Pakistan Journal of Criminology
Vol.14, No.2, April-June2022 (47-62)
Special Issue on the Criminal Law in Ukraine

Concept, Signs and Types of Criminal Offence in Legislation and Practice of the US and Ukraine

Kostiantyn Orobets[1]

Abstract

The articleaimed to research the features of the criminal law systems in the modern world; to compare the criminal law concept of an offence under the criminal law of the USA and Ukraine. The methodological basis of this research is formed by both general (analysis, synthesis, induction, deduction, etc.) and specific (comparative, formal law, historical, systemic, etc.) methods of legal research. The main method of comparative research of legal phenomena is the comparative analysis. Comprehensive research of this matter can be considered as a purposeful and organized process of advanced training and formation of special competencies of scientists. The structure of the scientific model presented in this article is determined by the needs for a comprehensive comparison of the fundamental categories of criminal law of Ukraine and the US. The attempt to create a theoretical model in this article is aimed at a comprehensive comparative legal analysis of the provisions of the criminal law of the US and Ukraine, which define the concept and signs of a criminal offence; scientifically substantiated proposals for updating criminal legislation and the practice of its application were developed and researched. The study of a criminal offence as a specific action and as a legal structure has not only theoretical, but also practical nature, since both the actual signs of the committed action are established, and such signs are compared with the legal signs of the corpus delicti of a criminal offence in the process of qualification of criminal offences.

Keywords: crime, misdemeanour, updating of criminal legislation, the severity of the action, social danger, criminal unlawfulness, punishability.

Introduction

Comparing criminal law systems in the world, authors should note an almost complete absence of clear definitions of criminal law institutions that would be common for the international community, and the use of legal terms and concepts that are not identical in their sense and meaning. It is mainly due to the existing traditions and features of legal technologies in different countries. Authors should note that each state has its own legislation, and sometimes there are several competing legal systems. The system of criminal law provisions

[1]The author is an Assistant Professor at the Department of Criminal Law No. 2, Yaroslav Mudryi National Law University, Kharkiv, Ukraine. He can be reached at k-orobets@uohk.com.cn

(prohibiting provisions) has its own peculiarities in every country. The concept of a criminal action is the central, fundamental concept in any legal system, but it is not always given in the text of a law or regulation or formally stated. There is no legal definition of a criminal action in the criminal law of the US (Savchenko, 2007; Kovalova, 2020). The concept of a crime is given either in court decisions in relation to its specific types, or in publications on criminal law. In this regard, the concept and content of a crime under the criminal law of the US can be interpreted ambiguously. The scope of federal criminal law in the US is limited to the protection of federal interests, since there is its individual legal system on the territory of each subject of the federation: 50 states, the Free Associated State of Puerto Rico and the District of Columbia housing the capital of the country.

As for Ukraine, here a criminal offence is a socially dangerous culpable action (action or omission) provided for by the Criminal Code of Ukraine, committed by the offender (Part 1 of Article 11 of the Criminal Code of Ukraine, 2001). A criminally unlawful action can be committed in the form of action or omission. A criminally unlawful action is a type of active conduct of a person when such person commits actions that are directly prohibited by criminal law. For example, theft, robbery, brigandism are criminal offences committed exclusively in the form of an action. Criminally unlawful omission is a type of a passive conduct of a person when such person does not perform actions directly provided for by law. For example, a criminal offence committed in the form of omission is the failure of a medical worker to provide assistance to a patient. There are also criminal offences that can be committed both by action and by omission, for example, premeditated murder (Article 115 of the Criminal Code of Ukraine). The forms of criminal offences in Ukraine are determined only in the codified criminal law. For comparison: in the US, the priority role belongs to judicial precedent, although there is also extensive criminal legislation in force by now, of course. It should also be noted that the criminal legislation of Ukraine, following the example of a number of European states, is characterised by a broad approach to understanding of a criminal offence, including not only crimes, but also misdemeanour offences, which are combined into a single category of "criminal offence" ("criminally unlawful action"). These concepts are distinguished based on the degree of public danger (severity) of the action, which is formally expressed in the sanction of the criminal law provision (Orobets, 2019). A formal definition of the concept of a crime dominates in the criminal legislation of the US (United States Code, 2000); there is no general definition of punishment, its essence and objectives (Leider, 2021).

There are three approaches to the definition of the concept of crime in the criminal law science. The first is considered to be formal or normative. It was

developed by the "classical" school of criminal law, which is based on the ideas of criminal law of I. Kant, G. Hegel, A. Feuerbach, etc. In accordance with this approach, an action prohibited by criminal law under the threat of punishment is recognized to be a crime. This approach prevails in the legislation and legal doctrine of the US (Starovoytova, 2012). Various options of formal definition of a crime can be found in the criminal codes of countries such as Germany, Spain, Poland, France, etc. (Krylovaet al. 2018). The second approach to identification of the essence of a crime is called a material approach. The essence of the material concept of a crime is most often manifested in an indication of its social danger, the doctrine of which emerged and developed in the sociological school of criminal law. According to this approach, a crime is a socially dangerous action. The third approach in defining the concept of a crime is the formal material (mixed) approach. It combines material and formal signs of a crime (Petliuk and Tsyhanok, 2017; Tatsiy et al., 2020). This approach is enshrined in the current criminal legislation of Ukraine, according to which a criminal offence is considered as a socially dangerous action committed by a person in violation of a criminal prohibition. It should be taken into account that a criminal offence as a legal concept is different from a particular committed socially dangerous action, which is always individual and is characterized by many indicators associated with its objective and subjective aspects (Dorohina, 2018). They include, for example, the method, place, time and scene of its commission, tools and means, methods and techniques, various consequences, characteristics of the offender and the victim, etc. The *corpus delicti* of a criminal offence provided for by a particular article of the Criminal Code of Ukraine contains only essential, most typical rather than individual signs of specific criminal offences. A particular socially dangerous action is analysed, on the one hand, in the context of the external conditions of a person and characteristics of the person himself; and, on the other hand, not as a single-point action (that is, not as an accomplished fact – a committed criminal offence), but as a single process that always takes place in the conditions of place, time and scene. The study of a criminal offence as a specific action and as a legal structure has not only theoretical, but also practical nature, since both the actual signs of the committed action are established, and such signs are compared with the legal signs of the *corpus delicti* of a criminal offence in the process of qualification of criminal offences.

Materials and Methods

There are three levels of methodology in the scientific publications: philosophical (fundamental), methodology of a particular science and methodology of scientific research (Andriychuk,2016). Authors are primarily

interested in the methodology of scientific cognition, that is, the doctrine of the principles of construction, forms and methods of scientific cognitive activities. The methodology of cognition with regard to this research is a system of techniques and principles, means and tools for researching criminal law phenomena and concepts. In this sense, the methodology of this research is, first of all, a system of philosophical provisions of dialectics, which makes it possible to research and practically apply known regularities, and to identify the content of the criminal law combating crime.

The methodological basis of this research is formed by both general (analysis, synthesis, induction, deduction, etc.) and specific (comparative, formal law, historical, systemic, etc.) methods of legal research.

The main method of comparative research of legal phenomena is the comparative analysis (Kruglikov, 2013). Comparison is not a goal in itself. The following main goals of comparative jurisprudence can be identified: 1) a cognitive goal, since "comparative jurisprudence is always focused on a deep and extensive study of legal phenomena"; 2) an informational goal, which, is closely related to the previous goal and is most clearly manifested in the accumulated legal information; 3) analytical goal. It is a higher objective. According to the above opinion, "putting it before themselves, comparatists strive to discover the roots, sources of legal phenomena in the countries of the world." The main methods of this research also include the legal method, including legal and technical methods of interpreting the law. Legislative activity should be aimed at the formulation of legislative requirements so that they are clear, precise and logically consistent. The law is interpreted through understanding the meaning that the legislator puts into the textual legislative provisions.

The study presents a statistical method characterized as cognition of the qualitative peculiarities of criminal law phenomena and concepts in terms of quantitative indicators. Generalized and quantitative measurements are carried out using this method, for example, the crime rate, forms of criminal liability, convictions. In addition, the systemic method is used. It implies the study of criminal law phenomena and their understanding as a system, that is, an integral set consisting of subsystems and elements. This method is used in the analysis of the legislation and law enforcement practices. For example, the Criminal Code of Ukraine can be presented as a macrosystem as a whole. A microsystem is an individual legislative prescription, an article, describing the composition of a criminal offence, and the sanction is the type and scope of punishment. One can also distinguish the historical comparative method, which is used in the study of past experience in the criminal law domain.

In addition, logical, linguistic, systemic structural, epistemological and other methods were used in the analysis of the subject of research. The methodological basis of the research is also the modern provisions of the theory of cognition of criminal law processes and phenomena (Auer, 2021).

The theoretical basis of the study was the work of scientists in criminal law, criminology and other relevant law sciences that reveal the theoretical and practical essence of the analysis of the issue of the concept of a criminal offence in Ukraine and in the US. In his study, the author relied on the basic provisions of the theoretical institutions of criminal law of Ukraine and the US and directly on the principal areas of criminal policy. These provisions were developed by both Ukrainian scientists and world scientists. The regulatory framework for the study includes the sources of the criminal law of Ukraine and the US: international legal acts, the Constitution, criminal legislation, etc. The theoretical result of the study is that it contributes to the study and comparison of two different criminal law systems – of Ukraine (as a representative of the Romano-Germanic type of legal system) and the US (as a representative of the Anglo-American type of legal system), and allows to expand knowledge on the issue of the concept and signs of a criminal offence and to propose a scientific basis for further research. The practical value of this study within this article is the direct application of the conclusions and proposals contained in the study. Given this, the practical value is very relevant not only in the context of measures aimed at improving the criminal legislation of Ukraine, but also in the educational process of studying criminal law in various educational institutions.

The author has analysed the statistical data from the Legal Statistics and Special Accounting Committee of the State Statistics Service of Ukraine and statistics data published by the US Federal Bureau of Investigation (FBI). The author has investigated the model of scientific comparison of criminal offences in the criminal law of Ukraine and the US.

Results

Based on the research conducted, a structural and functional model of comparison of the concept, signs and types of a criminal offence in Ukraine and a crime in the US was developed (Table 1).

Table 1

Structural and functional model of comparison of the concept, signs and types of a criminal offence in Ukraine and a crime in the US

No.	Peculiarities of the definition of the concept, signs and types of a criminal	Peculiarities of the definition of the concept, signs and types of a crime in

	offence in Ukraine	the US
1	Criminal law regulations, including those relating to the concept, signs and types of a criminal offence, are based on the following sources in Ukraine: 1. The Constitution of Ukraine as a conceptual basis for all Ukrainian legislation, including criminal legislation. 2. International treaties concluded and ratified by Ukraine, containing criminal law provisions, which have been implemented in the national criminal legislation. The provisions of the effective international treaties prevail over the provisions of the national legislation. 3. The Criminal Code of Ukraine is the only systematized legislative act that brings together all provisions of criminal law. 4. Decisions of the Constitutional Court of Ukraine where they recognize criminal laws unconstitutional (Article 152 of the Constitution of Ukraine).	The sources of modern US criminal law are the US Constitution, constitutions of the states, statutes and case law. The provisions of the effective international treaties prevail over the provisions of the national legislation.
2	The Criminal Code of Ukraine contains a single definition. A criminal offence is a socially dangerous culpable action (action or omission) provided for by the Criminal Code of Ukraine, which has been committed by the offender. This definition has formal and material nature and includes all the essential signs of a criminal offence.	At the federal level, there is no general legislative concept of a crime in the states. There are several basic concepts of a criminal action in the doctrine that are inseparable from the basic concepts of criminal law developed in the Anglo-American theory. A formal definition of the concept of a crime prevails.
3	Signs of a criminal offence: - a criminal offence is always an action, that is, an externally expressed particular action in person's conduct. At the same time, a criminally unlawful action can be committed only by an offender; - criminal unlawfulness	Elements of a crime are traditionally recognized as *actus reus* (material element) and *men's rea* (psychological element). At the level of the states, there is a tendency to include such elements as unlawfulness (violation of a law or other act) and the possibility of application of

	andpunishability. These interconnected signs of a criminal offence indicate that an exhaustive list of criminal offences is provided for by the criminal law and such actions are prohibited by the criminal law under the threat of punishment; - public danger. The crime causes or poses a threat of causing significant harm to an individual, a legal entity, society or the state; - culpability.Only a culpable action is recognized as a criminally unlawful action. Guilt is the mental attitude of a person to the action committed and its consequences. Guilt exists in the forms of intent and recklessness.	strictly set penalties in the legislation. In addition, crime is broadly defined by common law in some states. At the same time, guilt is not an obligatory sign of all crimes in connection with the preservation of the institution of "strict" or "absolute" liability in US criminal law, for which a material element of the crime is sufficient and no proof of guilt is required.
4	There is a clear legislative classification of criminal offences into criminal misdemeanours and crimes. In turn, crimes are divided based on their degree into minor, grave and especially grave crimes. This division is based on the degree of public danger on which the criminal law sanction depends.	The classification of crimes in the US criminal law is varied and depends primarily on criminal law of a particular state. In most cases, crimes are divided into dangerous crimes and less dangerous crimes (felonies and misdemeanours), the nature and degree of punishment of which are different. Often several degrees (classes) are distinguished in crimes.

According to UkrainianCriminal Code, a criminal offence is a socially dangerous offence provided for by this Code committed by the offender. Defining an action as a criminal offence, the current Criminal Code of Ukraine distinguishes material, formal, psychological (subjective) signs in it. It should be noted that the concept of "criminal offence" has a generic nature at the legislative level and covers the concepts of "crime" and "criminal misdemeanour" (as opposed to US criminal law). A criminal misdemeanour is an action (action or omission), for the commission of which the main punishment is provided in the form of a penalty in the amount of not more than three thousand non-taxable minimum incomes of citizens or other punishment other than imprisonment. Crimes in Ukraine are divided into minor, grave and especially grave.

It can be established that the criminal legislation of Ukraine describes the range of punishable actions, gives a clear social characteristic to a criminal

offence revealing its antisocial focus and social danger, indicates the area of public relations that are its object, plays the role of a measure (scale) to distinguish adjacent criminal offences between themselves and their delimitation from acts that are not criminally unlawful. It is social danger as a material sign of a criminal offence that is an essential, immanent and fundamental sign of both any crime and any criminal misdemeanour (Panov&Kharytonov, 2020).

Firstly, the legislative definition of the concept of a criminal offence forms the image and nature of prohibited actions in the public consciousness and, thus, performs an informational and protective role. Secondly, it gives law enforcement agencies a clear knowledge of a criminal offence, an idea of its main features, essential features that make it possible to distinguish it from acts that are not criminally unlawful. The distinction between criminal and other offences is a very important practical task, since the fate of a person, his freedom, rights and legitimate interests, as well as the observance of justice and the level of legality in society, depend on how justice is administered (Nazar at al., 2021). Analysis of Article 11 of the Criminal Code of Ukraine gives grounds for the conclusion that the legislative definition of the concept of a criminal offence contains the following signs:the presence of an action; the action is provided for by the current code; socially dangerous nature of the action; guilt of the person in the commission of the action; commission of the action by the offender. A criminal offence takes place only if the offender has committed a certain action, that is, an action or inaction. A criminally wrongful action is a more typical form of a criminal offence. Criminal liability for omission takes place only when the person was not only obliged, but also was able to commit a certain action.

A criminal offence under the criminal law of Ukraine is always a culpable action. When committing a criminal offence, the person has a respective psychological attitude to the action or omission committed, provided for by the Special Part of the Criminal Code of Ukraine, and its consequences expressed in the form of intent or negligence. No matter what dangerous consequences may take place, no act can be considered a criminal offence if it is non-culpable. This is the unshakable principle of subjective imputation, from which there may be no exceptions. For example, the use of physical coercion, as a result of which a person could not control his actions or inaction, the effect of force majeure and similar circumstances exclude any criminal liability of the person.

If an action is committed by a person who does not have the signs of an offender, such action cannot be considered a criminal offence, instead it can only be defined as a socially dangerous action. The latest amendments to the Criminal Code of Ukraine (Parts 3-6 of Article 12) (2001) are presented in Table 2.

Table 2

Formal criteria for classification of crimes by degree in Ukraine

Type of crime by degree	Penalty amount	Term of imprisonment
Minor offence	≤ UAH 170.000	≤ 5 years
Grave crime	≤ UAH 425.000	≤ 10 years
Especially grave crime	> UAH 425.000	> 10 years, or life imprisonment

As for the current US criminal legislation (United States Code, 2000), it is a rather complex system that is based not only on the principle of the federal order of the country, the sovereignty of its territorial entities and a clear allocation of power between territorial entities and the level of their powers, but also on a special system of jurisdiction. The sources of the modern US criminal law are the US Constitution and the Constitutions of the States, statutes and case law, as well as (but to a lesser extent than in Ukraine) international legal provisions. The model criminal code is also recognized as a source in almost 40 states. The rules and regulations set forth in the Universal Declaration of Human Rights and the Constitution of the state form the basis of the entire legal system. At the same time, the constitutions of individual states can supplement, but not cancel or otherwise restrict the civil rights and liberties provided for by the US Constitution. The common federal constitution is the supreme law of the country. State courts are required to respect decisions of the federal court of appeal and the court of appeal of the state. All crimes must be clearly defined by a special statute. It is generally accepted that the call of the court to draw up laws is a violation.

The refusal from a uniform definition of the concept of a crime in the US is supported by the argument that, according to lawyers, it is impossible to develop such a concept that would satisfy everyone and would cover all actions and omissions of a criminal nature. Moreover, reputable experts in criminal law believe that there is no need for a legal definition of a crime at all. In the doctrine of US criminal law, a formal definition of the concept of a crime is used most often, but there are also pragmatic and mixed definitions (Starovoytova, 2012). Instead of a clear definition of a crime in the US criminal law, the following basic elements of a crime are distinguished: *actus reus* (material element, which includes the action and its consequences) and *men's rea* (psychological element, guilt, which includes criminal intent and negligence) (Korzh, 2014). The action has such forms as the commission of a prohibited action or the failure to perform a required action. The consequences are characterized by causing physical, financial or non-pecuniary damage. The general intention means that the person is clearly aware of the nature of his action. In this case, it is not required to prove it

(transportation of drugs, arson, etc.) – the so-called "strict" liability is applied (in other words, objective imputation is allowed, which is prohibited in the criminal law of Ukraine). A special intention always must be proven (robbery, kidnapping for ransom, etc.). Crimes with a special intention are always recognized in the statutes. When describing them, the statute of the Criminal Code establishes the intention or purpose of their commission. Transitional intention means that the unlawful influence is produced on a third person, an attack on whom was not part of the criminal intention (Zucca, 2020).

In the US, there is a legal and doctrinal classification of crimes. The legislative classification is contained in the statutes, which include the criminal codes. At the same time, significant differences can be found not only in the doctrine, but also in the legislative classification of crimes. For example, according to the Criminal Code of the State of California, crimes are divided into the following three types depending on the gravity of punishment: felony, misdemeanour and violation. Felony is a crime punishable by a penalty and/or imprisonment, death penalty, or dismissal from service. Misdemeanour is a crime punishable by a penalty and/or imprisonment in detention facilities. A violation is considered a public violation that is punished only by a penalty. A wobbler is also distinguished in the theory of criminal law of California. It is a crime that occupies an intermediate position between felony and misdemeanour (Zucca, 2020).

In addition to the fundamental features noted above, Authors believe that a comparative study of similar legal concepts in different states must taking into account the trends in the formation and development of the corresponding legal systems, since the criminal law of each country has its own features, which are determined by the essence and form of the state, its national and historical specifics, level of culture, religious views, etc. (Kruglikov, 2013; Ustrytska and Tarasenko, 2020). The criminal law of each state is unique, but, at the same time, the criminal law of different countries has influenced and continues to influence each other. So, due to the active interaction of the criminal law systems of different states, the criminal law of Ukraine is included in the unified system of modern world criminal law. It is also important that national criminal law should meet the requirements of global criminal law, comply with global standards of human rights and liberties, and international standards for the protection of human rights and liberties from criminally unlawful encroachments. The criminal law of a state, regardless of its legal system, must not be contrary to international criminal law.

At the same time, the type of the criminal law system also influences the formation of the understanding of a criminal offence. Thus, the main feature of Romano-Germanic criminal law system is a pronounced tendency to written law,

the recognition of the law as the only regulating source of criminal law, codification of provisions of criminal law and rejection of case law and common law. As the second feature of this system, authors should note a special way of formulation of criminal law prohibitions, focused on striving for an abstract description, which is manifested in the utmost laconism of the language of criminal law with the most generalized formulation of criminal law provisions. Such provisions are designed for a wide variety of actions. In this regard, the legislation must be adapted to the quickly changing life of the society in order to efficiently contain the emerging threats (Malikov, 2018).

The criminal law systems of common-law countries are characterized by a special role of case law (Ryška, 2020). Case law is both the main source of law and the method allowing to solve almost any issue in the legal field. At the same time, this issue is resolved not only on the basis of already established precedents, but also with the help of new ones that appear in the course of consideration of a particular court case (Criminal law of Ukraine and England, 2021). Despite the fact that the US criminal law was formed under the influence of English common law, it has its own significant differences caused by the specifics of the American legal system. In general, authors can say that criminal law in the US, as compared with the English criminal law, is distinguished by a greater codification and complexity of regulation.

Ideas about the world unification, incorporation, reception, adaptation, implementation, approximation, transformation, harmonization of the legislation, including criminal legislation, constantly arise in the scientific doctrine. Thus, the idea to develop a model EU Criminal Code attempting to unify the provisions of the European criminal and criminal procedure law seems interesting against the background of the globalization processes. This code was developed in 1997 and approved by the Resolution of the European Parliament of 1999 (Resolution criminal procedures in the European Union,1999). It consists of two parts devoted to substantive and procedural criminal law, respectively. According to this document, it is possible to distinguish those crimes that are covered by European criminal law. They include corruption, abuse of office, speculative trading, fraud with financial funds, money laundering, disclosure of official restricted information. The Code also notes that the priority tasks of the states in combating crime are the implementation of paragraph 2 of Article 29 of the Treaty on the European Union, harmonization of their legislation in accordance therewith in the context of the global fight against the gravest crimes: terrorism, drug trafficking, human trafficking, child sexual exploitation, corruption, money laundering, etc.

In general, there has been a clear and unambiguous trend towards the convergence of the criminal law systems of various states of the world in recent

decades (Lach, 2020). Framework agreements can be one of the many examples. For example, the foundations of criminal law cooperation and unification of the legislation of the EU member states were laid by the Maastricht Agreement (1992), according to which the states were to carry out active cooperation in the area of criminal law, provide legal assistance in criminal cases, resolve issues of extradition and cooperation of investigation and intelligence services in the process of performance of their duties.

Discussion

There is a convergence of modern criminal law systems, the differences between them disappear, common grounds are found in the international criminal law under the influence of globalization processes. The study of these processes allows us to point out aspects that need to be addressed in the near future in connection with the convergence of legal systems in the world, research of international experience of the application of criminal law or its individual provisions: the moment of the beginning of protection of life by means of criminal law; convergence of punishments under the laws of different countries; whether crimes against peace, international law and order and security of mankind should be provided for in the criminal legislation of their state, or should this legislation be common to all states; if there is a section "Crimes against peace, security of mankind, international legal order" in the legislation of the state, it would be advisable to harmonize it with the legislation of all states; an open question is the prosecution of a person for acts committed outside his state – this issue in is resolved differently in different countries; extradition of persons who have committed criminal acts – today the issue is resolved depending on the existence of an agreement on legal assistance in criminal matters, but not in the uniform manner in all cases; etc.

At the same time, the main problem of states, including Ukraine, is crime. First of all, attention should be paid to the level of such especially grave crimes as murder, the total number of criminal offences committed and convicted persons (Table 3).

Table 3

Statistics of criminal offences in Ukraine.(Over 20 years…, 2021;Verner, 2019;Report of the National…, 2021).

Year	Total number of criminal offences	Persons who committed criminal offences	Murders	Convicts
2016	▲592.604	▼99.307	▼1.726	▼69.997
2017	▼523.911	▲117.947	▼1.551	▼60.399

2018	▼487.133	▼117.071	▼1.508	▼57.100
2019	▼444.130	▼109.825	▼1.428	▼55.078
2020	▼335.000	▼93.000	▼1.326	▼49.823

Note: In 2020, the share of registered criminal offences and crimes in the total number of registered criminal offences was 41% and 59%, respectively.

In the US, the criminal statistics centrally kept and published by the Federal Bureau of Investigation (FBI) provide for separate registration of violence crimes and property crimes. In 2019, about 6.9 million property crimes and about 1.2 million violent crimes were registered in the United States. (Federal Bureau of Investigation, 2021).The statistics show that law enforcement agencies across the country showed an overall 0.5% decrease in the number of violent crimes reported to them in 2019 compared to figures reported in 2018. Murder, rape, robbery and felony assault should be distinguished in the category of violent crimes. The number of property crimes in the US decreased by 4.1% in 2019 as compared with data for 2018. Property crimes include, in particular, burglary, theft and theft of vehicles.

In any country, the number of murders is the generally accepted and most obvious indicator of the crime rate. In general, it should be noted that in absolute terms the number of murders in the US, like in a number of other countries, has remained fairly stable for many years. Authors should note that a stable number, as a rule, is one of the characteristic features of this category of crimes (Kvashis& Heinrich, 2016).

It should be noted that, according to the Institute for Crime & Justice Policy Research (ICPS), the US ranks first in the world in terms of the number of prisoners (639) per 100 thousand of the population, while Ukraine ranks 106th (144 prisoners per 100 thousand of the population) (Highest to Lowest, 2021). This significant gap in statistical indicators may indicate an acute problem of crime in the US, where a significant part of the registered crimes are rather dangerous actions punished with imprisonment of criminals. In Ukraine, the level of such crime is lower, and types of punishment other than imprisonment are imposed as priorities.

In any case, regardless of the level of crime, criminal law, its sources and the consolidation of criminal offenses in them in the modern world are considered as an important means of protecting human rights and freedoms (Haltsova et al., 2021).

Conclusions

The amendments to the Criminal Code of Ukraine related to the change of the concept and term of "crime" came into effect on 1 July 2020. Firstly, there were changes in terminology, and the Criminal Code started to define socially dangerous acts as criminal offences. Secondly, another new term was introduced – "misdemeanour" ("criminal misdemeanour"). Criminalmisdemeanour is the least socially dangerous action or omission among criminal offences, for which only a certain penalty or other types of punishments other than imprisonment are provided for. Thirdly, crimes began to be classified according to their degree into minor, grave and especially grave.Despite the seeming simplicity of the idea of reforming the Criminal Code, an extremely important problem of legislative activity has arisen: should a particular socially dangerous action be defined as a crime, even if not grave, or as a criminal misdemeanour. The formal material definition of the concept of criminal misdemeanour existing in the criminal law emphasizes that the criminalization and penalization of actions should be based in the degree of their public danger. However, determining the degree of social danger is a complex process that requires to take into account many social, cultural, political, historical and other factors.

In the US, there is no common understanding of a criminal action, while a formal approach to understanding of a crime dominates. This approach is too simplified, since it does not take into account the social essence of a crime – its social danger, its focus on causing harm to a person, society or the state. The determination of sanctions by the legislative bodies of the state and the imposition of punishment in specific cases by the judicial authorities must not be a manifestation of the arbitrariness of these institutions, but must proceed from the real danger posed by both the committed act and the criminal.

At the same time, both the US and Ukraine can mutually borrow the experience of classification of criminal offences (crimes), first of all, when building their own legal model for prevention of crime, establishment of appropriate state bodies, preparation of statistical reporting, and in the future, possibly, in the improvement of the criminal legislation. Undoubtedly, the problems raised in this article in the context of globalization trends, expansion and deepening of international cooperation between the US and Ukraine require further comprehensive scientific research.

References

Andriychuk, V. G. (2016). The essential aspect of research methodology. *The Economy of Agro-Industrial Complex, 7*, 87-94.

Auer, M. (2021). What is legal theory? *Rechtsgeschichte, 2021(29)*, 30-39.

Criminal Code of Ukraine. (2001). https://zakon.rada.gov.ua/laws/show/2341-14#Text.

Criminal law of Ukraine and England: comparative analysis (separate questions of the General part): Tutorial. (2021). http://77.244.44.2/materials/files/criminal_law_2/0131/01.pdf.

Dorohina, I. (2018).Separate problems of understanding the subject of offences against property. *Social and Legal Studios, 1*, 31-35.

Federal Bureau of Investigation. (2021). https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/

Haltsova, V. V., Kharytonov, S. O., Khramtsov, O. M., Zhytnyi, O. O., &Vasyliev, A. A. (2021). Criminal law as a means of protecting human rights and freedoms in the modern world. *Journal of the National Academy of Legal Sciences of Ukraine, 28*(3), 248-256.

Highest to Lowest - Prison Population Rate. (2021). https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All.

Korzh, A. V. (2014). The grounds of criminal liability in the criminal law of the United States. *Bulletin of the Krasnodar University of the MIA of Russia*, *1*(23), 25-29.

Kovalova, S. (2020). Criminal offenses - a new institute of criminal legislation of Ukraine. *Law. Human. Environment, 11*(4), 139-144.

Kruglikov, L. L. (2013). *Comparative criminal law.*Yaroslavl: P.G. Demidov Yaroslavl State University.

Krylova, N. E., Maleshina, A. V., &Serebrennikova, A. V. (2019). *Criminal law of foreign countries (Special part): An educational and methodological manual.* Moscow: Statut.

Kvashis, V. E., & Heinrich, N. V. (2016). Comparative analysis of crime, criminal policy and law enforcement practice in the USA and Japan. *Society and Law*, *2*(56), 108-120.

Lach, A. (2020). Criminal law in federal states: A lesson for the EU. *Comparative Law Review, 26*, 155-174.

Leider, R. (2021). The Modern Common Law of Crime. *The Journal of Criminal Law and Criminology, 111(2)*, 407-499.

Maastricht Treaty is an agreement signed. (1992) in the city of Maastricht by the countries of the European Communities and laid the foundation for the European Union.

Malikov, S. V. (2018). Evolution of criminal law: from a single industry to sub-sectors. *Matters of Russian and International Law*, *8*(9A), 118-120.

Nazar, B., Alona, V., & Volodymyr, F. (2021). Referring a case to the highest division of the supreme court in the criminal procedure legislation of

ukraine and european countries. *Access to Justice in Eastern Europe, 4*(1), 143-165.

Orobets, K. M. (2019). The character of the social danger of a criminal offense as a manifestation of its anti-value. *Scientific Notes of Taurida National V.I. Vernadsky University. Series: Legal Sciences,4*, 131-135.

Over 20 years, the number of prisoners in Ukraine has decreased by 77.5%. (2021). https://censor.net/ua/news/3256600/za_20_rokiv_kilkist_uvyaznenyh_v_ukrayini_zmenshylasya_na_775_minyust.

Panov, M. I., &Kharytonov, S. O. (2020). Public danger of action in the system of features of the concept of "criminal offense". *Problems of Legality, 150,* 124–140.r

Petliuk, Y.S., &Tsyhanok, A.A. (2017).Responsibility for offence in the field of use and guard of resorts and curatively-health localitie. *Law. Human. Environment, 264*, 96-103.

Report of the National Police of Ukraine on the results of work in 2020. (2021). https://www.kmu.gov.ua/storage/app/sites/1/17-civik-2018/zvit2020/npu-zvit-2020.pdf.

Resolution on criminal procedures in the European Union. (1999). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A51999IP0091.

Ryška, I. (2020). Types of cultural property and their protection under international criminal law. *International and Comparative Law Review, 20*(1), 220-236.

Savchenko, A.V. (2007). *Comparative Analysis of Criminal Legislation of Ukraine and Federal Criminal Legislation of the United States of America:* Thesis for a Doctor's degree in Law in specialty 12.00.08 – Criminal Law and Criminology; Criminal and Executive Law.Kyiv: Kyiv National University of Internal Affairs.

Starovoytova, Y. G. (2012). *General part of the criminal law of England and the USA*. Kyiv: Atika.

Tatsiy, V. Y., Tiutiugin V. I., &Borysov, V. I. (2020). *Criminal Law of Ukraine: General part.* Kharkiv: Pravo.

United States Code. (2000). https://web.archive.org/web/20050930230739/http://www.gpoaccess.gov/uscode/browse.html.

Ustrytska, N., & Tarasenko, O. (2020).Determination of offense: Criminological aspect. *Social and Legal Studios, 2*(8), 112-117.

Verner, I. (Eds.). (2019). *Regions of Ukraine.* Kyiv: State Statistics Service of Ukraine.

Zucca, L. (2020). The constitution of criminal law. *University of Toronto Law Journal, 70*, 27-43.