



IPR X UKRAINE WORKING GROUP ARTICLES SERIES

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Ukraine Working Group Writers

1. Title

Reforming Ukraine's Transitional Criminal Justice System in Post-War Realities: Addressing Emotional Impacts within European Integration Context

2. Policy Area and Scenario

Chosen Field: Security / Humanitarian

Hypothetical Scenario: [] Ukraine gains 1991 borders [] Ukraine returns to pre-2022 borders [X] Ukraine retains current territory [] Hybrid scenario, other, multiple (requires editor approval)

3. Background and Relevance

Ukraine's post-war reconstruction necessitates fundamental reforms to its criminal justice system. The extensive trauma experienced by society following military conflict has generated powerful emotional responses—including fear, anger, and demands for justice—that significantly influence criminal policy development. These emotions risk driving excessive criminalization that may contradict European legal principles Ukraine seeks to adopt through its EU integration process.

As Ukraine works to rebuild its institutions while managing war's aftermath, the criminal justice system must balance emotional public demands with rational policy development aligned with EU standards. This intersection of post-conflict emotions and criminal justice reform represents a critical yet understudied aspect of Ukraine's reconstruction agenda.

4. Objectives and Significance

This research aims to:

- Analyze how emotional factors influence criminal policy formation in post-war Ukraine
- Evaluate the role of European directives in preventing excessive criminalization
- Develop integration frameworks for EU legal principles that acknowledge emotional context
- Create roadmaps for approximating the EU acquis while addressing victims' needs

This topic is crucial for Ukraine's recovery as it directly impacts social cohesion, rule of law restoration, and international cooperation. Effective criminal justice reform that acknowledges emotional dimensions while implementing European standards will significantly enhance Ukraine's EU accession prospects and establish sustainable post-war governance structures. Furthermore, addressing organized crime and corruption through emotionally-aware yet principled approaches will strengthen Ukraine's institutional framework for long-term development.

5. Methodology and Theoretical Framework

This research will employ a mixed-methods approach combining:

Data Collection Methods:

- Comparative legal analysis of European criminal justice principles and Ukrainian legislation
- Qualitative interviews with stakeholders (law enforcement, judiciary, victims, civil society)
- Surveys measuring public emotional responses to criminal justice measures
- Content analysis of media coverage and public discourse on criminal policy
- Case studies of post-conflict criminal justice reforms in other European contexts

Theoretical Framework: The research will utilize transitional justice theory as its primary framework, complemented by:

- Emotional jurisprudence theories examining how emotions impact legal decision-making
- European legal integration theories, particularly focusing on subsidiarity and proportionality principles
- Victimology frameworks analyzing victims' needs in post-conflict environments
- Institutional transformation theories addressing post-authoritarian and post-conflict contexts

International Relations theories incorporated will include constructivism (to analyze normative changes) and liberal institutionalism (to examine Ukraine's integration into European legal structures).

6. Preliminary Policy Options

The research will explore several policy directions:

1. **Emotion-Conscious Criminalization Framework:** Develop protocols for legislative processes that acknowledge emotional drivers while ensuring proportionality in criminalization decisions.
2. **Victim-Centered Justice Mechanisms:** Create specialized institutions addressing war-related trauma while ensuring rights-based approaches aligned with EU Victims' Rights Directive.
3. **European Integration Roadmaps:** Establish prioritized implementation sequences for EU criminal justice acquis considering Ukraine's post-war emotional context.
4. **Transitional Justice Commission:** Form an independent body balancing retributive and restorative approaches with representation from victims' groups and legal experts.
5. **Criminal Policy Impact Assessment System:** Implement mandatory evaluation mechanisms measuring both emotional impact and compliance with European legal principles for all criminal legislation.

7. Potential Challenges

Several limitations and risks must be acknowledged:

Political Feasibility:

- Resistance from populist forces seeking harsh punitive measures in response to public anger
- Potential politicization of criminal justice reform in polarized post-war environment
- Challenges in balancing justice for war crimes with reconciliation needs

Resource Constraints:

- Limited institutional capacity for comprehensive reform implementation
- Competing reconstruction priorities reducing available resources
- Financial limitations affecting implementation of specialized victim support programs

International Dimensions:

- Tensions between national sovereignty concerns and European integration requirements
- Varying international perspectives on appropriate transitional justice approaches
- Coordination challenges between domestic and international justice mechanisms

Methodological Limitations:

- Difficulties in accurately measuring emotional impacts on policy formation
- Challenges in isolating emotional factors from other influences on criminal policy
- Limited previous research on emotion-criminal policy relationship in post-conflict settings

8. Bibliography (Preliminary)

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