

Criminal Policy in the Field of Digital Counterpropaganda During the War

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Criminal policy in the field of digital countermeasures against propaganda during war involves propaganda definition and its forms at international and national levels. Detection of various propaganda forms, classified as criminal offenses that encroach on foundations of national security, public order and security, as well as peace and security of humanity and the international legal order, is extremely relevant today. The most dangerous form of propaganda is war propaganda. War propaganda is a separate criminal offense that affects peace and security of mankind and the international legal order. War propaganda is a criminal offence, similar to the crime of aggression and war crimes, which requires their distinction. Rapid technological development and expansion of the digital space dictate new trends that should be taken into account when forming a criminal policy in the field of digital counterpropaganda during wartime. The protection of national security and democratic values requires a balanced approach: the use of digital means should not violate the basic rights and freedoms of citizens. The study of criminal policy in the field of digital countermeasures against propaganda

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during the war was facilitated by the use of a complex of scientific methods: 1) logic one (for propaganda characterization of and its types, determination of digital means of countermeasures against this phenomenon); 2) philosophical (in order to find a philosophical basis for countering propaganda); 3) historical and legal one (during the analysis of the historical and legal experience of countering propaganda in wartime); 4) formal and logical one (for construction of criminal policy in the field of digital countermeasures to propaganda during wartime); 5) comparative legal one (when comparing the implementation of criminal policy in Ukraine and other States).

Keywords: criminal policy; counteraction to criminal offenses; digital means of countering criminal offenses; propaganda; war propaganda.

Research Problem Formulation

Research on criminal policy in the field of digital counterpropaganda during the war involves, first of all, the propaganda definition and its forms at the international and national levels. Detection of various propaganda forms, classified as criminal offenses that encroach on the foundations of national security, public order and security, as well as peace and security of mankind and the international legal order, is extremely relevant nowadays. The most dangerous form of propaganda is war propaganda. War propaganda is a separate criminal offense, similar to the aggression crime and war crimes, which requiring their separation.

Given modern development of Ukraine, digital counteraction becomes

an important aspect of countering war propaganda and other forms of propaganda during a military conflict. Dangerous information influence carried out with the help of digital means that is intrusive and manipulative in nature and incites society to war and fuels; it should be blocked by modern digital means that will allow to detect such propaganda and neutralize its destructive impact.

Analysis of Essential Researches and Publications

Certain aspects of criminal policy in the field of digital countermeasures against propaganda during the war were studied by such scientists as Zh. Denisyuk¹, S. Dmytrashko², P. Doichynovych³, U. Koruts⁴, N. Meltser⁵,

- 1 Денисюк Ж. З. Пропаганда та контрпропаганда в контексті стратегій державної інформаційної політики. *Вчені записки ТНУ імені В. І. Вернадського. Серія: Державне управління*. 2021. Т. 32 (71). № 2. С. 46—51. DOI: 10.32838/TNU-2663-6468/2021.2/08 (date accessed: 10.12.2023).
- 2 Дмитрашко С. А. Стратегія впливу на масову свідомість у націонал-соціалістичній Німеччині. *Вісник НТУУ «КПІ». Політологія. Соціологія. Право*. 2018. Вип. 2 (38). С. 12—17. DOI: 10.20535/2308-5053.2018.2(38).152880 (date accessed: 10.12.2023).
- 3 Propaganda, War Crimes Trials and International Law: From Speakers' Corner to War Crimes ; ed. by P. Dojčinović. Routledge, 2012. 336 p.
- 4 Коруц У. З. Поняття пропаганди війни: історико-правовий аспект. *Південноукраїнський правничий часопис*. 2019. № 4. Ч. 1. С. 118—121. DOI: 10.32850/sulj.2019.4.1.26 (date accessed: 10.12.2023).
- 5 Мельцер Н. Международное гуманитарное право. Общий курс : справ. изд. Женева : МККК, 2016. 419 с.

Zh.-M. Khenkertts and L. Dosvald-Bek ⁶. The scientific investigations of the named authors were only indirectly related to the criminal policy of digital counteraction to such a phenomenon as propaganda. Given the war duration in Ukraine and the aggressive nature of propaganda used by the enemy as a weapon, this research is extremely relevant.

Research Methods

During research, the following methods were used: 1) logic one (to characterize propaganda and its types, to determine digital means of countering this phenomenon); 2) philosophical one (in order to find a philosophical basis for countering propaganda); 3) historical and legal one (when analyzing historical and legal experience of countering propaganda in war conditions); 4) formal and logical one (for constructing a criminal policy in the field of digital counteraction to propaganda during war); 5) comparative and legal one (when comparing the implementation of criminal policy in Ukraine and other countries).

Article Purpose

Explore criminal policy in the field of digital counterpropaganda during wartime.

Main Content Presentation

Importance of criminal policy formation in the field of digital counterpropaganda is determined by international experience: court precedents qualify the actions of persons accused of war propaganda as a crime against humanity, as genocide, as a separate crime, and as a component of other international crimes. Thus, the Nazi propagandist of the Third Reich, Julius Streicher, Editor and owner of the *Der Stürmer* antisemitic newspaper was sentenced to death by the Nuremberg International Military Tribunal. This is the first conviction for propaganda, when persecution and actions were classified as a crime against humanity ⁷. In order to recognize war propaganda as a crime, it is necessary to prove that the accused person directly incited specific acts of aggression, thereby creating a favorable belligerent atmosphere, which happened in the described case regarding Jews.

International Covenant on Civil and Political Rights states that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, as well as any propaganda for war, should be prohibited by law ⁸.

A more recent example of mass media use to incite hatred, incite violence and discriminate against a certain ethnic group is the crimes in Rwanda: The International

6 Хенкертс Ж.-М., Досвальд-Бек Л. Обычное международное гуманитарное право. Т. 1. Нормы. Женева : МККК, 2006. 874 с. URL: <https://www.icrc.org/ru/doc/assets/files/other/customary.pdf> (date accessed: 10.12.2023).

7 Propaganda, War Crimes Trials

8 Міжнародний пакт про громадянські і політичні права : прийнята Генасамблеєю ООН 16.12.1966 р. док. ООН А/RES/2200 А (XXI) ; ратифік. Указом Президії ВР УРСР від 19.10.1973 р. № 2148-VIII [Чинна для України з 23.03.1976 р.]. URL: https://zakon.rada.gov.ua/laws/show/995_043?find=1&text=війн#w1_1 (date accessed: 10.12.2023).

Criminal Tribunal convicted the founders and journalists of the Rwandan company RTLM for the crime of genocide and crime against humanity (persecution, as in the example described above), related to the use of this mass media⁹. The court proved the facts of incitement to the genocide of the entire Tutsi ethnic group using specific linguistic constructions with the help of specific broadcasting channels. By the way, conducting linguistic examinations and understanding the speech and cultural context in such cases are extremely important not only for the correct qualification of actions, but also for compliance with the procedural order, which is strictly regulated. We mean cases when domestic experts are allowed to carry out linguistic examinations of a foreign text, who do not have an appropriate document that would confirm their knowledge of foreign language, which content they are analyzing, as they do not have an understanding of the context of the conflict. Thus, during appropriate linguistic or complex psycholinguistic examinations, questions can arise regarding the need to translate the text. For example, a forensic expert understands the language in which the text provided for research is presented, because he studied it at school, but he does not have a translator's diploma in the relevant language (in the case under study, it is Russian). Then the question

arises about the need to translate the text into Ukrainian for further research¹⁰ or to involve a forensic linguist who has a document confirming his knowledge of the language which the text was submitted in for research. We consider the second situation to be more justified from a procedural point of view: in order to prevent the defense party from initiating in court the recognition of such a conclusion of the forensic examination as inadmissible due to similar procedural specifics.

The decision of International Criminal Tribunal for the former Yugoslavia, which convicted the political leader, the leader of the Serbian Radical Party and the paramilitary Serbian group: *Chetniks* for a single speech that prompted the commission of rapes, murders and other crimes, is worthy of attention¹¹. In other words, this person was convicted not for the direct commission of murders, rapes, etc., but for a single speech with elements of *hate speech* and threats against the local non-Serb population? namely, Croats: the court qualified his actions as a crime against humanity that gives grounds for reflection on the urgent need to formulate the criminal law policy of our state, given the existing international law enforcement practice.

At the same time, it is necessary to take into account the fact that (unlike the Second World War); currently propaganda

9 Опришко Л. Відповідальність ЗМІ за геноцид. Приклад Руанди / Journalism Teachers' Academy. 20.07.2022. 17:42. URL: <https://www.jta.com.ua/trends/vidpovidalnist-zmi-za-henotsyd-pryklad-ruandy/> (date accessed: 10.12.2023).

10 Ухвала Сихівського райсуду м. Львова від 27.07.2023 р. Справа № 464/1692/22. Проводження № 1-кп/464/32/23. URL: <https://zakononline.com.ua/court-decisions/show/112504386?-from=%22Пропаганда%20війни%22%20AND%20%22експертиза%22> (date accessed: 10.12.2023).

11 Куренкова О. Нацисти прагнули «великої Німеччини». Кремль — створення «великої Росії» коштом України — юрист Предраг Дойчинович / Суспільне новини. 09.01.2023. 09:37. URL: <https://suspilne.media/325738-nacisti-pragnuli-velikoi-nimeccini-kreml-stvorennia-velikoi-rosii-kostom-ukraini-urist-predrag-dojcinovic/> (date accessed: 10.12.2023).

is mainly spread thanks to the digital environment, when social networks are its main tool. In this case, the Internet is not only a springboard for spreading false information: it has created the so-called army of trolls and bot networks, etc., which, supporting electronic communication in comments, convince Internet users of the “truth” of such information or resort to aggressive methods of intimidation, thereby depriving Internet users of any desire to search for the relevance of widespread information. For example, at least 47 governments used a combination of human and Internet bot campaigns to manipulate online discussions to spread propaganda in 2023; twice as many as 10 years ago¹². A clear example of this is the analysis of internal documents of one of the leading contractors of the Russian special services regarding the development of tools designed to carry out cyberattacks and spread disinformation, control the Internet space and use digital means to promote certain propaganda narratives¹³. Certainly, such traditional mass media as television, radio and newspapers are also actively used as a hybrid weapon not only in the aggressor country, but also abroad, exerting a much larger influence in terms of scope. Although such actions have been prohibited since

at least 1936, the time of the adoption of the International Convention on the Use of Radio Broadcasting in the Interests of Peace, in Art. 2 declaring the duty of States to refrain from war propaganda of¹⁴.

Criminal Code of Ukraine provides for liability for the following forms of propaganda: 1) collaborative activities (Part 3 of Art. 111¹); 2) cruel treatment of animals (Art. 299); 3) import, production or distribution of works promoting the cult of violence and cruelty, racial, national or religious intolerance and discrimination (Art. 300); 4) war propaganda (Art. 436); 5) propaganda of communist and national-socialist (Nazi) totalitarian regimes (Art. 436¹)¹⁵. The definition of this act in domestic criminal legislation is not given, but it should be noted that these socially dangerous acts encroach on quite different objects: 1) foundations of national security; 2) public order and security; 3) peace, security of mankind and international law and order.

Only in Art. 436 of *War propaganda* and in Art. 300: *Importation, production or distribution of works promoting the cult of violence and cruelty, racial, national or religious intolerance and discrimination* of the Criminal Code of Ukraine provides for quite stable criminal liability, since there have been no special changes in

12 Ryan-Mosley T. How generative AI is boosting the spread of disinformation and propaganda / MIT Technology Review. October 4, 2023. URL: <https://www.technologyreview.com/2023/10/04/1080801/generative-ai-boosting-disinformation-and-propaganda-free-doom-house/> (date accessed: 10.12.2023).

13 Leloup D., Reynaud F. Inside Vulkan, the digital weapons factory of Russians intelligence services / Le Monde. March 30, 2023, at 5:00 pm (Paris). URL: https://www.lemonde.fr/en/pixels/article/2023/03/30/inside-vulkan-the-digital-weapons-factory-of-russian-intelligence-services_6021230_13.html (date accessed: 10.12.2023).

14 Международная конвенция об использовании радиовещания в интересах мира : подпис. Генассамблеей ООН 23.09.1936 г. ; ратифиц. Президиум. ВС СССР 17.09.1982 г. с оговорк. и заявл. URL: https://zakononline.com.ua/documents/show/141016___141016 (date accessed: 10.12.2023).

15 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 10.12.2023).

these rules regarding the definition of propaganda¹⁶. The rest of provisions of this Code do not stipulate such liability. Due to anti-communist, anti-national-socialist, European integration vector of Ukraine's development and the beginning of Russian aggression against Ukraine, the number of criminal offenses in the form of propaganda has increased significantly.

In paragraph 2, Part 1 of Art. 1 of the Law of Ukraine: *On Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and the Prohibition of Propaganda of Their Symbols*, which has a direct connection and mention of it in Art. 436¹ of Criminal Code of Ukraine, the following definition of propaganda of the communist and national socialist (Nazi) totalitarian regimes is given: "Public denial, in particular through the media, of the criminal nature of the communist totalitarian regime of 1917–1991 in Ukraine, the national socialist (Nazi) totalitarian regime, dissemination of information, aimed at justifying the criminal nature of the communist, national socialist (Nazi) totalitarian regimes, the activities of the Soviet state security bodies, the establishment of Soviet power on the territory of Ukraine or in separate administrative and territorial units, the persecution

of participants in the struggle for the independence of Ukraine in the 20th century, production and/or distribution, as well as public use of products containing symbols of communist, national socialist (Nazi) totalitarian regimes"¹⁷.

In 2021, Ukrainian legislators provided for criminal liability for propaganda of actions that have signs of cruelty to animals (Article 299 of Criminal Code of Ukraine¹⁸), although they did not formulate a definition of propaganda¹⁹.

Since the beginning of the Russian aggression against Ukraine, collaborative activities have been criminalized and liability has been provided for "implementation by a citizen of Ukraine of propaganda in educational institutions, regardless of types and forms of ownership, in order to facilitate implementation of armed aggression against Ukraine, establishment and approval of temporary occupation of part of the territory of Ukraine, avoidance of responsibility for implementation by aggressor State of armed aggression against Ukraine, as well as the actions of citizens of Ukraine aimed at implementing the educational standards of the aggressor State in educational institutions" (Part 3 of Art. 111¹ of the Criminal Code of Ukraine)²⁰.

16 Кримінальний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 10.12.2023).

17 Про засудження комуністичного та націонал-соціалістичного (нацистського) тоталітарних режимів в Україні та заборону пропаганди їхньої символіки : Закон України від 09.04.2015 р. № 317-VIII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/317-19#Text> (date accessed: 10.12.2023).

18 Кримінальний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 10.12.2023).

19 Про внесення змін до деяких законодавчих актів України щодо імплементації положень деяких міжнародних угод та директив Європейського Союзу у сфері охорони тваринного та рослинного світу : Закон України від 15.07.2021 р. № 1684-IX. URL: <https://zakon.rada.gov.ua/laws/show/1684-20#n42> (date accessed: 10.12.2023).

20 Про внесення змін до деяких законодавчих актів України щодо встановлення кримінальної відповідальності за колабораційну діяльність : Закон України від 03.03.2022 р. № 2108-IX. URL: <https://zakon.rada.gov.ua/laws/show/2108-20#Text> (date accessed: 10.12.2023) ; Кримінальний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 10.12.2023).

Obvious connection between propaganda and war crimes cannot be denied, as international researchers also point out ²¹. Thus, in the reference publication: *International Humanitarian Law. The General Course* by N. Meltser issued by the International Committee of the Red Cross, emphasizes that the state that carries out the occupation cannot use propaganda aimed at voluntary entry into the occupation forces ²². Article 51 of Geneva Convention relative to the Protection of Civilian Persons in Time of War states that “an Occupying Power shall not have the right to compel protected persons to serve in its armed or auxiliary forces” ²³.

Additional Protocol I to Geneva Conventions stipulates that the parties to the conflict must take all practicable measures to ensure that children under the age of 15 do not take direct part in hostilities: the parties must refrain from recruiting them to their armed forces. In the case of recruitment from among persons who have attained the age of 15 but who have not yet attained the age of 18, the parties to the conflict shall give preference to persons of an older age. And already in the II additional protocol to the Geneva Conventions it is stated that “children who have not reached the age of fifteen are not subject to recruitment into armed forces or groups, and they are not allowed to participate in hostilities”, but

in this case it is not about prohibition of propaganda. Among the customs of war, it is also noted that “children should not be recruited into armed forces or armed groups” (norm 136) ²⁴.

Therefore, we can conclude that war propaganda is a criminal offense similar to war crimes, but it is not directly recognized as a war crime. Only if there are signs of coercion or recruitment, it is possible to raise the question of committing a war crime that violates the laws and customs of war (Article 438 of Criminal Code of Ukraine). In practice, unfortunately, there are cases of arbitrary interpretation of coercion as propaganda. Thus, the Podilskyi District Court of Kyiv convicted a person for promoting service in the army of occupying state: Russian Federation. The court, referring to Art. 51 of the Geneva Convention on the Protection of the Civilian Population in Time of War, interpreted individual statements in the mass media and other activities of the defendant in the city of Sevastopol and AR Crimea as propaganda and a violation of the laws of warfare ²⁵. This example demonstrates the need to distinguish not only war crimes and other crimes against peace, human security and international legal order, but the concepts of *propaganda*, *coercion*, and *recruitment*.

For formation of criminal policy in the field of digital counteraction to propaganda during the war, it is

21 Saxon D. Propaganda as a Crime Under International Humanitarian Law: Theories and Strategies for Prosecutors / Propaganda, War Crimes Trials 24 p.

22 Мельцер Н. Указ. соч. С. 420.

23 Женевська конвенції про захист цивільного населення під час війни : прийнята 12.08.1949 р. ; ратифік. Указом Президії ВР УРСР від 03.07.1954 р. [Чинна для України з 03.01.1955 р.]. URL: https://zakon.rada.gov.ua/laws/show/995_154#n1507 (date accessed: 10.12.2023).

24 Хенкертс Ж.-М., Досвальд-Бек Л. Указ. соч. С. 617. URL: <https://www.icrc.org/ru/doc/assets/files/other/customary.pdf> (date accessed: 10.12.2023).

25 Вирок Подільського райсуду м. Києва від 15.06.2023 р. Справа № 758/16427/21. Провадження № 1-кп/758/422/23.

important not only to determine propaganda forms in international and national terms, their criminal legal qualification, the application of sanctions and punishments, but other means used to prevent such propaganda, its detection and prosecution.

Nowadays, governments and political players in both democratic and autocratic countries use artificial intelligence to create texts, photos and videos to manipulate public opinion in their favor and automatically censor critical online content.

Therefore, countering wartime propaganda in digital space and with artificial intelligence use and other digital tools is an important part of criminal policy. For example, with the start of full-scale war against Ukraine in 2022, TikTok began selectively flagging accounts run by Russian State propaganda agencies to inform users that they were exposed to Kremlin disinformation. It is difficult to say what exactly caused such a selection, since a significant number of accounts with millions of subscribers were left without the appropriate marking, although there were valid reasons for this ²⁶. Freedom House researchers documented 22 countries that have passed laws requiring or encouraging online platforms to use machine learning to remove unwanted online speech ²⁷.

In view of the above, we see the need to form a digital toolkit to counter propaganda of war that can contain a variety of technologies and software solutions that will help to detect, analyze and control propaganda content. Among

such digital tools, the following can be distinguished:

- machine learning and artificial intelligence algorithms capable of analyzing significant amounts of data and detecting patterns characteristic of propaganda messages, containing text, photo and video analysis;
- tools for verifying the truthfulness of the facts presented (platforms for verifying information, such as *Snopes*, *FactCheck.org*, etc. allow you to verify the accuracy of news and information distributed on the network);
- tools for detecting fake news (specialized software that uses linguistic (language) models and other technologies to identify potentially false, fake content);
- browser extensions (tools that are integrated directly into web browsers and help users identify unreliable sources of information and fake news);
- social networks and platforms (implementing their own content moderation tools to combat disinformation and propaganda, using both algorithms and human verification);
- educational platforms and initiatives (training programs and resources aimed at improving digital literacy and critical thinking in order to develop public skills to distinguish manipulative content);
- analytical tools for researching and analyzing trends, identifying

26 Klepper D. TikTok propaganda labels fall flat in 'huge win' for Russia / AP News. March 30, 2023. 5:44 pm GMT +2. URL: <https://apnews.com/article/tiktok-russia-propaganda-labels-ukraine-kremlin-china-88ecd866a2c34218ebbaccb45e435c12> (date accessed: 10.12.2023).

27 Ryan-Mosley T. Ibidem. URL: <https://www.technologyreview.com/2023/10/04/1080801/generative-ai-boosting-disinformation-and-propaganda-freedom-house/> (date accessed: 10.12.2023).

patterns, certain narratives, tracing marks in the dissemination of information on Internet, including propaganda and disinformation trends.

Relevance and the initial stage of implementation of these tools can be evidenced by the *Procedure for the Functioning of the Information and Analytical Platform for Electronic Verification and Monitoring* approved in 2021²⁸.

It is especially important to develop digital means of countering war propaganda containing a variety of technologies and methods aimed at identifying, analyzing and blocking or neutralizing propaganda materials. We have analyzed international practice on this issue and consider it appropriate to single out the following areas of the formation of digital means of countering war propaganda:

- monitoring of social networks by using machine learning algorithms to detect and analyze propaganda messages in social networks, telegram channels, etc. (analysis of text, photos and videos for the presence of distorted or manipulative information);
- fact-checking and verification of information through the development of platforms and tools for fact-checking and verification of sources of information that can include cooperation with independent fact-checking institutions;
- recognition of fake news by using artificial intelligence algorithms to identify the falsity of such news and manipulative content

(analysis of text structure, sources of information and linguistic specifics of presentation);

- digital literacy and education by launching educational campaigns and training programs to increase the level of digital literacy of citizens that will help them critically evaluate information;
- cooperation with technology companies by establishing partnerships with companies: developers of social media and other platforms to implement algorithms and rules that prevent the spread of propaganda and misinformation;
- use of legal mechanisms, introduction of legislative initiatives and measures aimed at preventing propaganda and punishing its dissemination;
- international cooperation with international non-governmental organizations and governments of other countries to coordinate efforts in the fight against military propaganda.

Criminal policy in the field of digital countering propaganda during war has an important legal significance, since its implementation affects the establishment of Ukraine as an independent, democratic and legal state. The introduction of a separate criminal policy in the field of digital counter-propaganda will make it possible to gradually and planned counter as propaganda as war in general. Legal, economic, informational and other countermeasures against digital propaganda can have a positive effect that minimizes and neutralizes the

28 Порядок функціонування інформаційно-аналітичної платформи електронної верифікації та моніторингу : затв. наказом Мінфіна України від 26.07.2023 р. № 428. URL: <https://zakon.rada.gov.ua/laws/show/z1186-21#Text> (date accessed: 10.12.2023).

informational impact of its spread. One should agree with P. Doichynovych, who asserts the need to distinguish between war propaganda, which can lead to the commission of war crimes, crimes against humanity and genocide, as in the cases mentioned above, and war propaganda, which leads to the crime of aggression²⁹. This important emphasis also demonstrates the similarity of propaganda to the crime of aggression in the international legal sense and national criminal law (Article 437 *Planning, preparation, initiation and waging of an aggressive war* of Criminal Code of Ukraine³⁰). This is confirmed by the presence of propagandists in the list of suspects in the February 24 capital case³¹.

Conclusions

Criminal policy in the field of digital counteraction to propaganda during the war should include a set of measures aimed at preventing propaganda (activities aimed at spreading disinformation, manipulating public opinion and inciting hatred during the military conflict), its detection, prosecution and punishment.

Highlights of this policy can include:

- 1) legislative regulation (adoption of clear legal norms defining propaganda as a crime, especially in the context of military conflicts);
- 2) media monitoring and analysis (creation of systems for monitoring media content in order to identify and control the dissemination of propaganda materials);

- 3) international cooperation (cooperation with international organizations and other States to combat cross-border propaganda and disinformation);
- 4) imposition of sanctions (application of punishments, including criminal liability, to persons and organizations guilty of spreading military propaganda or disinformation);
- 5) educational work (conducting an information campaign among the population to raise awareness of the risks and consequences of military propaganda and importance of critical information perception);
- 6) protection of human rights (measures to counter propaganda should not violate fundamental human rights and freedoms, including freedom of speech and expression).

Criminal policy in the field of digital counterpropaganda during the war requires a balanced approach to protecting national security and democratic values (taking into account the digital context) while respecting fundamental rights and freedoms of citizens.

Кримінальна політика у сфері цифрової протидії пропаганді під час війни

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Кримінальна політика у сфері цифрової протидії пропаганді під час війни передбачає передусім визначення пропаганди та її форм на міжнародному й національному рівнях. Виявлення різних

29 Куренкова О. Оп. cit. URL: <https://suspilne.media/325738-nacisti-pragnuli-velikoi-nimecci-ni-kreml-stvorennia-velikoi-rosii-kostom-ukraini-urist-predrag-dojcinovic/> (date accessed: 10.12.2023).

30 Кримінальний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 10.12.2023).

31 Список підозрюваних магістральної справи «24 лютого» / Офіс Генпрокурора : офіц. сайт. URL: <https://gp.gov.ua/detectable> (date accessed: 10.12.2023).

форм пропаганди, класифікованих як кримінальні правопорушення, що посягають на основи національної безпеки, громадський порядок і безпеку, а також мир і безпеку людства та міжнародний правопорядок, сьогодні є надзвичайно актуальним. Найбільш небезпечною формою пропаганди є пропаганда війни. Пропаганда війни — це окреме кримінальне правопорушення, яке посягає на мир і безпеку людства та міжнародний правопорядок. Пропаганда війни є кримінальним правопорушенням, подібним до злочину агресії та воєнних злочинів, що потребує їхнього відмежування. Стрімкий технологічний розвиток та експансія цифрового простору диктують нові тенденції, на які доцільно зважати, формуючи кримінальну політику у сфері цифрової протидії пропаганді під час війни. Захист національної безпеки й демократичних цінностей потребує збалансованого підходу: застосування цифрових засобів не має порушувати основних прав і свобод громадян. Дослідженню кримінальної політики у сфері цифрової протидії пропаганді під час війни сприяло використання комплексу наукових методів: 1) логіки (для характеристики пропаганди та її видів, визначення цифрових засобів протидії цьому явищу); 2) філософського (із метою пошуку філософського підґрунтя протидії пропаганді); 3) історико-правового (під час аналізу історико-правового досвіду протидії пропаганді в умовах війни); 4) формально-логічного (для конструювання кримінальної політики у сфері цифрової протидії пропаганді під час війни); 5) порівняльно-правового (під час порівняння реалізації кримінальної політики в Україні й інших державах).

Ключові слова: кримінальна політика; протидія кримінальним правопорушенням; цифрові засоби протидії кримінальним правопорушенням; пропаганда; пропаганда війни.

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Authors declare no conflict of interest.

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