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Features of the Mechanism of Unlawful Appropriation of Vehicles During Martial Law

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Abstract

Today, the unlawful appropriation of vehicles in wartime is relevant because Ukrainians are faced with the problem of preserving their property during the war. The purpose of the paper is to consider the features of the mechanism of unlawful appropriation of vehicles in wartime, to identify and classify the subjects of their commission, to disclose and systematise the methods, means, and place of committing such crimes in accordance with the type of subject of their commission. To solve these issues, the study used a complex of both general scientific and special methods of scientific knowledge – system-structural, formal-logical, method of scientific knowledge, induction, deduction, analysis, synthesis, generalisation. Based on the results of the study, the features of the mechanism of unlawful appropriation of vehicles in wartime were established and disclosed. The subject of unlawful appropriation of vehicles during martial law was described and its classification was presented. The features of the method of committing unlawful appropriation of vehicles, depending on the subject of commission, were identified. A proportional dependence on the type of subject of committing a crime to the conditions, goals, means, and place of unlawful appropriation of vehicles in wartime was established. The methods of committing such crimes were systematised. Wartime conditions that promote unhindered unlawful appropriation of vehicles were established. Places of unlawful appropriation of vehicles during martial law were identified and classified. Purposes of committing unlawful appropriation of vehicles during martial law were investigated. The practical value of this study lies in the fact that the results obtained can serve as a basis for further scientific activities to investigate the features of the mechanism for unlawful appropriation of vehicles in wartime and used to more effectively counteract unlawful appropriation of vehicles, especially during martial law

Keywords:

car; theft; perpetrator; subject of crime; method of committing a crime; means of committing a crime; organised groups; military of the Russian Federation

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Introduction

Since the beginning of Russia's full-scale invasion of Ukraine, 1,200 people have been caught looting, as reported by the Head of the National Police Ihor Klymenko. In total, investigators conduct more than 5,500 criminal proceedings for property crimes during martial law [1]. There are rare cases when marauders steal not only the property of city dwellers who left their place of residence to escape shelling and bombing, but also vehicles. Criminals work in garages, yards of citizens in parking lots right during shelling, while the owners of vehicles are in bomb shelters. In addition, in wartime, unlawful appropriation of vehicles and other crimes on the territory of Ukraine are committed by the military of the Russian Federation, robbing shops and homes of the population for profit and satisfaction of their needs. It is worth noting that according to Ukrainian legislation, foreign citizens are criminally liable for crimes committed on the territory of Ukraine.

Since the beginning of the full-scale war in Ukraine, a substantial number of complaints about the theft of cars have been received by the police department of Kyiv and the Kyiv region. All the facts are entered in the Unified register of pre-trial investigations under the article "unlawful appropriation of vehicles" of the Criminal Code of Ukraine¹. Criminal investigation officers, working out calls and viewing dozens of videos from surveillance cameras, including those belonging to the Safe City system [1], also interviewed citizens who might have witnessed the crime.

Thus, in Kyiv, criminals were caught while trying to smuggle stolen luxury foreign cars. After performing priority investigative and operational search activities, law enforcement officers found the parking place of the assigned vehicles. Where the perpetrators used tow trucks to transport abandoned cars from parking lots. "During searches of the residences of the perpetrators, law enforcement officers found automatic weapons, pistols and cartridges, grenades, military equipment, and state license plates. Physical evidence was seized and sent for examination, and natives of the capital, born in 1978 and 1985, were detained in accordance with Art. 208 of the Criminal Procedural Code of Ukraine²", as the communication department of the Kyiv police stated [2]. Now law enforcement officers are checking the involvement of detainees in the commission of similar criminal offences in Ukraine. The pre-trial investigation continues [2]. The detainees were informed of suspicion of committing a crime under p. 3 of Art. 289 of the Criminal Code of Ukraine³ – unlawful appropriation of a vehicle committed by an organised group, or if the subject of unlawful appropriation is a vehicle the value of which is two hundred and fifty or more times higher than the non-taxable minimum income of citizens. The detainees

face a prison term of 8 to 12 years with confiscation of property.

The struggle of law enforcement and judicial bodies of the modern legal state and the entire society with crimes is necessarily associated with the need for an in-depth investigation of crimes, their essence, the structure of constituent system elements, forms of external manifestation, which is a mandatory condition for the development of the latest effective means of combating criminal offence [3, p. 262]. The mechanism of crime as an integral system of circumstances, processes, and factors that cause the emergence of material and other media of information about the very event of the crime, its participants, provides the possibility of putting forward working investigative versions, planning an investigation, purposeful search for the consequences of the crime, identifying the criminal, victim, contributes to the criminal legal qualification of the committed, and therefore undoubtedly acts as an object of forensic knowledge [4, p. 142]. Among these problems, crimes committed during martial law are of particular importance. The unlawful appropriation of vehicles is not lagging behind other criminal acts, which causes considerable material damage to the owners, considering the fact that it is almost impossible to restore a lost car today. Since funds are needed for more urgent problems, given the fact that a great number of people lost their jobs, have damaged housing, or physically injured relatives who need medical recovery, etc. Therefore, the establishment of the features of committing unlawful appropriation of vehicles in wartime, today, is extremely important.

The scientific originality of the study consists in identifying the features of the mechanism for unlawful appropriation of vehicles in wartime, along with the subjects and the types of subjects of such crimes in accordance with which the methods, means, places, times, and purpose of committing such crimes were disclosed and systematised.

Purpose of the study: investigation of the features of unlawful appropriation of vehicles in wartime, in particular the disclosure of their essence of the mechanism of commission, in accordance with the type of subject of the crimes, to establish and characterise the methods, means, and place of their commission.

Literature Review

Thus, in 2018, S.V. Knyazev in his study [5] noted that the stages of the mechanism of committing a crime as a dynamic phenomenon should include: preparation for a crime, commission, and concealment of a crime. The mechanism of committing a crime as a statistical phenomenon should include: the identity of the

¹Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

²Criminal Procedural Code of Ukraine". (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

³Criminal Code of Ukraine, op cit.

criminal; accomplices of the crime; the identity of the victim; the subject of criminal encroachment; random participants in the crime; the situation of committing the crime; the method of committing the crime; the means and tools of committing the crime; the trace picture; the circumstances contributing to and preventing the commission of the crime; connections and relations between actions and the criminal result; criminal consequences [5]. It should be noted that a number of researchers who covered the mechanism of committing a crime have defined it differently in accordance with their own conceptual views.

In 2017, O.S. Tsibenko, in the study, [6] considered the ways of unlawful appropriation of a car, committed by overcoming protection systems. The paper concluded that unlawful appropriation of cars, which is committed with the overcoming of protection systems, is characterised by a full-structure composition with elements of preparation and concealment of the crime. The features of actions to prepare for the commission of a criminal offence were determined [6]. The study by O.L. Hristov [7], published in 2017, classified the methods of unlawful appropriation depending on the place of storage of the vehicle, namely, secret: by free access to the vehicle, from the garage, from the yard, etc. and open: an attack on the driver by pulling out (jerking) during a short-term stop in random places (to comply with traffic rules, etc.). It was found that such a crime is characterised by both methods of preparation and concealment. The study provided a description of the person who commits crimes in the area of one's residence, established the type of object of criminal encroachment [7].

In 2020, V.V. Syedakova, in the study [8], identified the main methods of committing unlawful appropriation of vehicles, methods of preparation and concealment, noted that penetration to the location of the vehicle is mainly determined by the specific location and conditions of parking and storage of the vehicle, and emphasised that the methods of breaking into a motor vehicle differ depending on the qualifications of the criminal. The paper described the victim and the criminal, established the goals of committing such criminal actions, and concluded that the knowledge of natural connections between these elements contributes to the successful solution of tasks at all stages of the investigation [8].

In their study of 2021, O.M. Bryskovska, O.L. Avramenko emphasised the importance of the subject of the crime in the mechanism of its commission, distinguished their types and provided a description. They established the tactics and peculiar algorithm of unlawful appropriation of motor vehicles for the purpose of their subsequent paid return to their owners [9].

For the investigation process of any committed crime, it is essential to examine its mechanism of

commission, since this allows not only establishing how the event of the crime unfolded, in what sequence, and what tools and means of committing the crime were used, but also determining all the circumstances that are relevant to the case and, most importantly, to give a criminal legal assessment of the crime [5].

The analysis of these papers indicates that there are no theoretical developments on the features and mechanism of unlawful appropriation of vehicles during martial law, which can be used for more effective countermeasures against illegal appropriation. Such achievements give grounds for law enforcement officers, especially during martial law, to predict and analyse the criminal situation and to establish the exchange of information about the subjects of such crimes and the facts of their illegal activities.

Materials and Methods

To achieve the purpose of the study, a set of methods was used: system – to examine the system of elements of the mechanism for committing crimes, analyse the information obtained by applying special legal and general methods of scientific knowledge. Methods of generalisation, analysis, and synthesis of information, induction and deduction are the basis for investigating the features of committing unlawful appropriation in wartime. The study is based on the system-structural method and the dialectical method of scientific knowledge to identify the features of the mechanism of committing this crime. The use of formal-logical and system-structural methods allowed concluding that the features of the mechanism for unlawful appropriation of vehicles in wartime are a new dynamic system of relevant circumstances that have developed in a separate territory, which includes the situation of the crime, determines the content and totality of the criminal actions of the perpetrator and one's accomplices; the attitude of the subject of the crime to one's actions and their consequences; the victim's behaviour and the relationship between the actions and the criminal outcome. During the study of this problem, the available studies of Ukrainian researchers, both special literature and official data of law enforcement agencies of Ukraine: analytical references, reports, official reports, and statistical data, were used and analysed. The formal and legal method analysed the content of the norms of Ukrainian legislation regarding the unlawful appropriation of vehicles during martial law.

The normative basis of the study is: the Constitution of Ukraine¹, the Criminal Code of Ukraine², the Criminal Procedure Code³, and Resolutions of the Supreme Court⁴, On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine: Law of Ukraine dated 04/15/2014 No. 1207-VII⁵, IV of the Convention on the Laws and Customs of War on Land and its annexe: Regulations on the

¹Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

²Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

³Criminal Procedural Code of Ukraine". (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

⁴Ruling of the Supreme Court No. 742/2146/20. (2021, January) Retrieved from <https://verdictum.ligazakon.net/document/101712316>.

⁵Law of Ukraine No. 1207-VII "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine". (2014, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/1207-18#Text>.

Laws and Customs of War on Land dated 10/18/1907 No. 995_222¹.

Results and Discussion

Criminalistic teaching about the mechanism of crime examines the nature, essence, and content of the functional side of criminal activity, the regularities of the processes of interaction of participants in a criminal event with each other and with the surrounding material situation (environment), including the regularities that cause the emergence of sources of criminally valuable information about the crime itself and its participants [4, p. 142]. V.A. Zhuravel considered the mechanism of committing a crime in his study. In particular, analysed modern scientific approaches to understanding the mechanism of crime as a structural element of the subject of criminalistics, came to the conclusion that the criminalistic teaching about the mechanism of crime examines the nature, essence, and content of the functional side of criminal activity, the regularities of the processes of interaction of participants in a criminal event with each other and with the surrounding material situation (environment), including the regularities that cause the emergence of sources of criminally valuable information about the crime itself and its participants, and defined the mechanism of crime as a system that includes the situation of crime; the subject of criminal encroachment; the totality of actions of the criminal and related persons regarding the preparation, commission, and concealment of crimes; the attitude of the subject to the crime, one's actions and their consequences; the behaviour of the victim and the actions of persons who became accidental participants in the crime; connections between actions and the criminal result [4, p. 151].

The study of M.I. Panova, S.O. Kharytonova, V.V. Haltsova, indicated the need to examine the essence of the structure of constituent system elements, crimes, and investigated the object of a criminal offence, which greatly affects the definition of the social properties of the offence. This study has a broader structure. Existing scientific approaches (positions) regarding the definition of the object of the criminal offence were analysed. The study made a reasoned conclusion that the object of a criminal offence is social relations that arise and exist in society regarding its social values, which are protected by the law on criminal responsibility [3].

O.V. Pchelina covers the question of the identity of the criminal as an element of forensic characteristics of crimes. She listed features that characterise and develop the system of a criminal's personality in the forensic characteristics of crimes in the sphere of official activity. Moreover, she characterised persons who commit crimes in the sphere of official activity, on general and special grounds [10].

In the study, V.V. Silko covered the circumstances of the commission of a crime as an element of the forensic characteristics, distinguished the elements of the circumstances of the commission of a crime, identified forensically important signs of a favourable environment

for the commission of a crime, identified the correlations of the latter with other elements of the forensic characteristics of the relevant crime [11].

H. O. Khrystova examined the concepts and conditions of military occupation and proved that the state's obligations to respect and ensure the rights of the local population are contained both in the law of occupation and in the law of human rights. She justified that the state, part of the territory of which is occupied, must contribute by all available means to ensuring and protecting the rights of its citizens in the temporarily uncontrolled territory to fulfil its positive obligations [12].

In the studied papers, some researchers considered the mechanism of committing a crime, its essence, content, and composition. Others investigated the question of individual structural elements of the crime mechanism, from the object of the criminal offence, the identity of the criminal, and the situation and conditions of wartime. However, in complex, the problem of unlawful appropriation of vehicles during martial law has not been considered by researchers.

With the change in the situation in the country, living conditions, social relations, the mechanism and methods of committing crimes are changing as well, such changes have not spared the methods of unlawful appropriation of vehicles and the types of subjects of their commission. The mechanism and methods of unlawful appropriation of vehicles also depend on the subjects of crimes. It is advisable to consider the identity of the subject of unlawful appropriation of vehicles in wartime. The most typical characteristics of a criminal include: demographic; professional and educational; the field of employment; connections with the victim; propensity to commit crimes; physical and psychological conditions. This information allows determining the area and methods of searching for the person who committed the crime, choosing the most optimal methods of investigating crimes, predicting the behaviour of a person in a particular situation, establishing a connection between data on the identity of the criminal, the scheme or technology of criminal enrichment, and the circumstances of committing the crime, and obtaining data on those who most often commit crimes of this type [10, p. 148].

Subjects of unlawful appropriation of vehicles in wartime are:

- persons who have repeatedly come to the attention of the police on the facts of seizing vehicles and other deliberate mercenary crimes against property;
- military personnel of the Russian Federation.

For example, the 31- and 37-year-old residents of the Litynsk community of the Vinnytsia region, repeatedly convicted of similar crimes and thefts, tried to steal a car, taking advantage of the owner's absence. By breaking the locks, the perpetrators took action to steal a Renault Kangoo vehicle parked by the owner in the yard of one's home. They were prevented from stealing the car by neighbours who witnessed the crime [13]. Thus, on April 1, 2022, a previously convicted resident of

¹Regulations on Laws and Ordinary War on Land of No. 995_222 "IV of the Convention on Laws and Ordinary War on Land and its Annex". (1907, October). Retrieved from https://zakon.rada.gov.ua/laws/show/995_222#Text.

the Kyiv region was exposed and detained in Berdychiv, who in early March committed a series of thefts from apartments in occupied Irpin and stole a Mercedes-Benz car from a guarded parking lot. The marauder drove off in a stolen car for a long time, until, ironically, he caught the eyes of the owner of the car while shopping at the market. It happened to be a local resident who left his car in the parking lot at the beginning of the war and was unable to pick it up due to the unlawful occupation of Irpin [14]. According to the National Police, during the detention of members of an organized group for unlawful appropriation of vehicles, it was found that one of the co-organisers was wanted for a long time for unlawful appropriation of vehicles. He lived on the territory of the state under various forged documents, while committing unlawful appropriation [9, p. 59].

Therefore, during a full-scale war of the Russian Federation on the territory of Ukraine, persons who have been repeatedly convicted of similar crimes overwhelmingly commit unlawful appropriation of vehicles in the following ways:

- during an air alert. When the streets are empty of people, the owner and one's family are in a bomb shelter, and the vehicle is left near the house, in the parking lot;
- during a curfew characterised by a longer period of absence of both the owner and other people in the appropriate place;
- the owner evacuated from the dangerous place of stay leaving the vehicle in the garage or other place for a long period.

This method is characterised by the penetration of intruders into the household using appropriate means of committing a crime, namely mechanical, technical, and electronic, to obtain access to the stored vehicle. For example, on March 29, 2022, at the checkpoint before entering Zhytomyr, police officers stopped and exposed the perpetrators when they were driving a stolen car out of the occupied city. It was established that three residents of one of the western regions stole a BMW X1 car from the yard of a resident of Irpin, who fled the country due to hostilities [15].

The above-mentioned methods of unlawful appropriation are united by a characteristic feature, that is, the absence of the owner and people near the planned crime scene for a considerable period of time, which ensures comfortable conditions for intruders, the absence of undesirable eyewitnesses, and confidence in the availability of sufficient time to implement the criminal plan. The time of the crime, day or night, does not matter in wartime. The age of criminals who commit unlawful appropriation of vehicles has not changed since peacetime; these are persons aged from 18 to 45 years. In most cases, men.

However, such methods of unlawful appropriation, as a rule, are preceded by preliminary preparation. Namely, organised groups conduct so-called intelligence on the presence of the owner of the vehicle near the place of its storage.

In most cases, members of an organised group investigate in advance the availability of certain vehicles in the relevant area along with storage conditions and determine their owners, namely, whether the owner has not evacuated and is not near the place of storage of the vehicle. Criminals conduct visual surveillance of the owner of the vehicle, one's daily routine, the features of behaviour in accordance with the conditions of wartime, and the attitude of the owner to the protection and storage of their vehicle.

Organised groups, for the purpose of unlawful appropriation of vehicles, act according to a clearly developed plan with careful distribution of participants according to the relevant specialisation, having criminal experience in the unlawful appropriation of expensive car brands. Some people search for the necessary car brands, identify their storage conditions, and collect information about their owners, while others turn off electronic security systems, start the engine (erase the chip key from the car's memory and register a new one, disabling the anti-theft function of the standard immobiliser), others drive the car, there are also persons who hide such a vehicle, others – legalise and sell cars (change body and unit numbers, make fake documents), disguise criminal profits received from the sale of cars [8, p. 161–162]. In addition, criminals can move the vehicle to a neighbouring district or region to a pre-selected place of storage or sell it to resellers almost immediately after the crime is committed [16, p. 256]. To plan the unlawful appropriation of a vehicle, it is necessary to conduct training on criminal actions, eliminate possible obstacles, carefully examine the place and conditions of its storage, and prepare technical and mechanical tools for entering the place in which the intended, appropriate vehicle is stored. Methods of penetration into the storage areas and into the vehicle itself differ depending on the qualification of the criminal [17].

The public danger of organised groups that commit unlawful appropriation of vehicles increases due to the fact that in wartime, the probability of intruders having firearms increases. "Under the procedural guidance of the Zhytomyr District Prosecutor's Office, considering the evidence collected by the investigation, three persons were notified of suspicion of illegal acquisition, storage, and carrying of military supplies (p. 1 of Art. 263 of the CC of Ukraine¹), and two of them – of unlawful appropriation of a vehicle committed by a group of persons based on a prior conspiracy, related to home invasion (p. 2 of Art. 289 of the CC of Ukraine²)" [15].

During the war, Russian troops stole and smuggled dozens of cars from Ukraine. Entire collections of restored retro cars. Among the missing cars were rare collectible models [18].

In the temporarily occupied territories of Ukraine, the military of the Russian Federation, along with other criminal offences, commit unlawful appropriation of vehicles. For example, only on May 10 in the Luhansk region, the police received 5 reports of unlawful appropriation

¹Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

²*Ibidem*, 2001.

of vehicles [19]. During the three months of the war, more than 14,000 criminal proceedings were initiated on crimes committed by Russian servicemen and their accomplices [20]. Such crimes are not preceded by preliminary preparation, since in the occupied territories the Russian military is confident in the impunity of their criminal activities. When the victim leaves the house, in an attempt to prevent one from taking the car, there is a fight with the criminal, armed or unarmed, which forces the victim to give up one's vehicle [21, p. 148].

A special feature of unlawful appropriation of a vehicle by the military of the Russian Federation is daring methods of commission, which are characterised by open actions in the presence of the owner of the vehicle, threatening with weapons, or on the territory of households that are temporarily abandoned, the owners of which were evacuated. Such actions are committed at the beginning of the unlawful occupation or from the beginning of the liberation of the occupied territory.

The purpose of unlawful appropriation of vehicles by the military of the Russian Federation on the territory of Ukraine is:

- for their own needs to move around the occupied territory;
- in the vast majority of cases, to smuggle property looted from the civilian population;
- to escape under the guise of civilians to break through to other cities;
- for the purpose of profit for the sale of a vehicle in the territory of Belarus, the Russian Federation, or in the temporarily occupied territories of Luhansk and Donetsk regions and Crimea.

Such vehicles are sold on car markets (internet portals) in periodicals, which contain advertisements for the purchase, at a reduced cost [22, p. 276].

In the Russian Federation, on car sales platforms, the following ads have already appeared "I am selling cars from Ukraine without registration. For those who understand the topic", "I am selling cars from Ukraine as iron without pre-registration" or "my husband brought a car after a military operation in Ukraine." Examples of the prices are, for Camry, 2021-600 thousand RUB; Helen Brabus, 2015-2,000,000 RUB; Prado 4-2,000,000 RUB; Lexus LX570, 2019-2,000,000 RUB. The sellers indicate the telegram phone number as a contact.

Means of unlawful appropriation of vehicles for the military of the Russian Federation are the keys to the ignition lock of the car obtained by extortion from the owner or rough improvised means to overcome obstacles to finding cars, firearms, or other vehicles (tank, infantry fighting vehicle, and other armoured combat vehicles) obtained by demolishing the wall of the garage or other premises in which the vehicle was stored. They get into the vehicle without the appropriate key by breaking the side window of the car. The age of the subjects of such crimes varies from approximately 18 to 35 years. Depends on the maximum age of recruitment for a full-scale war in Ukraine of the Russian military. Such criminals are male. The time of unlawful appropriation of a vehicle by the Russian military, in most cases, falls during daylight hours.

The Russian military steals both school buses, Kamaz trucks, special services cars (ambulances, fire trucks), and civilian vehicles. The Russian military prefers the following civilian vehicles in committing unlawful appropriation: Land Rover, BX, Infiniti, Toyota Cruso, Toyota Corega, Toyota Corolla, BMW, Nissan Qashqai, Renault Duster, Renault Scenic, Renault Traffic, Chevrolet Aveo, Volkswagen Golf, Volkswagen Multivan, Ford Kuga, Mitsubishi Lancer, Dacia, Hyundai. Today, agricultural machinery is exported to Russia in the occupied territories for further sale and profit.

Therefore, through all available mass media, it is necessary to conduct preventive work with the population to convey information about the possible risks of losing a vehicle due to its careless storage [23]. It is advisable to inform the population about the risk of losing a vehicle in the occupied territory and preventive measures against the sudden unlawful appropriation of vehicles by the Russian military, such as: drained gasoline, removed battery or replaced with a faulty one, removed wheels, flat tires, etc.

Countermeasures against the unlawful appropriation of vehicles committed by organised groups and the selection of the necessary operational search measures (usually applied in a complex) should be characterised by offensiveness and be built on the recommendations of operational search tactics, considering the nature of countering the criminal environment [24, p. 70].

The most effective counteraction to the unlawful appropriation of vehicles, especially during martial law, is complex operations involving the powers and means of law enforcement agencies [25].

Conclusions

As a result of the study, the features of the mechanism of unlawful appropriation of vehicles in wartime were established. Thus, the following features can be distinguished:

- wartime conditions that promote unhindered unlawful appropriation of vehicles,
- types of crime subject,
- places of commission,
- available means of committing a crime,
- goals of the commission.

A characteristic feature of unlawful appropriation of vehicles in wartime is the proportional dependence on the type of subject of the crime to the conditions, goals, means, and place of commission.

The subjects of committing a crime in wartime were divided into two separate types:

- persons who repeatedly in pre-war times on the territory of Ukraine came to the attention of the National Police on the facts of seizing vehicles and other deliberate mercenary crimes against property;
- military personnel of the Russian Federation.

Wartime conditions that promote unhindered unlawful appropriation of vehicles were established:

- absence of the owner and other persons for a certain period of time (air alarms, curfew, evacuation of the owner, which is characterised by the absence of the owner for a considerable period of time and contributes to the unhindered unlawful appropriation of the vehicle);
- law lessness of citizens in the occupied territory.

The actions of subject of a crime that has repeatedly come to the attention of the police on the unlawful appropriation of vehicles and other deliberate mercenary crimes against property are facilitated by the following wartime conditions: air alarms, curfews, evacuation of the owner, which is characterised by the absence of the owner for a considerable period of time and contributes to the unhindered unlawful appropriation of the vehicle.

Such subjects, as a rule, commit the secret unlawful appropriation of a car, without the presence of the owner and other people.

The actions of subject of unlawful appropriation in the person of a serviceman of the Russian Federation are facilitated by wartime conditions such as being in the occupied territory with weapons, the lack of rights of the owner of the vehicle, lawlessness, and the factor of impunity. These subjects of crime are characterised by such a feature of the commission as openness and audacity.

The means of unlawful appropriation of vehicles during martial law should include:

- spontaneous military;
- mechanical (cold and firearms);
- technical (armoured military vehicles (for transporting the vehicle, or overcoming obstacles to its place of storage), (own keys to the vehicle);
- pre-prepared:
- electronic devices (use of devices that read the pin codes of immobilisers and program them to input the corresponding signals of the security system, special devices for replacing the control unit and controlling the vehicle, etc.);
- technical (availability of keys, use of transport for loading and transportation from the place of its storage);

- mechanical: vehicle keys, wires, hammer, crowbar, etc.

Places of unlawful appropriation of vehicles during martial law were identified:

- occupied territory – from the territory of households of vehicle owners or near households;
- non-occupied territory – spontaneous parking on the territory of the house, parking lots, parking lots near shops, metro stations, less often from closed premises (garages, hangars).

The purpose of committing unlawful appropriation of vehicles during martial law was determined:

- for profit purposes (to sale vehicles, smuggle looted property);
- for one's own needs (escape, move around the occupied territory).

The negative component of human rights obligations (the obligation to respect) must be met under all conditions, and therefore the occupying state is prohibited from acting in a manner that does not respect the rights of the population. The occupying state must also ensure the functioning of a law enforcement system capable of restoring and ensuring public order and security, observing the existing laws in the country.

In wartime, in accordance with the legislation of Ukraine, foreign citizens are criminally liable for crimes committed on the territory of Ukraine, in particular, the military of the Russian Federation that commits the unlawful appropriation of vehicles and other crimes.

Such knowledge enables law enforcement officers to analyse and predict the criminal situation, establish the exchange of information about persons, members of organised groups who commit unlawful appropriation, and the facts of their illegal activities.

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Особливості механізму вчинення незаконного заволодіння транспортним засобом під час воєнного стану

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Анотація

Актуальність проблематики незаконного заволодіння транспортним засобом у воєнний час зумовлена тим, що українці нині стикнулися з проблемою збереження власного майна під час війни. Мета статті – розглянути особливості механізму вчинення незаконних заволодінь автомобілями у воєнний час, виявити і класифікувати суб'єкти їх учинення, розкрити й систематизувати способи, засоби та місце вчинення цих злочинів відповідно до виду суб'єкта їх учинення. Для вирішення зазначених питань у дослідженні застосовано комплекс загальнонаукових і спеціальних методів наукового пізнання – системно-структурний, формально-логічний, методи наукового пізнання, індукції, дедукції, аналізу, синтезу, узагальнення. За результатами дослідження розкрито особливості механізму вчинення незаконних заволодінь транспортними засобами у воєнний час. Схарактеризовано суб'єкти незаконного заволодіння транспортним засобом під час воєнного стану та запропоновано відповідну їх класифікацію. Розкрито особливості способу вчинення незаконних заволодінь транспортними засобами залежно від суб'єкта. Виявлено пропорційну залежність від виду суб'єкта вчинення злочину й умов, цілей, засобів і місця вчинення незаконного заволодіння транспортним засобом у воєнний час. Систематизовано способи вчинення вказаних злочинів. Встановлено умови воєнного часу, що сприяють безперешкодному незаконному заволодінню транспортним засобом. Виокремлено та класифіковано місця вчинення цих протиправних дій, окреслено їхні цілі. Практична значущість роботи полягає в тому, що отримані результати дослідження можуть слугувати підґрунтям для подальшої наукової діяльності з вивчення особливостей механізму вчинення незаконних заволодінь транспортними засобами у воєнний час і сприятимуть підвищенню ефективності протидії незаконному заволодінню транспортними засобами, особливо в умовах воєнного стану

Ключові слова:

автомобіль; викрадення; зловмисник; суб'єкт злочину; спосіб вчинення злочину; засоби вчинення злочину; організовані групи; військові Російської Федерації