

CRIMINOLOGICAL ASPECTS OF THE RESEARCH OF THE STATE OF CRIME IN THE LAND SPHERE

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This article presents the criminological analysis of crime in the land sphere in Ukraine. On the basis of empirical data level, dynamics, structure, features of the regional spread of the type of crime are identified. According to the results of criminological analysis of statistical data the amount of material damage caused by the actions of the Illicit Trafficking of land is set, the amount and structure of land in illicit trafficking are identified.

Keywords: crime in the land sphere, criminological characteristics, state crime, criminological indicators.

Criminalization affects all spheres of social life in modern conditions of market economy. Land sphere is no exception. A number of crimes related to illegal origin, transfer and sale of land rights are rapidly increasing in parallel with the legal circulation of land. It focuses on the need of criminological analysis of indicators of crime in this area that reflects it in a certain circle of people, which aims to violation of the law of land circulation.

Some aspects of crimes in the land sphere were investigated in papers and dissertations of O.M. Botnarenka, T. Bulavintsev, I.A. Dyakin, V.M. Yehorshyna, A.F. Ivlevoyi, T.A. Kovalenko, V.V. Kolesnikov, M. Marchenko, R.O. Movchan, V.G. Syuravchuka, B.V. Taylashova, A. Tatariv, A.S. Tarasenko, O.P. Chabanna, Chepky A.V., B.V. Yatselenka, A.M. Shulga and other scientists. However, criminological research on this issue was insufficient.

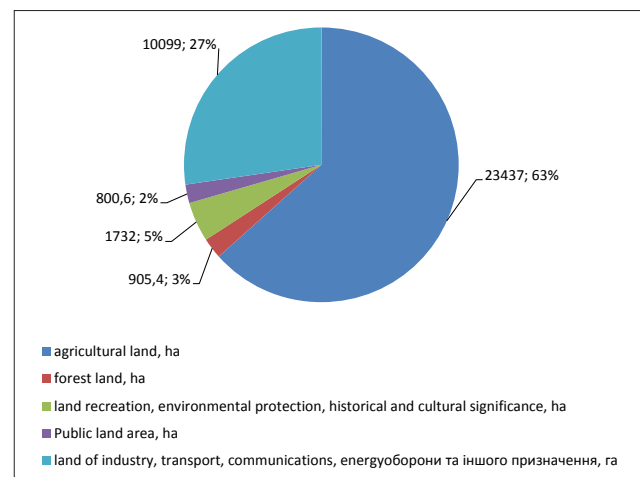
The article analyses crime in land sphere as the object of criminological research for further improvement and effective enforcement measures against criminality in this area.

The study is based on methodological foundations for selective generalization of 64 archival criminal proceedings and 182 convictions for offenses which were subject to an encroachment of property rights to land committed during 2011-2014. We used the method of expert assessments to determine expert opinion on the current state of state regulation of the land sphere, the spread of shadow processes and criminal manifestations, criminogenic factors of crime, its prevention priorities. Employees of the prosecutor's office, operational staff departments of public service to combat economic crime MIA of Ukraine, specialists of departments of land resources of local authorities, specialists departments (administrations) State Service of Geodesy, Cartography and Cadastre of Ukraine, heads of agricultural enterprises, advocates, practitioners, specialists real estate (211 experts) answered the questionnaire. The survey was conducted from 2011 to 2014 in Kyiv, Odessa, Khmelnytsky region and the Autonomous Republic of Crimea.

If we analyze the statistical crime rates in the land sphere for the last 5 years, the situation would

have the following appearance. According to the MIA of Ukraine in 2008 in this area there has been committed 2784 crimes and found 1,452 persons in 2009 – 2,541 crimes and 1,352 persons in 2010 – 2,759 crimes and 1,411 persons in 2011 – 2773 crimes and in 2012 – 2034 crimes.

According to statistics, the dynamics of the crimes committed, since 2008 tends to slight variations in the direction of growth or decrease (up 9%). In comparison with 2008, in 2009 the number of index crimes in the land sector decreased by 8.7%, and in 2010, law enforcement authorities uncovered 2,759 crimes, which is 8% above the previous year. In 2011, the number of reported crimes in the land sphere increased by only 0.5%. According to 2012 Department of information and analytical support MIA data is available only until the 20th of November of the reporting period and this does not allow us to make comparisons with previous years. The number of crimes was 2,034 in absolute numbers.



Graph 1. Number of lands that are illegally trafficking, according to their category

The land is a unique object that reveals the crime in land sphere in a separate variety. Let's define the amount of land that is in illegal circulation in the studied years to achieve its objectives. In 2008, was involved in the illegal circulation of 36.9 thousand hectares of land. In 2009, 27.5 thousand hectares were subjected to criminal attacks, which is 25.6% less than in the previous year. In 2010, more than 31 thousand hectares of land ended up being the object of perpetration, which is 11.3% more than in the previous year¹.

¹ Information disclosed by the Interior crimes in the sphere of land relations 2008 / department of information and analytical support of MIA of Ukraine; Information disclosed by the Interior crimes in the sphere of land relations 2009 / department of information and analytical support of MIA of Ukraine; Information disclosed by the Interior crimes in the sphere of land relations 2010 / department of information and analytical support of MIA of Ukraine.

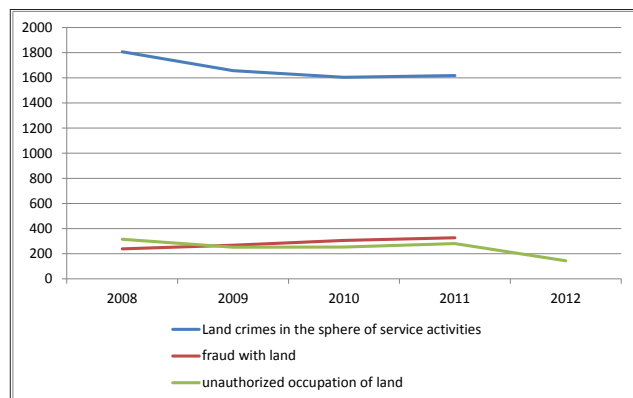
The geographical spread of crime in the area of the land sphere also has its own specifics. There is a difference in terms of crime in this area between different regions, which can be explained by the following reasons. Firstly, most of the land commission of crimes in certain areas because of the economic attractiveness of obtaining criminal profits, due to the high cost of land. Secondly, the efficiency of actors countering these crimes in these areas, which in turn reduces the latency of crimes.

The most severe criminality in the land sphere is Odessa region, Dnipropetrovsk and Kyiv region. In 2010, crimes of this category have been exposed mostly in the Crimea, Dnipropetrovsk, Donetsk, Transcarpathian, Zaporizhia, Kyiv, Luhansk, Lviv, Odessa regions and in Kyiv [1]. In aggregate, on the territory of these regions more than 60% of all crimes in this category have been committed. In 2011, the majority of crimes were recorded in Dnipropetrovsk, Odessa, Luhansk, Donetsk, Lviv oblasts and Crimea. In 2012 most of crimes were committed in Crimea, Dnipropetrovsk, Donetsk, Kyiv, Luhansk, Lviv regions.

If we divide lands in it categories in 2008 most of crimes have been committed on agricultural land – 937, representing 33.7 % of all committed crimes in this area; regarding land recreation, conservation and historical and cultural significance – 250 crimes, illegal transactions of forest lands – 81. In 2009, the majority of crimes are committed with land for agricultural purposes (1,040 crimes); 124 crimes were committed on land recreation, conservation and historical and cultural purposes; on land forest detected 93 crimes.

There is a problem in systematization of empirical set of criminal offenses in this area considering different directions crimes in the area of the land sphere, specific means and ways to achieve a criminal result. We offered to hold their systematization for the prevalence criterion based on a generalization of the points classification of crimes in the land sphere. we have identified the following most widespread crimes on the basis of summarizing points of view on the classification of crimes in the land sector: Land crimes in the sphere of service activities; fraud with land; unauthorized occupation of land.

The need for compliance with the declared classification of crimes in the land sphere and the objectivity of criminological analysis requires consideration of the phenomena under relevant groups of crimes.



Graph 2. Dynamics of some groups of crimes in the land market in 2008-2012

The largest group of crimes in land sphere are the crimes related to official duties. In 2012 the Razumkov Centre survey was conducted among the population, which indicates the high level of corruption in the system for obtaining rights to land [2]. Moreover, according to the study "Corruption in Ukraine. Comparative analysis of national research: 2007-2009", which was supported by the US Agency for International Development (USAID) and the corporation "Millennium Challenges "(MCC) in response to a question about most widespread corruption 47.1% of respondents said it was cases of privatization possession and use of land [3]. According to the prof. Dryomin research, corruption has taken a prominent place in the structure of public relations; it has become systemic and in many cases has replaced the official legal settlement of relations [4, p. 407].

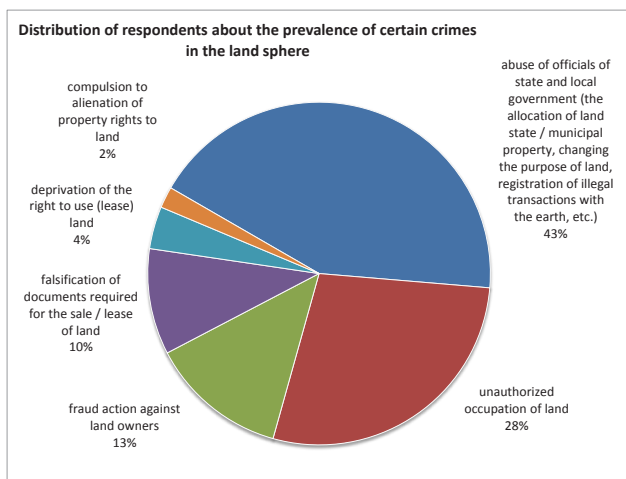
In the structure of crime in land sphere the percentage of crimes related to official duties, ranging from 58% to 65%. Qualification of the group carried out crimes is provided by the articles 364-370 of the Criminal Code of Ukraine. Details of statistical reports indicate that in 2008 it was discovered 1,807 cases of officers committing crimes are related to bribery – 316 crimes. In 2009 their number decreased by 9%, to 1657 and 293 crimes respectively. In 2010 and 2011 crimes rates were found almost not differ and totalled 1,604 and 1,618, crimes are related to bribery – 259 and 263 respectively.

In the analysing of statistical data in the structure of crimes committed in the land sphere, the share (on average – 10%) account for crimes related to unauthorized occupation of land. According to statistics, in 2008 it's recorded 315 facts of unauthorized occupation of land. In 2009 their number decreased by 21.3% to 252 crimes. In 2010, crimes related to unauthorized occupation of land, accounted for 253 cases. In 2011, 281 reported a case of unauthorized occupation of land, and for 10 months in 2012 were committed 144 crimes.

Fraud in the implementation of transactions in the land market has gained extensive development in recent years. The negative dynamics on rapid growth in the number of fraud persists. In the structure of crime in this area, they account for about 10-11% of all crimes.

In 2008 239 crimes related to fraudulent actions when dealing with the land were registered, in 2009 on the background of the total number of crimes of this category, the share of these crimes increased by 10.8% to 268. Analysis of criminal cases has shown that during this period became the prevalence of fraud associated with mastery in cash at the conclusion of fictitious contracts, which were the subject of land state or municipal property, committed by officials of state and local governments. Thus, a person who knows in advance has no authority to dispose of land, enters into a fictitious agreement on behalf of the State or the territorial community. B.M. Golovkin such kind of fraud as the registration of contracts of sale of real property defines as one of the main system mercenary crimes against property [5]. In view of the figures we can conclude disappointing trend to increase in the number of frauds in the land sphere.

Latency crime in land sphere significantly distorted picture of the status and trends of this phenomenon, the extent and nature of damage inflicted by society and the state from such criminal activity. These statistics give only a rough idea of the real extent of the illicit circulation of land rights. However, the poll has allowed experts to confirm the structure of crime in the land sphere and to identify the most widespread crimes.



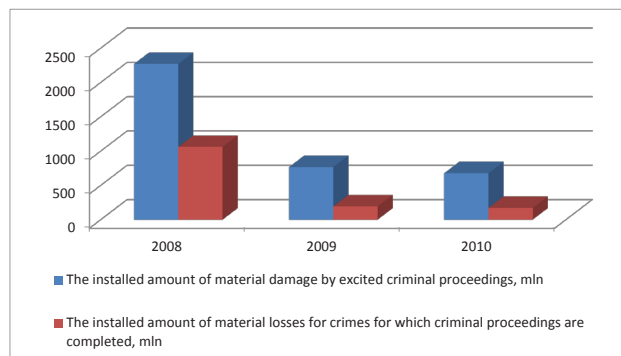
Results of judicial activities concerning reported crimes in this area is not encouraging. The courts considered 300 criminal cases of this category each year. However, only a small number of them completed decreeing the sentence. The presence of such errors in judicial practice shows the difficulty of proving review and violations of legal circulation of land.

Undoubtedly, an important element in the protection of rights and legitimate interests of individuals and legal entities is the reality and the amount of compensation of material losses crimes in the land sphere. One of the principles of compensation for damage caused to landowners and land users as illegal actions and lawful actions, is full compensation to land owners direct material cost, cash and other expenses or provision of property and other objects of equal value, as well as payment of lost profits [6]. According to the Art. 152 Land Code of Ukraine, compensation of losses is one way to protect the rights of citizens and legal entities on land. Procedure of determination and compensation to land owners and land users found that land owners and land users are compensated damages caused to withdrawal (buying) and temporary occupation of land, restrictions on their use, deterioration of soil cover and other useful properties of land or bringing them in not suitable for use by state and non-receipt of income due to temporary non-use land [7].

It should be noted that determining the amount of material damage to be compensated resulting from committing crimes in the land sphere is rather difficult. This is because the definition of cost

of land must comply with a large number of regulations that establish special rules for calculating the harm caused by such encroachments, depending on the category of land. In particular they are correct formula to be applied in determining the amount of damages for infringement on specific objects with well-defined indexes and coefficients established method of calculating such damage, etc. [8; 9; 10].

Analysis of statistical information about compensation for material damage caused by crimes of this category indicates that it is carried out not full. First of all, you can see quite significant differences between the prescribed amount of property damage by excited criminal cases and the amount of material damage to offenses, criminal cases for which proceedings are finished. Also that the amount of installed material damage and the amount reimbursed for property damage crimes investigations in criminal cases have been completed, also differences.



Graph 3. Analysis of statistical information about compensation for material damage caused by crime in the area of the land market

Often, lands change not only the owner, but also the purpose of the natural properties at the time of exposure of these crimes, making it difficult or even impossible to return them to their original state. The statistics give us separate figures for the return of land to legal circulation. Thus, in 2008 the land seized from illegal circulation by seizure, returned voluntarily by the decisions of local authorities – 4,3 thousand hectares; in 2009 – 30 thousand hectares; in 2010 – 9.2 thousand hectares.

In most of these cases the difficulty in removing from illegal possession of land associated with insufficient effective actions by local governments, of land control, law enforcement and state executive service on their return to the legal field.

Conclusions. Criminological research of the current state and trends of crime in the land sphere, as a specific kind of criminal activity in the economic sphere allowed to determine quantitative and qualitative indicators of this kind of crime. The result of of research can help to understand more deeply the problem of criminalization of land sphere and identify priority areas for combating.

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**КРИМІНОЛОГІЧНІ АСПЕКТИ ДОСЛІДЖЕННЯ СТАНУ
ЗЛОЧИННОСТІ В ЗЕМЕЛЬНІЙ СФЕРІ****Анотація**

У даній статті здійснено кримінологічний аналіз злочинності в земельній сфері в Україні. На основі емпіричних даних визначені рівень, динаміка, структура, особливості регіонального поширення даного різновиду злочинності. За результатами кримінологічного аналізу статистичних відомостей встановлено сума матеріальних збитків, завданих діями з незаконного обігу земельних ділянок, визначена кількість та структура земель, що знаходяться в незаконному обігу.

Ключові слова: злочинність в земельній сфері, кримінологічна характеристика, стан злочинності, кримінологічні показники.

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**КРИМИНОЛОГИЧЕСКИЕ АСПЕКТЫ ИССЛЕДОВАНИЯ СОСТОЯНИЯ
ПРЕСТУПНОСТИ В ЗЕМЕЛЬНОЙ СФЕРЕ****Аннотация**

В данной статье осуществлен криминалогический анализ преступности в земельной сфере в Украине. На основе эмпирических данных определены уровень, динамика, структура, особенности регионального распространения данного вида преступности. По результатам криминалогического анализа статистических сведений установлена сумма материального ущерба, причиненного действиями по незаконному обороту земельных участков, определено количество и структура земель, находящихся в незаконном обороте.

Ключевые слова: преступность в земельной сфере, криминалогическая характеристика, состояние преступности, криминалогические показатели.