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**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE
NATIONAL UNIVERSITY OF OSTROH ACADEMY (UKRAINE)**

ERASMUS+JEAN MONET MODULE
«Self-Regulated Studies of Hybrid Threats and European Security»
Project number: 101081342 – EuroHybSec –
ERASMUS-JMO-2022-HEI-TCH-RSCH
<https://eurohybsec.oa.edu.ua/>

CONFERENCE PROCEEDINGS

**UKRAINE AND EU: TOWARD DEEP
COOPERATION IN THE SECURITY SECTOR**

INTERNATIONAL CONFERENCE
September 23-24, 2025

Ostroh
Publishing House of the National University of Ostroh Academy
2025

*Recommended for publication by the Scientific Council
of the National University of Ostroh Academy
(Minutes No. 3, dated September 25, 2025)*

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U 45 Ukraine and EU: Toward Deep Cooperation in the Security Sector: conference proceedings (Ostroh, 23-24 September 2025 p.)/ edited by Eduard Balashov. Denys Havryliuk. Ostroh: Publishing House of the National University of Ostroh Academy, 2025. 106 p.

ISBN 978-617-8041-35-9

DOI 10.25264/978-617-8041-35-9

The proceedings present materials from the reports of the participants of the international conference on the topic: Ukraine and EU: Toward Deep Cooperation in the Security Sector, which was held at the National University of Ostroh Academy within the framework of the Erasmus+ Jean Monnet Module, Self-Regulated Studies of Hybrid Threats and European Security Project (101081342 – EUROHYBSEC – ERASMUS-JMO-2022-HEI-TCH-RSCH).

Within the framework of the international conference, teachers, professors, scientists, students, experts in the field of studying hybrid threats and security studies, and representatives of civil society had the opportunity to exchange practical experience, valuable and relevant knowledge on current issues of the European security system, security policy in the EU and Ukraine, the formation of a secure space, the development of educational programs in European studies, etc.

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ON INTUITIVE DIMENSIONS OF SUBSTANTIVE CRIMINAL LAW

The dynamics of criminal justice in contemporary society increasingly reflect a profound tension between material (substantive) criminal law and intuitive (moral or emotive) criminal law. This tension not only influences public perceptions of justice but also significantly impacts the legitimacy and efficacy of legal systems.

While material criminal law is grounded in codified principles aimed at consistency, predictability, and deterrence, intuitive criminal law draws upon collective moral instincts, emotional responses, and cultural norms.

The interplay between these dimensions underscores the complexity of aligning legal frameworks with evolving societal expectations [1].

This divergence becomes particularly salient when the principle of ultima ratio: that criminal law should serve as a measure of last resort clashes with deeply held public sentiments. For instance, disproportionately lenient sentences in cases involving particularly egregious offenses often provoke moral outrage and undermine confidence in the legal system. Conversely, overly punitive measures for mala prohibita offenses acts criminalized by statute rather than inherent immorality, can generate perceptions of injustice and lead to diminished societal compliance. In both cases, the gap between legal reasoning and moral intuition challenges the legitimacy and perceived fairness of the criminal justice system.

The mediation offered by subjective criminal law serves as a critical mechanism for reconciling state-imposed legal structures with individual and collective moral judgments. It allows for interpretive flexibility and contextual sensitivity, thereby fostering public trust while maintaining the coherence of legal principles.

Such mediation is particularly important in transitional societies or in legal systems undergoing reform, where existing norms may be contested or in flux. Developing coherent criminal policy in such contexts requires a careful balancing act aligning the imperatives of legal proportionality and procedural consistency with the demands of public morality and emotional resonance [2].

This is evident in areas such as drug policy, where excessively harsh sanctions have often led to public disillusionment, resistance to enforcement, and broader conditions of legal cynicism or anomie. A failure to calibrate sanctions to both normative standards and social tolerance thresholds risks not only legal inefficacy but also a breakdown of societal trust in institutions.

Moreover, the intersection of intuitive and material criminal law frequently emerges in the context of cultural and religious pluralism. In such cases, traditional practices and belief systems may conflict with modern legal standards, particularly in areas such as gender rights, freedom of expression, and family law [3].

The resulting tensions highlight the difficulty of formulating universally applicable criminal norms without disregarding cultural specificities. Thus, criminal law must simultaneously aspire to universality and remain responsive to the ethical diversity that characterizes modern pluralistic societies.

Ukraine provides a salient illustration of these challenges, particularly as it undertakes legal reform in the context of post-conflict transitional justice and European integration. The Criminal Code of Ukraine grounds criminal liability on the Constitution and in universally recognized principles of international law.

However, the principle of legal monism embedded within domestic legislation sometimes stands in contrast to the autonomous concepts of the European Court of Human Rights (ECtHR) jurisprudence, creating interpretive tensions that

complicate the harmonization of national and international legal standards.

On EU supranational level the principle of subsidiarity, enshrined in Article 6 of the Treaty on the Functioning of the European Union (TFEU), requires that the Union act only where objectives cannot be sufficiently achieved by the Member States themselves. In the field of criminal law, this principle ensures that EU intervention complements, rather than supplants, national legal systems. By contrast, Article 86 TFEU concerns the establishment of a European Public Prosecutor's Office and, more broadly, identifies areas of serious cross-border crime that the Union may recommend for harmonized criminalization, such as terrorism, trafficking, and corruption, where shared action is necessary to protect the Union's interests. For Ukraine, prospective harmonization with EU criminal law within the framework of association and integration must respect both the limited and subsidiary nature of the EU's competence and the moral-cultural autonomy of Ukrainian criminal justice. Criminalization and penalization in Ukraine arise from its own ethical foundations, collective historical experience, and constitutional identity; thus, their adjustment to European standards should not proceed through mechanical transposition of EU norms. Instead, alignment should embody a dialogic process of adaptation, whereby the substantive values underlying EU recommendations under Article 86 TFEU are internalized in a way that accords with Ukrainian societal tolerance thresholds, normative traditions, and constitutional principles. This approach preserves the functional logic of subsidiarity while enabling Ukraine to participate in a common European space of criminal justice without eroding the cultural legitimacy of its domestic penal system.

A further complexity arises in Ukraine's application of international criminal law, particularly concerning the prosecution of war crimes and crimes against humanity.

The Rome Statute imposes temporal limitations, allowing for individual criminal responsibility for such offenses only for acts committed after January 1, 2002, and, in the case of Ukrainian

nationals, after January 1, 2032. Accordingly, crimes committed before these dates must be prosecuted under general provisions of domestic criminal law through established frameworks concerning the object, subject, objective, and subjective elements of the offense, or doctrines of preliminary criminal activity and co-participation. This creates a temporal inconsistency, as crimes against humanity, though prosecuted by the International Criminal Court (ICC) following Ukraine's 2015 declaration, were only formally incorporated into Ukrainian legislation in 2024.

Addressing such temporal and normative gaps requires robust international cooperation and sustained efforts to establish shared legal frameworks for the prosecution of universally condemned acts (*mala in se*), while also respecting the sovereignty and cultural specificities of national legal systems. Embedding ethical norms into domestic material law and enhancing its responsiveness to shifting societal values can serve to reinforce both legal legitimacy and institutional trust.

Ultimately, criminal justice systems must evolve in ways that reflect their international obligations and domestic legal principles, fostering coherent and accountable mechanisms that sustain public confidence and social order in transitional and pluralistic societies.

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