

Запропоновано визначення «особистої безпеки» під час виконання/відбування покарання – це стан захищеності життя і здоров'я, честі та гідності, недоторканності засуджених, персоналу органів і установ виконання покарань та інших осіб від потенційних та уявних загроз і небезпек, зумовлених специфікою функціонування кримінально-виконавчої системи.

Наведено авторське визначення поняття «право засуджених на особисту безпеку» – це сукупність гарантованих державою в особі посадових осіб органів і установ виконання покарань (через визначення низки зобов'язань з боку персоналу) правомочностей засуджених на життєдіяльність в умовах відсутності небезпеки, а також на захист їх життя і здоров'я від різних форм насильства та інших небезпек життю і здоров'ю при виконанні/відбуванні покарання у виді арешту, обмеження волі, тримання в дисциплінарному батальйоні військовослужбовців або позбавлення волі.

Ключові слова: безпека, небезпека, загроза, особиста безпека, право засуджених на особисту безпеку.

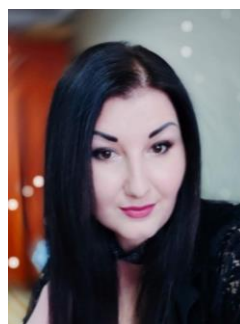
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SOME ISSUES OF CRIMINOLOGICAL CHARACTERISTICS OF FEMALE CRIME IN UKRAINE

Abstract. Some components of the criminological characteristics of women's crime and its place in the structure of general crime have been studied. It was found that over the last five years, despite the fact that the total number of convicts is gradually decreasing, the share of women among all persons convicted of criminal offenses remains in the ratio of men to 1 to 7, remaining at the level of 11-12%.

Among the criminal offenses committed by women, the most common are traditionally such illegal encroachments on property as theft (in 2020 - 53.7% of the total number of convicted women). In second place are criminally illegal acts related to the illegal production, manufacture, acquisition, storage, transportation or transfer of narcotic drugs, psychotropic substances or their analogues without the purpose of sale. And such criminal acts as fraud and misappropriation, embezzlement or seizure of another's property by an official abusing his official position are characterized by a fairly high proportion of their commission by women.

Keywords: criminological characteristics, female crime, structure of female crime.

Relevance of the study. For criminology, the characteristics of the offender is one of the most important issues that requires constant attention. Because the development of appropriate and effective measures to prevent any type of criminal offense must take into account the specific features, properties and qualities that distinguish criminals from law-abiding citizens. And it is the generalized criminological characteristics of certain types and categories of criminals allows to identify their specific features and qualities that contribute to the commission of criminal offenses, to identify criminogenic groups, as well as to predict the criminal behavior of individuals [1, p. 42]. In this context, it will be important to consider individual characteristics of crime among women as part of general crime. Because "a woman

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is the caregiver of the home", influences the behavior of the husband and the upbringing of children, it is mainly she who determines the relationship in the family.

Therefore, it is no exaggeration to say that the involvement of women in criminal activities and the prevalence of female crime affects the morale of society more significantly than the prevalence of male crime [2, p. 114]. It should also be noted that for criminology, the analysis of criminals by gender is of considerable interest, because, although female crime is closely linked to general crime, at the same time, it has certain features determined by the socio-biological and psychological status of women. From men's crime, which dominates in almost all indicators of general crime, women's crime differs in quantitative indicators, features of the structure and nature of crimes, the role of women in crimes committed with men, methods and tools of crime [3, p. 189]. Moreover, modern women's crime has a qualitatively new character. Often a woman not only leads a criminal group, but also organizes and commits the most brutal and sophisticated crimes [4]. At the same time, the opinion of O. Nadion is fair, that the crime rate among women is a kind of indicator of the health of public life [5]. In view of the above, the study of the components of criminological characteristics and current trends in crime among women in Ukraine is a very important issue that requires constant attention from domestic scientists [1-14].

Recent publications review. Scientists are almost unanimous in their general assessment of female crime in Ukraine. Thus, according to O. Bronevytska and I. Serkevich "Recently, there has been an increase in female crime in Ukraine, especially with regard to criminal offenses of an aggressive and violent nature, namely: robberies, banditries, infliction of grievous bodily harm. Female crime in Ukraine has doubled since the 2000s. The rate of criminal activity of women is of interest. Despite the upward trend, it is still much lower than among men, and even more so among the general population. For example, if in the 2000s per 100,000 population the rate of criminal activity of women was 97 people, in 2010 - 190. The ratio of female to male crime is 1: 8 (in more developed countries, the number of crimes committed by women, is from 17% (USA) to 25% (Germany, the Netherlands). The proportion of women among those who commit certain types of criminal offenses is as follows: theft - 80%; fraud - 41%; murder - 12%; robbery - 8%; infliction of bodily injuries - 7%; negligent crimes - 5%" [4; 6, p. 323].

In addition, A. Belikova sees the uniqueness of female crime in the fact that despite the changing social status of women, especially in the last decade, the number of registered criminal offenses committed by women is 5-7 times lower than the same figure among men. This trend is of particular interest, given that the number of women in the country exceeds the number of men [7, p. 117]. If we turn to the data of judicial statistics, the above theses will be confirmed. Thus, according to the Reports on the composition of convicts in 2016, out of 76,217 convicts, women accounted for 11.69%, in 2017 - 11.27% (76,804 convicts), in 2018 - 11.8% (73,569 convicts), in 2019 - 12.2% (70,375 convicts) and in 2020 - 12.3% (67,517 convicts) [8]. That is, over the last five years, despite the fact that the total number of convicts is gradually decreasing, the share of women among all persons convicted of criminal offenses remains in the ratio of men as 1 to 7, remaining at 11-12%.

The article's objective is to determine the place of women's crime in the general structure of crime, as well as to find out the structure and features of women's crime in Ukraine.

Discussion. One of the reasons for this ratio is that "female crime is blurred, because, firstly, some crimes are committed by women in complicity with men, and secondly, a significant number of men's crimes are committed by women: either as instigators or accomplices, which, as a rule, are not exposed and not prosecuted. Women play a role that is not criminalized by criminal law: consumers of criminally acquired property, provocateurs of the development of certain needs and interests that are satisfied in a deviant way, etc." [2, p. 115]. That is, we can conclude that female crime is characterized by a higher level of latent crime than male. Official statistics do not single out female crime as a separate category, but shows only the number of women who have committed criminal offenses and the number of women convicted of criminal offenses. However, these data are of some interest to criminology, as they can be used to determine the share of women among all criminals, as well as the structure of crime among women. So, in this publication, we will try to find out which groups of criminal offenses are typical for women by analyzing the data of judicial statistics. To do this, we first consider the data on the share of women among all persons convicted of criminal offenses under separate sections of the Special Part of the Criminal Code of Ukraine (hereinafter - the Criminal Code), for the period 2016 - 2020 (Table 1).

Table 1

The share of women among the total number of convicts under sections of the Special Part of the Criminal Code

<i>Names of sections of the Special Part of the Criminal Code</i>	<i>The total number of convicts</i>	<i>The number of female convicts</i>	<i>The share of women among convicts under the articles of the relevant section</i>
Crimes against the foundations of national security of Ukraine	630	351	55,7%
Criminal offenses against life and health of a person	30987	3911	12,6%
Criminal offenses against the will, honor and dignity of the person	62	15	24,4%
Criminal offenses against sexual freedom and sexual integrity of a person	672	10	1,5%
Criminal offenses against electoral, labor and other personal rights and freedoms of man and citizen	4464	476	10,7%
Criminal offenses against property	197936	27579	13,9%
Criminal offenses in the sphere of economic activity	3710	662	17,8%
Criminal offenses against the environment	3617	48	1,3%
Criminal offenses against public safety	14420	512	3,6%
Criminal offenses against production safety	369	33	8,9%
Criminal offenses against traffic safety and transport operation	18476	582	3,2%
Criminal offenses against public order and morality	7434	917	12,3%
Criminal offenses in the field of drug trafficking, psychotropic substances, their analogues or precursors and other criminal offenses against public health	49933	5063	10,1%
Criminal offenses in the field of protection of state secrets, inviolability of state borders, provision of conscription and mobilization	2113	29	1,4%
Criminal offenses against the authority of public authorities, local governments, associations of citizens and criminal offenses against journalists	6299	1156	18,4%
Criminal offenses in the field of use of computers, systems and computer networks and telecommunication networks	221	31	14%
Criminal offenses in the field of official activity and professional activity related to the provision of public services	4214	618	14,7%
Criminal offenses against justice	6381	811	12,7%
Criminal offenses against the established order of military service (military criminal offenses)	12395	86	0,7%
Criminal offenses against peace, security of mankind and international law and order	38	3	7,9%
TOTAL	364371	42893	11,8%

The analysis of the above data shows that the share of women significantly exceeds the average ratio of the number of convicted men among those convicted of crimes against the foundations of national security of Ukraine. While the share of convicted women is much lower than the average for committing criminal offenses: against sexual freedom and sexual integrity; against the environment; against traffic safety and transport operation; in the field of protection of state secrets, inviolability of state borders, ensuring conscription and mobilization; against the established order of military service. The above data are confirmed by the thesis of I. Kiselyov and V. Ludvik that "the percentage of women and men depends on a particular type of criminal behavior" [9, p. 117]. As A. Belikova notes: "in women's crime the ratio of crimes is in a proportion different from men's crime. The crimes of women are most reflected in the stereotype of their behavior, which has developed under the influence of a characteristic micro-environment or situation in a certain period" [7, p. 117]. So, let's find out

now what is the structure of the population of women convicted of criminal offenses and compare this structure with the structure of the population of convicted men (Table 2).

Table 2

Comparison of the shares of women and men convicted under sections of the Special Part of the Criminal Code in total for the period 2016-2020

<i>Names of sections of the Special Part of the Criminal Code</i>	<i>The share of women convicted under the articles of the relevant section among the total number of convicted women</i>	<i>The share of men convicted under the articles of the relevant section among the total number of convicted men</i>
Crimes against the foundations of national security of Ukraine	0,82%	0,09%
Criminal offenses against life and health of a person	9,12%	8,42%
Criminal offenses against the will, honor and dignity of the person	0,03%	0,01%
Criminal offenses against sexual freedom and sexual integrity of a person	0,02%	0,21%
Criminal offenses against electoral, labor and other personal rights and freedoms of man and citizen	1,11%	1,24%
Criminal offenses against property	64,30%	52,99%
Criminal offenses in the sphere of economic activity	1,54%	0,95%
Criminal offenses against the environment	0,11%	1,11%
Criminal offenses against public safety	1,19%	4,33%
Criminal offenses against production safety	0,08%	0,10%
Criminal offenses against traffic safety and transport operation	1,36%	5,57%
Criminal offenses against public order and morality	2,14%	2,03%
Criminal offenses in the field of drug trafficking, psychotropic substances, their analogues or precursors and other criminal offenses against public health	11,80%	13,95%
Criminal offenses in the field of protection of state secrets, inviolability of state borders, provision of conscription and mobilization	0,07%	0,65%
Criminal offenses against the authority of public authorities, local governments, associations of citizens and criminal offenses against journalists	2,70%	1,60%
Criminal offenses in the field of use of computers, systems and computer networks and telecommunication networks	0,07%	0,06%
Criminal offenses in the field of official activity and professional activity related to the provision of public services	1,44%	1,12%
Criminal offenses against justice	1,89%	1,73%
Criminal offenses against the established order of military service (military criminal offenses)	0,20%	3,83%
Criminal offenses against peace, security of mankind and international law and order	0,01%	0,01%
TOTAL	100%	100%

From the above data, in particular, it follows that the largest number of convicted women are persons convicted of criminal offenses against property. According to this indicator, they predominate in the structure of the total number of convicted men. This partially confirms the thesis that "female crime is mostly characterized by mercenary crimes, in particular, related to professional activities" [10, p. 108].

There are two areas of life in which women mostly commit criminal offenses. The first is the sphere of life, where women are mostly pushed to crime by the negative circumstances of family, marriage and neighborly relations. Here, most violent crimes are committed: murder, infliction of bodily harm, hooliganism, etc. [2, p. 189]. According to D. Sliusar "violent

criminal offenses are committed by women, mostly against men, cohabitants, children, close relatives. Motives - unresolved family conflicts, the desire to leave the family, to benefit" [10, p. 108]. For example, in 2020, out of a total of 8296 convicted women, 479 or 5.8% were convicted of light bodily harm (Article 125 of the Criminal Code), and 151 or 1.8% - of intentional grievous bodily harm (Article 121 of the Criminal Code).

And the second area of committing criminal offenses is the area where a woman works, performs professional functions related to the possibility of free access to property. These are mostly trade, catering, agriculture, light or food industries. Here women most often commit such mercenary crimes as theft of property by theft, misappropriation, embezzlement or abuse of office [11, p. 152].

For example, the share of convicted women among all persons convicted of misappropriation, embezzlement or seizure of another's property by an official abusing his official position, responsibility for which is provided in Article 191 of the Criminal Code remains quite high. In 2016, it was 45.8%, in 2017 – 33.7%, in 2018 – 39.1%, in 2019 – 46.5% and in 2020 - 46.4%. D. Sliusar explains this by saying that "embezzlement occurs not so much because of the easy availability of material values, but because of the inability to earn enough money to purchase various goods. In the difficult economic conditions of modern society, it is the woman who becomes the "breadwinner" of the family, which, of course, imposes on her additional mental and physical stress, which often leads to nervous breakdown" [10, p. 108].

In addition, many women, unable to withstand heavy physical exertion at low-paid jobs, as well as the low prestige of such work, quit it and / or start using alcohol or drugs. That is, the inability to meet material needs through hard physical labor and low wages, the need to satisfy the ever-increasing desire to drink alcohol or drugs, provokes mercenary motivation in women. And "the peculiarity of mercenary motivation is that the subject of the urgent need of women criminals is someone else's material value, which is obtained illegally, for example, by theft. It should be noted that this group of crimes is undergoing "qualitative" changes, i.e. if 10-15 years ago women committed thefts of state, public or collective property, now most of the thefts of citizens' property take place. The most common items of theft are valuables: mobile phones, appliances, jewelry, clothing and money. The decline in living standards leads to more primitive thefts, namely: children's things, food, perfume, alcohol, metal utensils, non-ferrous metals" [12, p. 48]. Statistics confirm these theses.

Thus, in 2020, the share of women among all persons convicted of committing a criminal offense under Part 1 of Article 185 of the Criminal Code "Theft" was 23.7%, and for committing a criminal offense under Part 1 of Article 190 of the Criminal Code "Fraud" the share of women in general is 35.5%. While for robbery, the share of women among all convicts was only 4.9%, and robbery – in general 3.9%. Moreover, in general, among all convicted women, women convicted of theft predominate: in 2020 – 4457 people or 53.7%. While the category of women convicted of committing a criminal offense under Article 190 of the Criminal Code "Fraud" took third place (516 people or 6.2%). A typical example is a criminal offense committed by a 25-year-old unemployed resident of Poltava, who has already been convicted three times for theft. While in her cohabitant's apartment, she saw his mother's leather jacket worth 450 hryvnias. and decided to steal it. Taking the jacket, she climbed out the window with it and sold it for UAH 10. to an unknown man [13, 14].

In addition, it should be noted that one of the most common moral and psychological traits of women criminals is alcohol and drug addiction [3, p. 190]. For example, in 2020, 621 women (7.5% of the total number of convicted women) were convicted of a criminal offense under Article 309 of the Criminal Code "Illegal production, manufacture, acquisition, storage, transportation or transfer of narcotic drugs, psychotropic substances or their analogues without the purpose of sale ". With this indicator, this category of women took second place among all convicted women.

Conclusions. Thus, over the last five years, despite the fact that the total number of convicts is gradually declining, the proportion of women among all persons convicted of criminal offenses remains at a ratio of men to 1 to 7, remaining at 11-12%.

Among the criminal offenses committed by women, the most common are traditionally such illegal encroachments on property as theft (in 2020 – 53.7% of the total number of convicted women). In second place are criminally illegal acts related to the illegal production, manufacture, acquisition, storage, transportation or transfer of narcotic drugs, psychotropic substances or their analogues without the purpose of sale. And such criminal acts as fraud and misappropriation, embezzlement or seizure of another's property by an official abusing his

official position are characterized by a fairly high proportion of their commission by women.

In addition, the question of why, among all criminal offenses in the last five years, the largest share of women, compared to men, were convicted of crimes against the foundations of national security of Ukraine – 55.7%, deserves a deeper study. Moreover, in none of the other groups of criminal offenses, the number of convicted women exceeds the number of men. This advantage of women is mainly due to the commission of a crime under Article 110 of the Criminal Code "Encroachment on the territorial integrity and inviolability of Ukraine", as among 533 people convicted of this crime in the period 2016-2020, there were 343 women (64.4%). The trend towards the above advantage began in 2018, when the share of women was 71%, and continued in 2019 (72% of women) and 2020 (72% of women).

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ДЕЯКІ ПИТАННЯ КРИМІНОЛОГІЧНОЇ ХАРАКТЕРИСТИКИ
ЖІНОЧОЇ ЗЛОЧИННОСТІ В УКРАЇНІ

Досліджено окремі складові кримінологічної характеристики жіночої злочинності та її місце у структурі загальної злочинності. З'ясовано, що за останні п'ять років, незважаючи на те, що загальна кількість засуджених осіб поступово зменшується, частка жінок серед усіх осіб, яких засуджено за вчинення кримінальних правопорушень, залишається у співвідношенні до чоловіків як 1 до 7, утримуючись на рівні 11-12%.

Встановлено, що серед кримінальних правопорушень, що вчиняють жінки, найбільш розповсюдженими традиційно залишаються такі протиправні посягання на власність, як крадіжки (у 2020 р. – 53,7% від загальної кількості засуджених жінок). На другому місці перебувають кримінально протиправні діяння, пов'язані із незаконним виробництвом, виготовленням, придбанням, зберіганням, перевезенням чи пересиланням наркотичних засобів, психотропних речовин або їх аналогів без мети збуту А таким злочинним діянням як шахрайства та привласнення, розтрати або заволодіння чужим майном шляхом зловживання службовою особою своїм службовим становищем є властивим достатньо висока частка їх вчинення жінками.

Наголошується на необхідності дослідження питання того, чому серед усіх кримінальних

правопорушень, за останні п'ять років, найбільшу частку жінок, порівняно з чоловіками, засуджено за вчинення злочинів проти основ національної безпеки України – 55,7%. При чому, у жодній з інших груп кримінальних правопорушень сукупно, кількість засуджених жінок не переважає кількості чоловіків. Така перевага жінок складається в основному за рахунок вчинення ними злочину, передбаченого ст.110 КК «Посягання на територіальну цілісність і недоторканність України», оскільки серед 533 осіб, засуджених за вчинення цього злочину, за період 2016-2020 рр., було 343 жінки (64,4%). Тенденції до вищезазначеної переваги почалися з 2018 р., коли частка жінок склала 71%, і продовжилась у 2019 р. (72% жінок) та 2020 р. (72% жінок).

Ключові слова: кримінологічна характеристика, жіноча злочинність, структура жіночої злочинності.

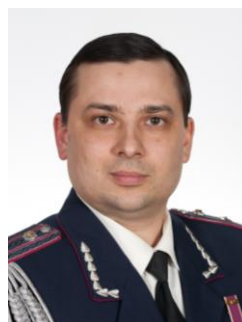
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FOREIGN EXPERIENCE OF CRIMINAL LEGAL PROTECTION OF PRIVACY

Abstract. The authors have studied international practice, as well as the experience of some foreign member states of the European Union in criminal law protection of privacy. The peculiarities of regulating the objective features of the criminal offense of "Violation of privacy" in the Criminal Code of Ukraine, as well as in the criminal law of the United States, the French Republic, Switzerland, the Kingdom of Spain, Poland, Bulgaria.

They emphasized the multifaceted nature of the right to privacy in accordance with the provisions of international human rights law, as well as the need to improve domestic legislation in this area through the introduction of unified terminology.

Keywords: *privacy; violation of privacy; violation of the inviolability of the home; criminal offenses that infringe on privacy; confidential personal information.*

Relevance of the study. The urgency of scientific and theoretical development of the selected issues is primarily due to the urgent need to ensure proper criminal and legal protection of privacy in Ukraine in accordance with generally accepted international practice, as well as taking into account foreign experience in this field. In addition, the results of the analysis of official statistical reports on the results of the investigation of criminal offenses under Article 182 of the Criminal Code of Ukraine "Violation of the right to privacy" show that only a few percent of them were sent to court with indictments. In particular, in the period from 2016 to 2020, 968 such criminal proceedings were opened in Ukraine and only 39 (4%) of them were sent to court with an indictment, namely: in 2016 - 141 criminal proceedings were opened under Art. 182 of the Criminal Code of Ukraine, of which 4 (3%) were sent to court with indictments; in 2017, 151 and 0 (0%), respectively; in 2018 – 177 and 1 (0.5%); in 2019 – 210 and 23 (11%); in 2020 – 289 and 11 (4%) [1]. Therefore, the problems of criminal law

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