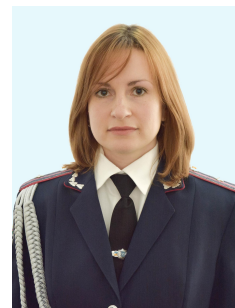




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## CURRENT STATE AND MAIN TRENDS OF INTENTIONAL MURDERS IN UKRAINE

**Кисельов І.О., Філіпп А.В. СУЧАСНИЙ СТАН ТА ОСНОВНІ ТЕНДЕНЦІЇ УМИСНИХ ВБИВСТВ В УКРАЇНІ.** В статті досліджується сучасний стан умисних вбивств та умисних вбивств з кваліфікуючими ознаками в Україні. Проаналізовано динаміку цих злочинів за останні 5 років, визначено їх основні тенденції. Дослідження базується на узагальнених статистичних даних за 2013-2017 років.

У підсумку авторами запропоновано зосередитися на найбільш важливих тенденціях навмисного вбивства в Україні за останні п'ять років (з 2013 до 2017 року):

а) загальна кількість навмисних вбивств, що щорічно реєструється в Україні, поступово зменшується (говорячи про абсолютні рівні);

б) частка навмисних вбивств у складі злочинів, спрямованих проти життя та здоров'я, значно зросла (станом на 2013 рік - 8,1%, а на 2017 рік - 13,3%), майже в 1,5 раза;

в) деякі види навмисних вбивств показують тенденції до збільшення. Зокрема, навмисними вбивствами є: 1) небезпечні для життя багатьох людей; 2) з хуліганських мотивів; 3) на замовлення; 4) вчинено групою осіб за попередньою змовою; 5) вчинено особою, яка раніше вчинила умисне вбивство;

г) певні види умисних вбивств показують тенденції до скорочення. Зокрема, це навмисні вбивства: 1) двох чи більше осіб; 2) з надзвичайною жорстокістю; 3) з корисливих мотивів; 4) вчинені з метою приховування чи полегшення іншого злочину; 5) у поєднанні з звалтуванням або жорстоким задоволенням сексуального бажання неприродним способом.

**Ключові слова:** злочини проти життя та здоров'я, динаміка злочинів, умисне вбивство, кваліфікуючі ознаки.

**Formulation of the problem.** Violent crime has always been at the center of the attention of criminologists. It goes without saying that crimes against the person are one of the most dangerous. Attacks on the life and health of people at all times were in the focus of serious public interest, and as it is known the consequences of these actions cannot be recovered.

As some scientists rightly point out in their research on this subject, "the issue of criminal responsibility for encroachment on life belongs to those who have probably never been under the spotlight of the researchers" [1, p. 1]. In turn, key indicators of violent crime and crimes against life - especially homicides are in the focus of criminologists' interest.

Besides, a rate of homicides and assaults on human health is an indicator of the level of country development, criminal situation in it and effectiveness of the state. Rates of intentional murders also reflect the moral standard of society.

Changes in the socio-economic situation in Ukraine, taking place in recent years, led to some changes in the structure of violent crime. First of all, we talk about intentional murders. The dynamics and structure of this kind of crimes have been seriously changed since 2013.

The relevant processes take place against the background of numerous reforms (including the law-enforcement sphere) and separate, negative events which are taking place in the east and in the south of Ukraine. In general, the crime rate has changed significantly compared to previous years.

**Analysis of publications which discuss the solution to this problem.** The problem of

violent crime in general, and intentional murder in particular has been the topic of research of many scientists: A. I. Avanesov, Yu. M. Antonian, V. S. Batyrgerayeva, Yu. V. Baulin, V. V. Vasilevich, M. G. Verbensky, B. M. Golovkin, I. M. Danshin, O. M. Dzhezha, A.I. Dolgov, V.F. Zakharov, A.P.Zakalyuk, A.F.Zelinsky, O. V. Kopan, O. M. Kostenko, G. L. Krieger, V. V. Lunyov, A. M. Litvak, S. A. Shalgunova, O. M. Yakovlev and others.

Despite the relevance of these researches, the problem of intentional murders not thoroughly investigated over the last five years. The exceptions are some studies that do not give a comprehensive picture of the state and dynamics of intentional murders in general and certain types of qualified homicides, in particular.

**The purpose** of the article is to explain the latest trends of intentional murders and intentional murders in aggravating circumstances.

**Basic content.** First of all, it should be noted that the current situation in the area of intentional and incautious murders and in the area of violent crime in general, is different from that which was observed at the time before the “Revolution of Dignity”. One of the reasons for significant changes in statistical data is, of course, the introduction of a new (at that time) Criminal Procedural Code of Ukraine and changes in the reporting procedure. In addition, one of the reasons for the “deterioration” of the criminal situation in the country is the complicated transitional “post-revolutionary” period.

In general, it should be noted that, including by the end of 2013, the overall level of violent crime, which was fixed annually by law enforcement agencies, was lower than that which exists today. At the same time, the state and structure of violent crime also changed from 2013 to 2017, and this was already happening in the “new” conditions.

Analyzing changes in the dynamics and structure of intentional and incautious murders, we will consider them along with the total number of crimes registered in a given year, as well as the total number of registered crimes against life and health. Since 2013, more than 500 thousand crimes are officially registered in Ukraine annually. Thus, in 2013 there were 56356 crimes registered, in 2014 – 529139, in 2015 – 565182, in 2016 – 592604, in 2017 – 52391. As can be seen, the total number of crimes registered annually by law enforcement agencies varies, with a significant increase in registered crimes in 2015-2016, and a noticeable decrease in their total number in 2017 [2].

The dynamics of crimes against life and health clearly demonstrate the tendency towards a reduction in their total number. As of the end of 2013, 71444 crimes against life and health were registered in Ukraine, in 2014 - 61064, in 2015 - 53317, in 2016 - 45660, in 2017 - 37826. As we can see in absolute numbers, the number of annual registered violent not self-serving crimes decreased by almost at half times. It should also pay attention to the fact that reducing the number of violent crimes against the person took place against the background of moderate growth and reduction of the general level of crime. This conclusion indicates that the determinants of violent crime and crime in general – do not coincide. At the same time, changes in violent crime in quantitative terms are contrary to the general tendencies of crime in Ukraine.

Turning to the consideration of intentional murders and crime, the object of which is life, it must be said that since 2013, there has been a general increase in the number of intentional killings, which are recorded each year. In 2013, 5792 intentional murders were recorded in Ukraine without aggravating circumstances (qualified under Part 1 of Article 115 of the Criminal Code of Ukraine) [3]. In 2014 there were 11018, in 2015 - 7993, in 2016 - 5870, in 2017 - 5029 “ordinary murders”. As can be seen from absolute indicators, the number of these crimes has changed quite significantly over a short period of time. By the end of 2017, there has been a decrease in the level of intentional murders in Ukraine compared to previous years and the beginning of the analyzed period (2013).

At the same time, it should be taken into account that these indicators do not reflect the actual trends in uncomplicated murders. In spite of a decrease in the absolute number of registered killings annually during 2013-2017 (with the exception of their increase in 2014-2015), in fact, there is an increase in their relative weight. So, if in 2013 the share of uncomplicated intentional murders (Part 1 of Article 115 of the Criminal Code of Ukraine) amounted to 8.1% of the total number of crimes against life and health, then in 2017 this figure is 13.3% (at this, in some years, was 18% (2014) and 15% (2015)). Of course, this is a rather negative feature of the situation. Despite a significant overall reduction in violent crimes against life and health, the proportion of intentional murders over the past five years has increased by almost 1.5 times. In the general context (in relation to crime in general), the proportion of uncomplicated intention-

al murders remains the same, accounting for about 1% of all crimes recorded during the year on the territory of Ukraine.

Continuing consideration of the main trends of intentional killings committed in Ukraine during the last five years, it should be noted that there are “internal” tendencies that are inherent in certain types of murders. Part two, art. 115 of the Criminal Code of Ukraine, in the relevant paragraphs, provides a wide list of qualifying features of intentional murder. So, it is appropriate to analyze the state and dynamics of some of them.

First of all, it is necessary to pay attention on the fact that the committing of intentional murders with certain qualifying features is not very widespread in Ukraine. We are talking about qualifying features, which year by year almost did not find its expression in the data of criminal law statistics. Among these crimes are: intentional murder of hostage, murders related to the kidnapping; intentional murder of a person or his close relative in connection with the performance of this person's official or civic duty; intentional murder based on the grounds of racial, national or religious intolerance. Over the past five to seven years, no more than 3-5 facts of these crimes are recorded per year. In the criminological literature, different points of view on this situation are expressed. In the vast majority of cases, it is indicated by defects in the documentation and investigation of the relevant crimes (including the difficulty of proving the above aggravating circumstances), as well as deliberate, intentional “understatement” of the “undesirable” indicators (for example, qualification as an ordinary murder, murder based on grounds of racial, national or religious intolerance). However, it must be stated that the state and dynamics of intentional murders, as well as their relative weight, with the qualifications considered above, remain “stable”. This statement is based on the data of criminal law statistics.

Another is the situation with certain types of qualified intentional killings, stipulated in the relevant paragraphs of part two of Article 115 of the Criminal Code of Ukraine. The most common practice (given the statistical data) is the qualifying feature of an intentional murder as if it was committed by a group of people by its previous collusion. In other words, among all cases of intentional murder with aggravating circumstances, it most often is committed by two or more persons. An analysis of available statistics shows that there was a significant increase in such crimes over the last years.

If the 2013 murders committed by two or more persons have been registered 85, in 2014 - 154 in 2015 - 134 in 2016 - 115 in 2017 - 110. Of course, we can say that in 2017, such facts are registered less comparing to 2014 and 2015. At the same time, comparing the beginning and the end of the analyzed period, we can say that the number of intentional murders in Ukraine, committed by a group of people over the past five years, has increased by almost 30%. There is no doubt that there is a significant increase, which indicates the existence of negative trends in group and organized crime directed against human life in Ukraine.

Considering such a kind of qualified intentional murder as deprivation of the life of a minor child or a woman who is in a state of pregnancy obviously for a criminal, tendencies of increase should be noted. By the end of 2013, 41 cases of a deliberate killing of a minor child or a woman who is in a state of pregnancy obviously for a criminal were registered in Ukraine, but starting in 2014, this indicator does not decrease below 60 facts per year.

In particular, in 2014, there will be 60 murders of this qualification, in 2015 - 66, in 2016 - 68, in 2017 - 65. It is also interesting that, unlike other types of qualified intentional murders and ordinary domestic murders in general, the number annually committed murders on this aggravating circumstance does not end in 2016-2017 years, which is accompanied by exacerbation of the socio-political situation in Ukraine, active hostilities in the east, and so on. Compared to 2013, the number of intentional murders of a minor child or woman is in a state of pregnancy obviously for a criminal, increased by almost 50%, and it is worrying.

Along with the above-mentioned type of intentional murders, demonstrates trends of increasing of murders in a way that is dangerous to the lives of many people are present. At the end of 2013, such facts almost were not recorded in Ukraine. During this year, 4 facts of intentional murder in a way dangerous to the lives of many people were officially registered. At the same time, in 2014, there were 214 murders registered, in 2015 - 352, in 2016 - 35, and in 2017 - 26. The sharp increase in the number of crimes against life can be explained, by conducting of active military actions in eastern Ukraine, where a significant part of intentional murders have this qualifying feature. Nevertheless, we should to pay attention to the fact that after the end active phase of hostilities, the annual number of murders committed in a way that is dangerous for the lives of many people did not return to the indicators of 2013, but it remained rather high.

The indicators of intentional murders with hooligan motives also demonstrate trends for increasing. By the end of 2013, the total number of registered murders with this qualifying feature was 19. Since 2014, the number of such intentional killings is increasing, with a decrease in 2015-2016. Thus, in 2014, there were - 29 facts, in 2015 - 19 in 2016 - 16 to 2017 - 23 compared to the beginning of the period under review, the number of murders with hooligan motives increased by almost 20%. And although, in absolute terms, the number of such crimes is relatively small, in terms of "growth" there are disturbing changes.

A similar situation is about intentional murder by order. Such facts are difficult enough to investigate and prove, they also have the high level of latency. So, we can say that the given data do not fully demonstrate the real situation in the country. Nevertheless, there has been an increase in intentional murders by order, over the past five years, in Ukraine. In 2013, there were registered 7 such murders, in 2014 - 13, in 2015 - 8, in 2016 - 12, in 2017 - 9. Thus, from 2013, there was a steady increase of them, with the exception of almost double increase in 2014 and 2016.

Special interest among qualified corpus delicti of murders goes to murder committed by a person who previously (already) has committed a murder. As it is known, among those who committed an intentional murder there is a low rate of relapse. At the same time, since 2013 there is a clear, negative trend towards their annual growth. There are more and more cases in which those who used to be involved in the intentional murder are being prosecuted. It should be noted that these trends were present even before the analyzed period (in particular, in 2004-2012), when there was a double increase in the proportion of special recurrence, for persons who committed an intentional murder [4, c. 76]. If in 2013 this figure was equal to 64 facts per year, then in 2017 it is already 78. In this case, a significant increase in the relapse of intentional murders was observed in 2014 and 2016 (by 96 facts during the year, for each year), and in 2015, significantly more repeated murders were registered - 76 crimes.

Comparing the beginning and the end of the analyzed period, it can be said that the number of annual intentional murders committed by those who had previously committed an intentional murder, increased by almost 23%.

Considering the statistics of intentional murder in Ukraine over the last five years, it is also necessary to note the tendency to reduce their number on certain qualifying features. In particular, the number of annual perpetrators of intentional murder has been reduced for such aggravating circumstances as: a) two or more persons; b) with extreme cruelty; c) of mercenary motives; d) in order to conceal another crime or facilitate its commission; e) combined with rape or violent satisfaction of sexual desire in an unnatural way. Undoubtedly, some of the qualifying attributes, mentioned above, are quite widespread in view of the statistics of past years.

So, for example, except for the years of intense fighting in the East of Ukraine (2014 and 2015), the number of intentional murders of two or more people has decreased. If in 2013, were registered 93 such facts, in 2014 - 617, in 2015 - 319, in 2016 - 91, in 2017 - 67. In view of the beginning and end of the analyzed period, the number of murders, which have this qualifying feature, decreased by almost 28%.

We have a similar situation with registered murders with extreme cruelty. In 2013, 39 murders with extreme cruelty were officially registered, in 2014 - 24, in 2015 - 22, in 2016 - 17, in 2017 - 26. Despite the fact that the general trend towards a systematic reduction of their level ends in 2017, compared to 2013, they became less by 33%.

In addition, the number of registered intentional murders with profit motives significantly reduced. If by the end of 2013, there were registered 136, and in 2014 - 146, in 2015 - 110, in 2016 - 123, in 2017 - 96 intentional murders with profit motives. Thus, in general, the total number of intentional murders with profit motives was reduced by 29%.

It should also be noted that the reduction in the number of registered intentional murders committed with an aim of concealing or facilitating another crime (data for years and number of registered cases: 2013 - 20, 2014 - 19, 2015 - 17, 2016 - 14, 2017 - 9), as well as intentional murders combined with rape or violent satisfaction of sexual desire in an unnatural way (2013 - 10, 2014 - 13, 2015 - 8, 2016 - 9, 2017 - 8).

Taking into account the fact that in practice there may be a mistake and wrong qualification of encroachment on human life, we should also analyze statistical data concerning intentional grave bodily injuries that caused the victim's death. Over the past five years, there has been a trend towards a significant reduction in such crimes (according to official statistics). Thus, in 2013, 791 grave bodily injuries, which caused the death of the victim, were recorded, in 2014 - 759, in 2015 - 673, in 2016 - 695, and in 2017 - 604. The rate of decline of these acts,

in general, coincides with the total number of intentional murders recorded every year. This allows us to conclude sufficiently high reliability of information that is displayed and analyzed. In addition, we can conclude that there are currently no generally noticeable tendencies towards mass re-qualification of acts (from intentional murder to grave bodily harm that caused death), since the general decline can be seen in both directions.

**Conclusion.** Summing up, we should to focus on the most important tendencies of intentional murder in Ukraine over the last five years (from 2013 to 2017):

a) the total number of intentional murders (all) that are annually registered in Ukraine is gradually decreasing (while talking about absolute levels);

b) the proportion of intentional murders (all) as a part of crimes against life and health has increased significantly (as of 2013 - 8.1%, as of 2017 - 13.3%), almost at 1.5 times;

c) certain types of intentional murders show tendencies to increase. In particular, those intentional murders are: 1) a way dangerous to the lives of many people; 2) with hooligan motives; 3) by order; 4) committed by a group of people by its previous collusion; 5) committed by person who previously committed intentional murder;

d) certain types of intentional murders show tendencies for reduction. In particular, those intentional murders are: 1) two or more persons; 2) with extreme cruelty; 3) with profit motives; 4) committed with an aim of concealing or facilitating another crime; 5) combined with rape or violent satisfaction of sexual desire in an unnatural way.

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#### **Summary**

The article deals with the current state of intentional murders and intentional murders with qualifying features in Ukraine. The dynamics of these crimes over the past 5 years has been analyzed, their main tendencies are determined. The research is based on generalized statistics data for 2013-2017 years.

**Keywords:** *crimes against life and health, the dynamics of crimes, intentional murder, qualifying features.*

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### **MODERN CONDITION AND FEATURES OF PROVISION AND DEVELOPMENT OF APPEALING PROCEEDINGS IN UKRAINE**

**Кулянда М. СУЧАСНИЙ СТАН ТА ОСОБЛИВОСТІ СТАНОВЛЕННЯ Й РОЗВИТКУ АПЕЛЯЦІЙНОГО ПРОВАДЖЕННЯ В УКРАЇНІ.** Роботу присвячено дослідженню становлення та основних етапів розвитку апеляційного провадження в Україні. У науковій статті здійснено історико-правове дослідження щодо становлення та розвитку апеляційного провадження в кримінально-процесуальному законодавстві України на різних етапах її історії. Визначено момент виникнення інституту апеляції на території України та основні етапи його розвитку.

У підсумку автором стверджується, що інститут апеляцій та розгляду судових рішень існував з VIII століття. Розвиток рішень апеляційного суду склав велику кількість етапів залежно від історичних реалій, рівня розвитку процедурного законодавства, правової культури та ступеня автономної особистості в державі та суспільстві.

**Ключові слова:** *становлення, розвиток, апеляційне провадження, Апеляційний Суд, оскарження.*