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**COMBAT SITUATION AND MARTIAL LAW AS QUALIFYING
FEATURES OF MILITARY CRIMINAL OFFENSES
БОЙОВА ОБСТАНОВКА ТА ВОЄННИЙ СТАН ЯК КВАЛІФІКУЮЧІ
ОЗНАКИ ВІЙСЬКОВИХ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ**

***Summary.** This article delves into the concept of "situation" through the lens of various legal sciences, with a specific focus on how "combat situation" and "martial law" relate to military criminal offenses. The author emphasizes that multiple factors can contribute to the circumstances in which a criminal offense is committed, and views the situation as a structured entity with interconnected elements that give rise to a specific scenario. Additionally, the author explores how a particular situation can affect the degree of public danger of criminal offenses, with the commission of a criminal offense under martial law carrying significant weight and often resulting in more severe punishment.*

Despite the legislative definition of "combat situation," scholars hold differing interpretations of the term within the context of criminal law. It is established that the situation of a criminal offense can transform the relevant

offense into a qualified form, with martial law and combat situation serving as qualifying features for eighteen military criminal offenses under the Criminal Code of Ukraine. The primary punishment for these offenses is imprisonment, with no alternative, less severe forms of punishment available under the sanctions of the relevant articles.

Key words: *criminal law, situation of a criminal offense, combat situation, martial law, qualifying features, qualification.*

Анотація. *У статті проаналізовано об'ємний зміст поняття «обстановка», яка досліджується різними правовими науками. Водночас акцентується увага на осмисленні змісту понять «бойова обстановка» та «воєнний стан» саме через розуміння їх як обстановки вчинення військових кримінальних правопорушень. У роботі зазначається, що в якості елементів обстановки вчинення кримінального правопорушення можуть виступати найрізноманітніші явища. Автор аналізує обстановку як певну структуру з непостійним числом елементів, що її утворюють, і мають кримінально правове значення, зазначаючи, що всі елементи обстановки знаходяться у тісній взаємодії між собою, що й призводить до виникнення тієї чи іншої обстановки. З'ясовано вплив конкретної обстановки на ступінь суспільної небезпеки кримінальних правопорушень. Встановлено, що вчинення кримінального правопорушення за умов воєнного стану значно впливає на суспільну небезпечність діяння і у більшості випадків, це тягне за собою більш суворе покарання. Акцентовано увагу, що незважаючи на законодавче визначення терміна «бойова обстановка», до розуміння поняття «бойова обстановка» у кримінально правовому аспекті науковці вкладають різний зміст. Значення обстановки вчинення кримінального правопорушення, обумовлене її здатністю перетворювати відповідне кримінально протиправне діяння в його кваліфікований вид. Воєнний стан та бойова обстановка є кваліфікуючими ознаками вісімнадцяти*

військових кримінальних правопорушень, передбачених КК України. За всі кримінальні правопорушення, обов'язковою або кваліфікуючою ознакою об'єктивної сторони яких є «бойова обстановка» чи «воєнний стан», передбачено основне покарання у виді позбавлення волі. При цьому альтернативних, менш суворих видів покарань санкції статей не встановлюють.

Ключові слова: *кримінальне право, обстановка вчинення кримінального правопорушення, бойова обстановка, воєнний стан, кваліфікуючі ознаки, кваліфікація.*

Problem statement. The level of social harm caused by a criminal offense depends on the circumstances surrounding the act and the specific conditions that allowed it to occur. The materialistic view of crime and its origins maintains that a criminal offense cannot happen unless the necessary conditions exist in reality. As such, an act committed in certain locations and times may not pose the same level of danger to society as it would in other situations. Additionally, the setting of a criminal offense may serve as an aggravating factor in determining the severity of the offense.

Analysis of recent research. The consideration of this issue is reflected in the scientific works of such scholars as A. O. Baida [9], V. P. Bodayevsky [12], A. A. Vozniuk [7], M. I. Karpenko [13], I. I. Mytrofanov [15], A. M. Onyskiv [4], M. I. Panov [11], M. I. Khavroniuk [10] and others.

Problem statement. To investigate the problematic issues of interpreting the circumstances of a criminal offense and the mechanism of influence of the criminal offense circumstances on the qualification of the act committed.

Presentation of the main research material. The term "situation" is used quite often. It is used to define a variety of phenomena: social, economic, political, domestic and others. This indicates the voluminous content of this

concept. At the same time, it can be argued that the essence of the situation, regardless of its specific forms, remains the same in all cases. According to the Great Explanatory Dictionary of the Modern Ukrainian Language, "situation" is: "a set of conditions under which something happens" [1, p. 820].

It should be noted that the concept of situation is studied by various legal sciences: criminal law, criminology, forensics and criminal procedure law, which indicates the importance of the category under study and the presence of a number of heterogeneous properties in it which are of independent interest to each of the sciences. Thus, in the theory of criminal law, the setting of a criminal offense is the specific objective and subjective conditions in which a criminal offense is committed [2, p. 160]. Determining the commission of a socially dangerous act involves analyzing the place, time, and situation in which it occurred. An area of contention in understanding criminal offenses is identifying the elements that constitute the situation. The situation is a multifaceted formation made up of various components that contribute to its unique character. Each situation is a distinct structure with a varying number of elements that carry legal significance in a criminal case. It's important to note that all elements within a situation interact with each other, resulting in a specific scenario. The nature of this interaction can range from incidental to regular. The internal situation can involve elementary mechanical interactions, where elements coincide spatially and temporally, or complex organic systems, where the connections between elements are inherent. Many factors can act as elements in a criminal offense, such as military units involved, terrain features, climate, hydrometeorology, socio-political composition, and the local population's mood, among others [3, p. 30].

The established approach is that the elements of the environment are people, communities of people, natural or artificial material objects, processes caused by their functioning, animals and their biological states, natural and

climatic factors in the form of extreme manifestations of natural forces or processes that are repeated from time to time [4, p. 185-195].

The most controversial issue in the theory of criminal law is how the concepts of "scene of a criminal offense", "time of a criminal offense" and "situation of a criminal offense" are related to each other. The place and time of a criminal offense are elements of the situation. However, at the same time, they perform a specific function - they are spatial and temporal limiters, using the metric properties of which the legislator identifies, specifies, and formalizes certain material criminal law phenomena, including the situation of a criminal offense. The need for spatial and temporal specification of the situation of a criminal offense may be due to its inherent features, in particular, the ubiquity, without limit, of the quantitative and qualitative composition of its elements, a high degree of mobility of its structure and, as a result, the variability of its properties, which, in turn, complicates the establishment of the relevant qualitative characteristics of the situation. Thus, place and time in the characteristics of the fact of committing a criminal offense may be separate, independent signs of the objective side of the criminal offense, and as constituent elements of the environment of the criminal offense, since the conditions that form the environment must be territorially and temporally defined. That is why the legislator, highlighting the aspect of the situation of a criminal offense that is significant in criminal law, uses various ways of its formalization and, of course, uses such categories as place and time. This provision can be demonstrated in the understanding of "wartime", which is characterized by profound changes in all spheres of public life.

The use of the time criterion in this case makes it possible to distinguish between the situation inherent in a society during the period when it is at war and the peaceful situation.

The specific situation can increase or decrease the significance of a socially dangerous act, the danger to a person, and the significance of the subjective side.

If the situation is specified in the criminal law, it can be expressed in a generalized form (without specifying its type and properties), or in a specific form (by indicating its type or its property that has criminal law significance).

In the Special Part of the Criminal Code of Ukraine, a direct indication of the situation of a criminal offense, in most cases, is contained in the section "Criminal offenses against the established procedure for military service (military criminal offenses)" as a mandatory or qualifying feature of a criminal offense [3, p. 137]. An act committed under certain conditions of place and time may not have the degree of public danger that would be inherent in it under other conditions. The commission of criminal offenses against the established procedure for military service (military criminal offenses) under martial law or in a combat situation is characterized by an increased degree of public danger compared to the relevant criminal offenses committed outside the relevant circumstances.

The definition of martial law, the procedure and grounds for its introduction and abolition are provided by the Law of Ukraine "On the Legal Regime of Martial Law" of May 12, 2015, as well as by para. 11, Art. 1 of the Law of Ukraine "On Defense of Ukraine" of December 06, 1991, martial law is a special legal regime introduced in Ukraine or in some of its localities in the case of armed aggression or threat of attack, threat to the state independence of Ukraine, its territorial integrity and provides for the provision of the relevant state authorities, military command, military administrations and local self-government bodies with the powers necessary to avert the threat, repel armed aggression and ensure national security, eliminate the threat to the state

Given that martial law is introduced in the event of armed aggression or threat of attack, a threat to Ukraine's state independence and territorial integrity,

the closest to this state are armed conflict and combat situation. According to clause 7, part 1, article 1 of the Law of Ukraine "On National Security of Ukraine" of June 21, 2018, an armed conflict is an armed confrontation between states (international armed conflict, armed conflict on the state border) or between warring parties within the territory of one state, usually with external support (internal armed conflict) [6]. An armed conflict involves the process of resolving disputes, usually on the territory of other states, with the use of weapons and may be international (without Ukraine's participation) or non-international (internal within another country, interethnic, interfaith, etc.) in nature (M. I. Khavroniuk). The difference between an armed conflict and martial law from a legal point of view is that an armed conflict can occur even before the declaration of martial law. M. I. Khavroniuk reasonably notes that the "armed conflict" concept has an independent legal meaning for qualification if such a conflict occurs outside martial law - in case of actual outbreak of hostilities, but before the declaration of martial law, or in peacetime in general. Therefore, the term "martial law", on the one hand, and the terms "combat situation" and "armed conflict", on the other hand, have common features, since martial law can be introduced in the presence of an armed conflict or combat situation. At the same time, they also have an independent criminal law meaning, since martial law is not always introduced in the presence of a combat situation or armed conflict [7, p. 310].

Articles 5-7 of the Law of Ukraine "On the Legal Regime of Martial Law" provide for a legal mechanism for its introduction and termination. The initiative to introduce martial law must come from the National Security and Defense Council of Ukraine (Article 5(1) of the Law of Ukraine "On the Legal Regime of Martial Law"). The subject of the introduction of martial law is the President of Ukraine (clause 19 of Article 106 of the Constitution of Ukraine [8], Article 6 of the Law of Ukraine "On the Legal Regime of Martial Law"), and in case of early termination of the powers of the President of Ukraine - the Chairman of

the Verkhovna Rada of Ukraine, who performs the relevant duties until the election and assumption of office of the new President of Ukraine. The Decree of the President of Ukraine on the introduction of martial law is subject to approval by the Verkhovna Rada of Ukraine. According to clause 31 of Article 85 of the Constitution of Ukraine, the Parliament approves the relevant Decree within two days from the date of the President's request. According to part 3 of Article 5 of the Law of Ukraine "On the Legal Regime of Martial Law", the Decree of the President of Ukraine on the introduction of martial law in Ukraine or in certain areas of Ukraine, approved by the Verkhovna Rada of Ukraine, is subject to immediate announcement through the media or publication in another way. This Decree of the President of Ukraine, approved by the VR of Ukraine, shall be officially announced together with the law on the approval of such a Decree of the President of Ukraine and shall enter into force simultaneously with the entry into force of such a law (part 6 of Article 5 of the Law of Ukraine "On the Legal Regime of Martial Law") [5].

Thus, criminal offenses can be qualified as those committed under martial law only if the relevant procedure for its introduction established by law is followed. When considering martial law as a qualifying feature of a criminal offense, it is advisable to pay attention to the following aspects: 1. Martial law as a sign of a criminal offense should be clearly stated in the text of the criminal law. Mostly, such signs are indicated in the dispositions of articles. Only in the case of statutory consolidation does this condition affect the qualification; 2. Martial law as a qualifying feature is imperative. If the relevant authority establishes the fact that a criminal offense was committed under the legal regime of martial law, the application of the norm establishing a sanction for this criminal offense is mandatory; 3. Committing a criminal offense under martial law significantly affects the social danger of the act. In most cases, this entails a more severe punishment [9, p. 114].

Another objective circumstance that increases the degree of social danger of criminal offenses against the established procedure for military service is their commission in a combat situation. The concept of "combat situation" entered the terminological field of the Criminal Code of Ukraine by borrowing from the conceptual apparatus of martial arts. The term "combat situation" is a specialized term. Therefore, in order to establish the criminal law meaning of the relevant concept, one should refer to its understanding in a specialized field of knowledge. However, given the use of the term "combat situation" in the articles of the Special Part of the Criminal Code of Ukraine, we note that this concept should also be attributed to criminal law [4, p. 185-195].

The Glossary of Basic Military Terms defines a combat situation as a set of various factors and conditions up to a certain date when a battle or operation is prepared and conducted. The Military Encyclopedia provides a generally similar, but more precise formulation of the concept of "combat situation", which is a set of factors and conditions in which preparation and conduct of combat is carried out. The combat situation prevailing in a particular area in a certain period may have a favorable impact on the preparation and conduct of hostilities, facilitating or complicating the performance of combat missions by troops. The theory of criminal law has always classified combat situation as one of the qualifying features of military criminal offenses. At the same time, the authors attach different meanings to the definition of "combat situation" in the criminal law aspect [3, p.75].

As per M. I. Khavroniuk, the combat situation refers to the specific state of military formations, units (ships), and subdivisions. During this time, they carry out coordinated actions to neutralize or defeat the enemy, capture important areas or borders, and perform other tactical tasks [10, p.102]. M. I. Panov explains that the combat situation is when a military unit, subdivision, or individual serviceman is in direct contact and confrontation with the enemy while preparing or conducting combat operations. This situation may

arise during both wartime and peacetime, such as when repelling an attack on the state border of Ukraine [11, p. 13].

V. P. Bodayevsky differentiates between the narrow and broad definitions of combat situations. In the narrow sense, combat situations refer to the state of troops (forces) engaged in combat, which is the primary form of tactical operations. In the broad sense, combat situations encompass the state of units (ships, aircraft) and military units during their tactical actions to accomplish combat missions within a limited area and short timeframe. Bodayevsky establishes the relationship between "combat situation" and "combat actions", asserting that the former encompasses the latter, therefore being interdependent. In his analysis, V. P. Bodayevsky also outlines the time constraints of combat situations, which are determined by when units receive their combat task or order for operations, and when they perform said task [12, p.183].

It is not possible to confirm the presence of a combat situation unless the military unit commander has issued a combat order (or combat instruction) and subordinate servicemen are actively assuming their combat positions. The occurrence of a combat situation can be detected through entries in the combat log, which commanders must record. These entries are only possible if combat is occurring, either immediately or in the future [13, p. 278]. "Combat situation" comprises the concepts of "situation" and "battle," which together define the meaning of the term.

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In Chapter One's subsection "Modern Combined Arms Battle, Its Nature, Methods of Conduct and Means of Combat," the definition of "battle" is presented as the primary form of tactical actions executed by troops that are

arranged and coordinated in terms of place, time, and purpose. These actions involve the use of formations, units, and subunits through strikes, fire, and maneuvering with the objective of defeating or destroying the enemy, repelling their attacks, and accomplishing other missions within a restricted timeframe and area. The battle can encompass fire, combined arms, anti-aircraft, air, and sea operations. The defining attributes of a contemporary general combat include high tension, resolute purpose, dynamic and expedited combat operations, ground-air nature, potent and simultaneous fire impact on the entire depth of both parties' formation, utilization of diverse means to execute combat objectives, swift transition between action types, and a complex electronic environment. The primary forms of combined arms combat consist of offense and defense. The idea of the combat situation derives from this understanding of combat [3, p. 77].

The definition of "combat situation" is provided in the note to Art. 402 of the Ukrainian Criminal Code. It pertains to defensive, offensive, or general military situations involving combat types, including anti-air, air, tank, sea, etc. In other words, it involves direct military equipment and weapon use against or by a military enemy. The involvement of a military formation, unit (ship), or subdivision in a battle situation commences and concludes with the issuance of a combat order (ceasefire) or with the actual onset (termination) of combat [14].

As I. I. Mitrofanov notes, the military defines the combat situation as the condition of military units (ships, aircraft), units, and formations during their tactical actions aimed at fulfilling combat tasks within a confined space in a brief period. The crucial factors include 1) The condition of enemy forces, including their composition, combat effectiveness, grouping, intentions, and potential actions. 2) The status of neighboring troops, encompassing composition, positioning, personnel, supply, morale, combat effectiveness, and capabilities. 3) The characteristics of the terrain, such as its

relief, natural shelters and obstacles, observation conditions, road conditions, and levels of radioactive, chemical, and biological contamination. 4) Climatic, hydrometeorological, and topographic data must be taken into account. 5) Consider the time of year and day when conducting combat operations. 6) Prepare for combat operations and perform assigned tasks accordingly. 7) Examine the economic situation in the combat area. 8) Analyze the socio-political life, composition, and mood of the local population. Thus, as the scholar accurately notes, the legislator limits the concept of a combat situation to the time of combat, which differs significantly from its definition by military professionals. The legislative definition violates the rules of formal logic by presenting one concept (committing a military criminal offense in combat situations) through another (time circumstances - the duration of a general military, fire, anti-air, air, and sea battle). This lacks a logical flow of information and causal connections between statements. Such an approach by the legislator to define the concept within the law cannot be considered acceptable. Thus, it is necessary to clarify the definition of combat situation in the note to Article. 402 of the Criminal Code of Ukraine states that in the provisions of Section XIX of the Special Part of the Criminal Code, the commission of a relevant act during a battle or combat situation is noted as a special qualifying circumstance for military criminal offenses [15, p. 110-111].

M. I. Karpenko suggests that the definition of the term "combat situation" as stated in the note to Article 402 of the CC of Ukraine requires clarification. The suggested wording for the definition is as follows: The combat situation in Section XIX of this Code refers to the state of military units, and subdivisions using weapons, military equipment, special vehicles, communications and telecommunications, and other material and technical means during their tactical or operational-tactical actions to perform combat

missions in the relevant area of the terrain for a specific period. It also includes the specified actions of individual service members [13, p. 281].

A. M. Onyskiv defines the combat situation as a qualifying feature of criminal offenses against the established order of military service as a set of objective circumstances of social, climatic, and other nature arising in connection with the implementation of tactical actions of troops during attack or defense and conduct of general military operations, naval, anti-aircraft, air and fire combat, in the form of organized and coordinated attacks, fire and maneuvers (combat actions) of formations, units and subunits in order to destroy (defeat) the enemy, repel his attacks and carry out other combat missions, carried out within a short period and in a limited place [4, p. 185-195].

An essential aspect of the application of criminal law is the process of qualification of a particular act, which is a statement of compliance or identity of the attributes of socially dangerous behavior subject to qualification and the attributes of the criminal law provision providing for liability for it. In this regard, O. V. Us notes that "qualification in criminal law is one of the main stages (stages) of application of a criminal law provision; a fundamental, basic, key element of criminal law influence; a determining issue of criminal proceedings; a basic category in criminal law, criminal law doctrine and investigative and judicial practice". For the proper classification of the method, place, time, environment, means, and instruments of a criminal offense, the form (construction) of their regulation in the disposition of a criminal law provision is of fundamental importance (a single feature, an exhaustive list, an approximate list, etc.). If a criminal law provision presents alternative relevant features of the objective side of a criminal offense, it is only necessary to establish the presence of one of the alternative features for an act to qualify under the relevant article or part of an article in the Special Part of the CC [16, p. 103, pp. 353-354].

Criminal legal significance for the qualification of a particular criminal offense is a feature of the objective side of a criminal offense that is specified in the disposition of an article of the Special Part of the Criminal Code of Ukraine or follows from its content.

Conclusion. Considering the above, it should be noted that the features characterizing the combat situation and forming its content are a set of objective circumstances of a climatic, social, and other nature arising in connection with the implementation of tactical actions of troops in the form of coordinated and organized attacks, maneuvers, and firing (combat actions) of formations, units and subunits for the performance of a combat task.

The combat situation pertains to the defense or attack of formations, units, and subunits, and encompasses general combat, fire, anti-aircraft, air, and sea combat.

Its objectives reside in defeating the enemy, repelling their assaults, and fulfilling other assignments.

Spatially and temporally constrained, combat actions occur in a particular, delimited location and timeframe.

Martial law and the combat situation are qualifying features of eighteen military criminal offenses under the Criminal Code of Ukraine, namely: part 4 of Art. 402 "Disobedience"; part 3 of Art. 403 "Failure to comply with orders"; part 4 of Art. 404 "Resistance to a commander or coercion of a commander into breaching the official duties"; part 4 of Art. 405 "Threats or violence against a commander"; part 5 of Art. 407 "Absence without leave from a military unit or place of service"; part 4, Art. 408 "Desertion"; Art. 409, para. 4 "Evasion of military service by way of self-maiming or otherwise"; Art. 410, para. 4 "Stealing, appropriation, extortion or fraudulent obtaining of weapons, ammunitions, explosive or other warfare substances, vehicles, military or special enginery, or abuse of office, by a military serviceman"; Art. 4, Art. 411 "Willful destruction or engdamagement of munitions"; Art.

413, para. 3 "Waste or loss of munitions "; Art. 418, para. 3 "Violation of statutory rules of guard or patrol duty"; Art. 419, para. 3 "Violation of statutory rules of border guard duty"; Art. 420, para. 3 "Violation of statutory rules of alert duty"; Art. 3 of Art. 421 "Violation of statutory rules of routine duty"; part 4 of Art. 425 "Neglect of duty in military service"; part 4 of Art. 426 "Omissions of military authorities"; part 5 of Art. 426-1 "Excess of power or official authority by a military official"; part 3 of Art. 428 "Abandoning of a perishing ship of war ".

The objective legal importance of the circumstances surrounding a criminal offense, as they can impact the social danger of the act, lies in their ability to elevate the offense to a higher degree. Committing a military criminal offense during martial law or in a combat scenario poses a greater risk to the public and as such, warrants a harsher punishment. For all criminal offenses that require a "combat situation" or "martial law" as a mandatory or qualifying element of the objective side, the primary penalty is imprisonment. Additionally, the provisions of the articles do not offer alternative, less severe forms of punishment.

Literature

1. Великий тлумачний словник сучасної української мови (з дод. і допов.) / уклад. і голов. ред. В. Т. Бусел. Київ ; Ірпінь : ВТФ «Перун», 2005. 1728 с.
2. Кримінальне право України: Загальна частина : підручник / за ред. : В. Я. Тацій, В. І. Тютюгін, В. І. Борисов. 6-те вид., переробл. і допов. Харків : Право, 2020. 584 с.
3. Маслова О. О. Кримінально-правова характеристика обстановки вчинення злочину : дис. канд. юрид. наук : 12.00.08. Х., 2019. 172.

4. Ониськів А. М. Бойова обстановка як кваліфікуюча ознака військових злочинів. *Науковий часопис Національної академії прокуратури України*. 2016. № 3. С. 185-195.
5. Про правовий режим воєнного стану : Закон України від 12.05.2015 р. № 389-VIII. URL: <https://zakon.rada.gov.ua/laws/show/389-19#Text> (дата звернення: 31.08.2023).
6. Про національну безпеку України : Закон України від 21.06.2018 р. № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text> (дата звернення: 31.08.2023).
7. Вознюк А. А. Воєнний та надзвичайний стан як обставини, що впливають на кваліфікацію кримінального правопорушення або призначення покарання. *Юридичний науковий електронний журнал*. 2022. № 6. С. 308–317.
8. Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (дата звернення: 31.08.2023).
9. Байда А. О., Склезь О. А. Основні проблеми кваліфікації злочинів, вчинених в умовах воєнного стану. *Молодий вчений*. 2019. № 4(68). С. 112-116.
10. Хавронюк М. І. Військові злочини : комент. Законодавства / відп. ред. М. Д. Дрига, В. І. Кравченко. Київ : А.С.К., 2003. 272 с.
11. Анісімов Г. М., Дзюба Ю. П., Касинюк В. І. та ін. Злочини проти встановленого порядку несення військової служби (військові злочини): навч. посіб. / за ред. М. І. Панова. Харків : Право, 2011. 184 с.
12. Бодаєвський В. П. «Воєнний стан», «бойова обстановка» та «час перебування на військовій службі» як особливі обставини чинності кримінального закону щодо військових злочинів у часі. *Ученые записки Таврического национального университета им. В. И.*

Вернадского. Серия «Юридические науки». 2013. Т. 25(64). № 2. С. 180-186.

13. Карпенко М. І. Злочини проти встановленого порядку несення військової служби (військові злочини): теоретичні та прикладні аспекти : монографія. К. : ВНЗ «Національна академія управління», 2018. 420 с.
14. Кримінальний кодекс України : Закон України від 05.04.2001 р. № 2341-III. URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (дата звернення: 31.08.2023).
15. Митрофанов І.І. Проблеми реалізації кримінальної відповідальності за вчинення військових злочинів в бойовій обстановці. *Науковий вісник Ужгородського національного університету*. 2015. Серія ПРАВО. Вип 33. Т. 2. С. 108-111.
16. Ус О.В. Теоретичні та прикладні проблеми кваліфікації в кримінальному праві України : монографія. Х. : Право, 2020. 704 с.

References

1. Velykyi tlumachnyi slovnyk suchasnoi urainskoi movy (z dod. i dopov.) / uklad. i holov. red. V. T. Busel. Kyiv ; Irpin : VTF «Perun», 2005. 1728 s.
2. Kryminalne pravo Ukrainy: Zahalna chastyna : pidruchnyk / za red. : V. Ya. Tatsii, V. I. Tiutiuhin, V. I. Borysov. 6-te vyd., pererobl. i dopov. Kharkiv : Pravo, 2020. 584 s.
3. Maslova O. O. Kryminalno-pravova kharakterystyka obstanovky vchynennia zlochynu : dys. kand. yuryd. nauk : 12.00.08. Kh., 2019. 172.

4. Onyskiv A. M. Boiova obstanovka yak kvalifikuiucha oznaka viiskovykh zlochyniv. Naukovyi chasopys Natsionalnoi akademii prokuratury Ukrainy. 2016. № 3. S. 185-195.
5. Pro pravovyi rezhym voiennoho stanu : Zakon Ukrainy vid 12.05.2015 r. № 389-VIII. URL: <https://zakon.rada.gov.ua/laws/show/389-19#Text> (date of access: 31.08.2023).
6. Pro natsionalnu bezpeku Ukrainy : Zakon Ukrainy vid 21.06.2018 r. № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text> (date of access: 31.08.2023).
7. Vozniuk A. A. Voiennyi ta nadzvychainyi stan yak obstavyny, shcho vplyvaiut na kvalifikatsiiu kryminalnoho pravoporushennia abo pryznachennia pokarannia. Yurydychnyi naukovyi elektronnyi zhurnal. 2022. № 6. S. 308–317.
8. Konstytutsiia Ukrainy : Zakon Ukrainy vid 28.06.1996 r. № 254k/96-VR. URL: <https://zakon.rada.gov.ua/laws/show/254k/96-vr#Text> (date of access: 31.08.2023).
9. Baida A. O., Sklez O. A. Osnovni problemy kvalifikatsii zlochyniv, vchynenykh v umovakh voiennoho stanu. Molodyi vchenyi. 2019. № 4(68). S. 112-116.
10. Khavroniuk M. I. Viiskovi zlochyny : koment. Zakonodavstva / vidp. red. M. D. Dryha, V. I. Kravchenko. Kyiv : A.S.K., 2003. 272 s.
11. Anisimov H. M., Dziuba Yu. P., Kasyniuk V. I. ta in. Zlochyny proty vstanovlenoho poriadku nesennia viiskovoi sluzhby (viiskovi zlochyny): navch. posib. / za red. M. I. Panova. Kharkiv : Pravo, 2011. 184 s.
12. Bodaievskiy V. P. «Voiennyi stan», «boiova obstanovka» ta «chas perebuvannia na viiskovii sluzhbi» yak osoblyvi obstavyny chynnosti kryminalnoho zakonu shchodo viiskovykh zlochyniv u chasi. Uchenyie zapiski Tavricheskogo natsionalnogo universiteta im. V. I. Vernadskogo. Seriya «Yuridicheskie nauki». 2013. T. 25(64). № 2. S. 180-186.

13. Karpenko M. I. Zlochyny proty vstanovlenoho poriadku nesennia viiskovoi sluzhby (viiskovi zlochyny): teoretychni ta prykladni aspekty : monohrafiia. K. : VNZ «Natsionalna akademiia upravlinnia», 2018. 420 s.
14. Kryminalnyi kodeks Ukrainy : Zakon Ukrainy vid 05.04.2001 r. № 2341-III. URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date of access: 31.08.2023).
15. Mytrofanov I.I. Problemy realizatsii kryminalnoi vidpovidalnosti za vchynennia viiskovykh zlochyniv v boioyii obstanovtsi. Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. 2015. Seriiia PRAVO. Vyp 33. T. 2. S. 108-111.
16. Us O.V. Teoretychni ta prykladni problemy kvalifikatsii v kryminalnomu pravi Ukrainy : monohrafiia. Kh. : Pravo, 2020. 704 s.