

**KUZMIN EDUARD**

*National University “Odesa Law Academy”,  
Associate Professor at the Department of Criminal Law,  
Candidate of Science of Law*

**THE GENERAL PART OF THE CRIMINAL CODE OF UKRAINE:  
A BRIEF OVERVIEW OF THE NEW WARTIME AMENDMENTS**

Since the very imposition of martial law in Ukraine on February 24, 2022, a total of twelve Laws of Ukraine has been adopted, introducing numerous revisions and additions to the current Criminal Code of Ukraine, whereas only five of them were particularly designed to modify or interfere with the provisions of the General Part of the Code [6].

The initial change phase has been focused on the peculiarities of the imposition of such type of punishment as deprivation of the right to occupy certain positions or engage in certain activities with regard to the conditions in which it is imposed, as well as its duration. So, with the Law’s of Ukraine “On Amending Certain Legislative Acts of Ukraine regarding the Establishment of Criminal Liability for Collaborative Activity” entry into force, the possibility of its imposition as a principal or an additional punishment for a term of ten to fifteen years for committing such a criminal offence against national security of Ukraine as collaborative activity was provided [1]. At the same time, the changes also affected the grounds for applying criminal law measures to legal entities, enabling an option to apply such type of criminal law measures applicable to legal entities as its liquidation in case of commission by its authorised person on behalf of a legal entity of collaborative activity [1].

Another important innovation brought by the Law of Ukraine “On Amending Criminal Code of Ukraine to Strengthen Liability for Crimes against the Foundations of National Security of Ukraine under the Conditions of Martial Law” was the introduction of the stipulation that foresees a comprehensive ban on amnesty with regard to a certain category of persons[5]. This implies that those who found guilty of committing high treason and sabotage, sentences in respect of which have not entered into force may not be released from serving a sentence, and persons in respect of whom sentences have entered into force may not be completely released under the law on amnesty from serving a sentence [5; 6].

The other novelty, as amended by the Law of Ukraine “On Amending Criminal Code of Ukraine and Other Legislative Acts of Ukraine regarding the Definition of Circumstances Excluding Criminal Illegality of an Act and Providing Combat Immunity under the Conditions of Martial Law”, referred to the expansion of the list of circumstances excluding criminal illegality of an act, which, in turn, was supplemented by the new circumstance, – fulfilment of the duty to protect the Fatherland, independence and territorial integrity of Ukraine [4].

A number of significant improvements have also taken place with the enactment of the Law of Ukraine “On Amending Criminal and Criminal Procedural Codes of Ukraine regarding the Ensuring Counteraction to Unauthorized Dissemination of Information on the Direction, Movement of Weapons, Armaments and Ammunitions to Ukraine, Movement, Displacement or Deployment of the Armed Forces of Ukraine or Other Formed in Accordance with the Laws of Ukraine Military Formations, Committed under Martial Law or State of Emergency”, notably in the area of the discharge from criminal liability due to statute of limitations, imposing a punishment for unconsummated criminal offence and offence committed in complicity, and once again the grounds for applying criminal law measures to legal entities [2]. Taken together, these have led to the infeasibility of application of statute of limitations in case of committing such crimes against the foundations of national security of Ukraine, as unauthorized dissemination of information on the direction, movement of weapons, armaments and ammunitions to Ukraine, movement, displacement or deployment of the armed forces of Ukraine or other formed in accordance with the laws of Ukraine military formations, committed under martial law or state of emergency, the possibility of the imposition of the life imprisonment for preparation for such a crime and attempt to commit it, and also application of criminal law measures to legal entities in case of commission of such acts by its authorised person on behalf of and for the benefit of a legal entity [2; 6].

And again, the most recent changes were made in accordance with the Law of Ukraine “On Amending Criminal and Criminal Procedural Codes of Ukraine regarding the Improve of Liability for Collaborative Activity and Peculiarities of Applying Measures of Restraint for Committing Crimes against the Foundations of National and Public Security” in terms of the deprivation of the right to occupy certain positions or engage in certain activities [3]. So therefore, in a manner similar to that for a collaborative activity, the imposition of such type of punishment for a term of ten to fifteen years has also become possible for committing accessory to a state-aggressor [3; 6].

Consequently, it should be stated that, given the circumstances and conditions at the moment of the adoption of these amendments, along with their considerable number, the overall developments are essential, urgently needed and, in general, moving in the right direction in order to achieve the objective of the Criminal Code of Ukraine. However, apart from being a positive step forward, there is always a place left for the work of the quality of criminal legislation for its successful implementation, which remains a real cause of concern and results in the necessity for the further detailed analyses.

### ***References:***

1. On Amending Certain Legislative Acts of Ukraine regarding the Establishment of Criminal Liability for Collaborative Activity : Law of Ukraine on March 3, 2022 № 2108-IX. URL: <https://zakon.rada.gov.ua/laws/show/2108-20?lang=en#Text> (date of access: 07.06.2022).

2. On Amending Criminal and Criminal Procedural Codes of Ukraine regarding the Ensuring Counteraction to Unauthorized Dissemination of Information on the Direction, Movement of Weapons, Armaments and Ammunitions to Ukraine, Movement, Displacement or Deployment of the Armed Forces of Ukraine or Other Formed in Accordance with the Laws of Ukraine Military Formations, Committed under Martial Law or State of Emergency : Law of Ukraine on March 24, 2022 № 2160-IX. URL: <https://zakon.rada.gov.ua/laws/show/2160-20?lang=en#Text> (date of access: 07.06.2022).
3. On Amending Criminal and Criminal Procedural Codes of Ukraine regarding the Improve of Liability for Collaborative Activity and Peculiarities of Applying Measures of Restraint for Committing Crimes against the Foundations of National and Public Security : Law of Ukraine on April 14, 2022 № 2198-IX. URL: <https://zakon.rada.gov.ua/laws/show/2198-20?lang=en#Text> (date of access: 07.06.2022).
4. On Amending Criminal Code of Ukraine and Other Legislative Acts of Ukraine regarding the Definition of Circumstances Excluding Criminal Illegality of an Act and Providing Combat Immunity under the Conditions of Martial Law : Law of Ukraine on March 15, 2022 № 2124-IX. URL: <https://zakon.rada.gov.ua/laws/show/2124-20?lang=en#Text> (date of access: 07.06.2022).
5. On Amending Criminal Code of Ukraine to Strengthen Liability for Crimes against the Foundations of National Security of Ukraine under the Conditions of Martial Law : Law of Ukraine on March 3, 2022 № 2113-IX. URL: <https://zakon.rada.gov.ua/laws/show/2113-20?lang=en#Text> (date of access: 07.06.2022).
6. The Criminal Code of Ukraine : Law of Ukraine on April 5, 2001 № 2341-III. URL: <https://zakon.rada.gov.ua/laws/show/en/2341-14#n690> (date of access: 07.06.2022).

**Ключові слова:** воєнний час, правовий режим воєнного стану, законодавчі зміни, зміни до кримінального законодавства, Загальна частина Кримінального кодексу України.

**Key words:** wartime, martial law, legislative amendments, amendments to the criminal legislation, the General Part of the Criminal Code of Ukraine.

## **ОБODOВСЬКИЙ ОЛЕКСАНДР ВАСИЛЬОВИЧ**

*Національний університет «Одеська юридична академія»,  
доцент кафедри кримінального права, кандидат юридичних наук*

### **ПРО ПРИЗНАЧЕННЯ ПОКАРАННЯ ЗА ЗЛОЧИНИ, ПЕРЕДБАЧЕНІ ЧАСТИНОЮ ДРУГОЮ СТАТТІ 286 КК УКРАЇНИ**

У санкції частини другої статті 286 КК України передбачене одне основне покарання: покарання у виді позбавлення волі на певний строк, і строк покарання визначений у *достатньо широких межах* – від трьох до восьми років. Якщо ж врахувати, що за наявності до того