the latter case, it is necessary to establish the cause of the conflict, the disputed issue (for example: within the State), and the reason for maintaining this conflict (for example: from the outside).

It is worth remembering that the encroachment on the territorial integrity of Ukraine, after gaining independence in 1991, in 2014 is not a new phenomenon for us. The first encroachments occurred in 2003 regarding the ownership of the island of Tuzla and the waters around it. At that time, this issue was not finally resolved, because in July 2005, as a result of regular consultations between Ukraine and the Russian Federation on July 12-13, the press service of the Ukrainian Foreign Ministry announced that Russia recognized the ownership of the island of Kos Tuzla and the "waters around it" to Ukraine. However, in response to such information, the Department of Information and Press of the Ministry of Foreign Affairs of the Russian Federation said: "[...] the legal status of Tuzla Island remains uncertain". As a result, not achieving a unified position, but perhaps somewhat passive behavior on the Ukrainian side led to several conflict situations regarding the internal unity and inviolability of the territory of Ukraine.²³

After the Tuzla conflict, there were: (i) the 2004 presidential election campaign with political technology experiments on regional differences in Ukraine; (ii) electoral division into so-called "orange" and so-called "white-blue" regions; (iii) a congress of deputies of councils of all levels in Severodonetsk with the idea of a "South-Eastern Ukrainian Autonomous Republic" and a referendum on changing the administrative-territorial structure; (iv) recognition of President Victor Yushchenko by a number of local councils without a corresponding decision of the CEC; (v) post-Maidan discussions about the differences between the West and the East of the country, right-bank and left-bank; so-called "Parade of Linguistic Sovereignty" in the spring of 2006; (vi) the decision of the International Court of Justice in The Hague on the status of Snake Island and the demarcation of the shelf and economic zones of Ukraine and Romania; (vii) so-called "gas wars" between Ukraine and Russia in 2005 and in late 2008-early 2009;²⁴ (viii) Euromaidan, a protest action against the suspension of the Ukrainian government's process of signing an association agreement between Ukraine and the European Union, and in fact again the division of society into two vectors: the European Union or the "Customs Union" end of 2013 early 2014; (ix) political interference in

23 Tuzla Island Conflict. Wikipedia. Available at: https://uk.wikipedia.org/wiki/Conflict_regarding_Tuzla_Island

24 O. Lisnychuk. *Territorial integrity in discourse of national interests of Ukraine*. SCIENTIFIC NOTES OF THE I.F. KURAS INSTITUTE OF POLITICS AND ETHNIC STUDIES 44. 2009. Pp. 65-72.

religious life is an unfavorable factor that hinders internal unity (society, territory, government).

The examples given by us cannot be defined as the root causes that destabilize the territorial integrity of the State, but never try a certain result, a reflection of the processes taking place in a particular society, State, and the world as a whole. The further existence of these phenomena and processes acts as a kind of catalyst, not only accelerating the development of events, leaving behind unresolved issues and contradictions, but also leading to escalation. As a result, these processes can lead to different types of crimes, so it is possible to single out crimes that to a certain extent precede crimes against the territorial integrity of the State, they include crimes committed based on national or religious hatred, and crimes directly infringing on the territorial integrity and inviolability of Ukraine (Articles 110, 110-2 of the Criminal Code).²⁵ A separate category can be identified as illegal criminal activity that contributes to the development of terrorism, extremism, violent and radical manifestations that are contrary to the Constitution and national legislation.

Particular attention in the study of crimes against the territorial integrity of the State is attracted by the identity of the offender, which can be defined as a typical model or abstraction formed based on sociological (psychological) and criminal law aspects of crime, and which has the following characteristics: "[...] socio-demographic, criminal-legal, socio-role and moral-psychological [...] and so-called physiobiological features, [...] which together constitute the structure of the personality of the offender".²⁶ Of course, these features are more or less inherent in each criminal, and the specifics of the crimes we study are also in the study of social groups that support the idea of changing the territory of the State, and its integrity. The danger of such crimes, in addition to the consequences provided by the Criminal Code of Ukraine, may manifest itself in forms such as secession and separatism.

In general, secession is understood as the withdrawal from the State of any part of it. In the process of secession, a certain territory inhabited by the majority of an ethnic minority is separated from the State and thus becomes the majority in the newly created State unit.²⁷ The legal basis for the use of secession is the right to self-determination, which has no legitimate basis in the national legislation of our State.

The process of secession can take place in various scenarios, from the voluntary transfer of territory (USSR) to armed separatism. The latter solution may cause dissatisfaction with other States and their desire to intervene. The requirement of another

²⁵ Verkhovna Rada of Ukraine. *The Criminal Code of Ukraine*. April 5, 2001.

²⁶ O. M. Litvinov, *supra*, note 24. Pp. 83-84.

²⁷ M. Vehesha (ed.). *POLITICAL SCIENCE: A TEXTBOOK*. 3rd ed. Kyiv. 2008.

State to incorporate the territory where foreign relatives live also means a change in State borders, so ethnicity requirements can cause not only inter-ethnic but also inter-State war.²⁸ This is confirmed by the results of a survey conducted by the Razumkov Center, which states that the level of interregional alienation of Ukrainian citizens is high. In particular, Ukrainian citizens consider residents of neighboring countries closer to themselves than residents of different regions of their own country.²⁹

Nowadays, the term "separatism", although not enshrined in the Criminal Code, in practice is equal to the actions provided for in Article 110 of the Criminal Code.³⁰ The science of international relations understands separatism as "a theory, policy, and practice aimed at separating a part of the territory of a State to create a new independent national State or its authorization. The ideology of separatism is nationalism".³¹ The desire of part of the population or communities for separation or autonomy, as well as the consequences of these actions, can be observed in different parts of the world. One of the most problematic regions is the post-Soviet region, where problematic regions such as Chechnya, Dagestan, Transnistria, Gagauzia, Crimea, Kosovo, Donbas, Nagorno-Karabakh, Abkhazia and South Ossetia are concentrated. Separatist tendencies also occur on the European continent, the Middle East, Asia and Africa.³² Over the past five years, our country has been devastated in the east by separatist consequences: significant financial losses and costs, destruction of infrastructure, destruction of settlements, and loss of human lives.

Summing up, we can conclude that the territorial integrity of the State directly depends on socio-political stability, which must take into account the national, cultural, interethnic, linguistic, and religious interests of nations, ethnic groups, and national and ethnic minorities, especially border regions and indigenous peoples. Thus, it is very important to study individual social groups, their interaction with each other, and with their "ethnic homelands". All of this will allow solving problems in a timely and conflict-free manner, defending rights and restoring justice, and defending socio-cultural interests and geopolitical priorities and prospects of the multifaceted

28 A. Aklaev. *ETHNOPOLITICAL CONFLICTOLOGY. ANALYSIS AND MANAGEMENT*. Moscow. 2005.

29 Analytical Report of the Razumkov Center. *Identity of citizens of Ukraine: State and changes*. NATIONAL SECURITY AND DEFENSE 93. 2007. Pp. 3-9.

30 Verkhovna Rada of Ukraine. *The Criminal Code of Ukraine*. April 5, 2001.

31 Divak Divas. *SEPARATISM IS A PHENOMENON OF MODERN POLITICS*. Logos. 2010. P. 39.

32 V. Rahmaylov. *Typology and genesis of separatism in the scientific literature: Statement of the problem*. SOCIAL TECHNOLOGIES: TOPICAL ISSUES OF THEORY AND PRACTICE 59-60. 2013. P. 304.

Ukrainian people, which is a guarantee of territorial unity and a significant obstacle to crimes against territorial integrity.

V. CONCLUSIONS

In the context of global integration, the preservation of territorial integrity is the foundation of the establishment of sovereign power, independence of the State, recognition, and affirmation of the inviolability of borders, the key to the development and functioning of the entire Ukrainian people. Thus, conducting a criminological investigation of crimes against the territorial integrity of the State is not only relevant but also urgent.

Establishing the causes and conditions, the identity of the offender, as well as the processes that determine crimes against the territorial integrity, should fill the lack of knowledge and experience in combating these crimes and restore the integrity and unity of Ukrainian territory and its inviolability.

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