

CRIMINOLOGICAL PROFILE OF CORRUPT BORDER GUARD (UKRAINIAN EXPERIENCE)

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ABSTRACT

The research is based on a study of verdicts by national courts of Ukraine handed down against border guards who have committed corruption crimes. The research has covered 87 sentences in the period from 2014 to 2019; the studied sentences were handed down against 92 people. The obtained results of the empirical research provide primary, reliable, and representative information about border guards who have committed corruption crimes. This made it possible to formulate the criminal profile of the Ukrainian corrupt border guard. Such a person belongs to the situational-criminogenic type as they commit crimes (oftentimes repeatedly) not because of persistent anti-social attitudes and perceptions but in connection with the introduction of some groups of negative orientation into the life, leading a lifestyle on the border of socially acceptable and anti-social.

Keyword: Corruption, Criminal Profiling, Border Guard, Ukraine.

INTRODUCTION

The issue of corruption has been considered global since its recognition and has provoked heated debates that are generally directed against it. Countless scientific and journalistic works have been devoted to it, and a certain array of political slogans is connected with counteracting this particular phenomenon. It is considered a particularly dangerous illegal manifestation in relation to constitutional rights and freedoms, the state, interests of civil service or service in local government, service in commercial and other organizations, against property that is manifested in the mercenary nature of officials, governmental and political figures. This is systematic bribery, adjusted and established for generations by the mechanism of illegal remuneration of officials, which fundamentally undermines the foundations of the state and law.

It is doubtless that corruption is one of the oldest and most threatening pathologies of public life. It is a negative phenomenon that clearly demonstrates (from a moral point of view) the violation of norms of decency in public life. Corruption also creates a belief in the powerlessness of the whole society against the established corruption system and undermines the trust in the democratic system of the state (Iasechko et al., 2020). Corruption threatens the rule of law, human rights, and democracy, violates the basic principles of public morality and

justice, slows down the development of the state, threatens its institutional stability, democratic and moral principles of society, etc.

The facts of committing corruption crimes by employees of certain law enforcement agencies, including border guards, cause concerns. With globalization, border control authorities play an important role in facilitating trade and the circulation of goods and people across countries while protecting borders and national security (Chêne, 2018).

Countries suffering from cross-border corruption cannot make the best use of their human and natural resources, or manifest effective development strategies of their own; instead, they will more likely remain dangerously vulnerable to, and dependent upon, outside interests, technology and market trends. General domestic policy and the legitimacy of leaders and institutions are likely to be undermined where cross-border corruption is most serious, often in societies where sustainable development is most desperately needed (Johnston, 1998).

MAIN TEXT

According to official statistics, since 2008, an average of 30-40 Ukrainian border guards has been convicted of various crimes each year. Of course, for some time (2009-2012) there was a tendency to gradually halve this number to 15 people. At the same time, since 2013, it has started to grow again (17 people); in 2014, it reached the level of 2009 (34 people). What is more, the rate of bringing the cross-border service to criminal responsibility in 2015 reached more than 130 people and was the highest in all previous years, while in 2019 the number of convicts fell to 16.

The analysis of the crime structure of border guards showed that a quarter of all crimes are corruption crimes. Thus, over the past six years, Ukrainian courts have prosecuted almost 360 border guards for committing various categories of crimes. Most of them (55,18%) are obviously crimes related to the order of military service, including 37,56% that is arbitrary leaving the place of service, and 31,47% that is disobedience.

However, border guards also commit other categories of crimes. In particular, of all convicts in 2014-2019, 26,05% of border guards were found guilty of committing crimes in the sphere of official activity; 4,76% against the property; 4,49% against public safety; 3,92% in the field of drug trafficking; 2,24% in the field of state border protection, and 1,68% against life and health and against traffic safety and transport.

Of all Ukrainian border guards convicted in 2014-2019, 25.77% (92 people) were found guilty of committing corruption crimes. Such crimes were:

- Acceptance of an offer, promise, or receipt of an illegal benefit by an official (71,74%);
- Abuse of influence (13,04%);
- An offer, promise, or provision of an improper benefit to an official (7,61%);
- Abuse of power or official position (3,26%);

Theft, arrogation, extortion by a serviceman of weapons, ammunition, explosives, or other ammunition, means of transport, military and special equipment, or other military property, as well as their seizure by the fraud of service position (4,35%).

Between 2015 and 2019, more than 9.6 thousand protocols on administrative offenses were drawn up against border guards. It is obvious that most of these protocols are those drawn up for the commission of military administrative offenses, including 40.49% for drinking alcoholic, low-alcohol beverages or using drugs, psychotropic substances, or their

analogs; 37.37% – for violation of the rules of cross-border service; 16.95% – for negligent attitude to military service; 5.19% – other administrative offenses (Kuryliuk, 2020).

As for the offenses committed by border guards from a number of administrative offenses related to corruption, in the last four years in Ukraine there have been 62 cases of prosecution of border guards, including 32 for violation of financial control requirements; 19 for violation of restrictions on part-time work; 5 for the illegal use of official information; 4 for violation of restrictions on receiving gifts, and 2 on the conflict of interests.

Profile of a corrupt border guard

The question of who commits a crime is primary and has always been of interest to both law enforcement and researches (Khoshnood, 2017). In criminology, one of the methods is used, that is called Latin *Modus operandi*, with the help of which a psychological profile of a criminal is formed, which can help identify and apprehend a suspect in committing one or another crime. Knowledge of the characteristics of a criminal can help to investigate and reduce its length to detection of a criminal (Ainsworth, 2012), and using this information to identify and apprehend individuals involved in criminal activity (Eliason, 2013).

Profiling of criminal offenders is a common practice used in contemporary law enforcement and has been the subject of research by criminal justice scholars (Devery, 2010). Profiling of the offender is carried out in various areas, for example, to determine the profile of police officers sentenced for bribery (Simonović, 2017).

The analysis of a criminal behavior is of considerable interest to both science and practice, since the profiling of the perpetrator makes it possible to predict the identification characteristics of an unknown criminal through the study of his behavior and traces he left at the crime scene, analyzing for this evidence, collected from the crime scene, aiming to facilitate their identification and detention (Canter, 2014).

To study the identity of a border guard who commits a corruption crime, their socio-demographic characteristics are important, as they contribute to the complete coverage of the problem in question.

Gender is traditionally the first and most obvious system-forming indicator, which characterizes the structure of crime of any kind. In addition, as emphasized by V.S. Batyrhareyeva, it defines the type of crime of a certain type, at the same time bringing the researcher to the problems of social, criminological, moral, psychological, and another kind, which determine the criminal activity of men and women in certain areas of criminal activities (Batyrhareyeva, 2009).

Our study of sentences handed down by Ukrainian courts during 2014-2019 showed that all corruption crimes were committed by male border guards. It gives grounds to state that the corruption crime of border guards can be regarded as a kind of male crime. It is certain that this circumstance should not be considered an unconditional criminological property of a person. Yet, it should be noted that the crime of border guards in general (except for corruption) is characterized by rather meager indicators of women's participation in crime, because of all the sentences we studied; only 1.73% concerned female border guards.

One of the important socio-demographic characteristics is the age of a person, and for border guards, age has not only social and biological significance but also affects their legal status as servicemen (Zaitsev, 2020). It is connected with the fact the military service in the border service is possible with the onset of the conscription age (Melnyk, 2020).

The results of the study of the empirical basis showed that all border guards convicted of corruption crimes were aged 19-45, *i.e.* persons in the prime of physical strength, the most productive and able to work. Among them, the most criminally active age group (52.27%) is

young men under 30 years of age. It is obvious that persons of this age group are in an active search for material resources, as well as more exposed to criminogenic factors in the cross-border field. In general, age indicators are as follows: 18-20 years old – 12,5%, 21–25 years old – 17,05%, 26–30 years old – 27,27%, 31–35 years old – 12,23%, 36–40 years old – 20,45%, and 41–45 years old – 12,5%.

The family is believed to have a significant potential both in terms of preventing and supporting the illegal behavior of its member, as people who have a family are exposed to influencing factors, some of which are generated or preconditioned by family life (Galitsina, 2013). Among the signs that are important for the prediction of criminal behavior or those that show a negative attitude of a person to social values, the research distinguishes the presence or absence of a family (Zakaliuk, 1986). After conducting an appropriate analysis, it was found that 58,82% of border guards convicted of corruption crimes are married, 4,55% are divorced, and 1.14% are in a de facto marital relationship (so-called civil marriage). At the same time, the majority (47,73%) of these convicts took care of children, including 42,85% having two or more children.

The characterization of convicts by the level of education makes it possible to determine the worldview, knowledge, skills, ability to self-realization, and level of intellectual and cultural development. The research found that 43,18% of those surveyed had higher education, 23,86% – secondary special, 22,73% – secondary, and 10,23% – professional.

Of particular importance is also a sign that reflects the place of the border guard who commits a corruption crime in society, their social status. In this context, there is no doubt that the border guard belongs to a certain category of border guards and their official position.

47,73% of convicted border guards had a short length of military service in the border service – from 1 to 5 years. It is explained, in particular, by the fact that young men have a significant advantage in committing corruption crimes. However, the share of those who served in the state border guards from 3 to 5 years still remains small and accounts for only 14,77% of criminals.

Among the total mass of border guards convicted of corruption crimes, the most significant share (47,73%) are sergeants, 32,95% – officers, and 19,32% – soldiers. At the same time, 29,55% of servicemen had the ranks of ensign and senior ensign, 19,32% – soldiers, 18,18% – junior sergeant, sergeant, and senior sergeant. Among the border officers who committed corruption crimes, junior and senior officers were distributed almost equally, with a slight advantage of the former (51,72% vs. 48,28%).

The most criminogenic among border guards who commit corruption crimes is the group of persons who held inspection positions (61,36%), of which 50% are inspectors of the cross-border service (ensign, senior ensign), 43% – junior inspectors of the cross-border service (positions up to sergeant), and other senior and district inspectors of the cross-border service (officer positions). It is worth mentioning that a quarter of all these people were cynologists. Of the total number of border guards convicted of corruption, 29,55% were persons who held the positions of chiefs or deputy chiefs at the time of the crime, and 3,41% were operatives, which should be taken into account when formulating measures to prevent this type of illegal activity.

Considering the criminal-legal characteristics of the person of the specified category of the criminal, it follows from the analysis of the specified number of sentences that the majority of these crimes are committed by cross-border guards independently (90,91%). They are committed by a group of persons in 5,68% of cases, as well as being a part of an organized group in 3,41%.

At the same time, the majority of corrupt border guards (86,36%) received an illegal benefit for providing information on the least guarded area of the state border, through which

it will be possible to carry out the illegal movement of smuggled or illegal migrants; 5,68% – for the passage across the state border of Ukraine by persons who are prohibited from entering the territory of the state by authorized officials; 3,41% – for the appointment of a person to a higher position or assignment of a military rank to a higher degree than provided for the position, and 4,55% of border guards appropriated military property (weapons and ammunition).

An important feature that characterizes the identity of a border guard who commits a corruption crime is the motivation for such illegal behavior. This sign can be detected by finding out the amount of money that the corrupt person received. The average amount is \$830. It should be noted that the given data cannot be completely reliable. Its verification is possible only as cross-examination of both bribe-givers and those who receive the corresponding illegal benefit. We have drawn these conclusions on the basis of information corroborated by the judgments of the domestic courts on the basis of the evidence gathered by the pre-trial investigation authorities.

Thus, 4,55% of border guards received illegal benefits in the amount of up to 1,000 UAH, 29,55% received from 1,000 to 5,000 UAH, 23,86% received from 5,000 to 10,000 UAH, 9,09% – from 10,000 to 20,000 UAH, and 32,95% received more than 20,000 UAH. The results of the research showed that the main reason that motivated border guards to commit a corruption crime was an easy way to earn money (94,32%) and only 5,68% committed this crime due to difficult family circumstances. It gives reason to believe that the vast majority of convicts committed this crime for selfish motives due to low official wages (Khalymon, 2020). Luptakova rightly notes that a rank-and-file Ukrainian border guard earned around €200 per month, with a warrant officer earning € 300 and an officer around € 400, with living costs being comparable to those in the Czech Republic. Smugglers make a profit of around \$125 million per year from illegal migration. It is for this reason that Ukrainian border guards take a material interest, being able to buy a car (priced at \$80 000 on the Ukrainian market) after 2 months of service) (Luptakova, 2009).

The conducted study of various characteristics of persons who committed the investigated acts showed not only the visible variability of the set of their external traits and characteristics (socio-demographic, criminal-legal, socio-role) but also revealed their internal essence, which is manifested in the similarity of the selfish motive that motivates them to gain profit (benefit) through illegal actions in the cross-border area.

A border guard who has committed a corruption crime is characterized by a strong anti-social and anti-state orientation, a dominant selfish motivation (selfishness) of criminal behavior, as well as a set of negative social and psychological traits that lead to unlawful encroachment on the state of cross-border relations, which ensures the prevention or minimization of threats to the material and spiritual values of the main spheres of public relations, as well as contributes to the sustainable development of the state and the realization of its national interests.

Despite the various criminologically significant features of the studied category of persons, they are united by similar moral and psychological traits, which reflect their attitude to society and the state, social values, basic humanitarian principles, as well as subjective assessment of himself as a person, their own interests, needs, and opportunities. The combination of intellectual, emotional, and volitional characteristics that reflect the psychological characteristics of the border guard who committed a corruption crime indicates that this category of persons cannot be attributed to the usual and primitive type of criminal.

For criminals of this category, as a rule, a contradictory set of features is characteristic: average, and sometimes high level of intelligence, combined with limited views and interests, the primitiveness of leisure and cultural needs. The emotional sphere of these criminals is characterized by inadequate (overestimated or underestimated) self-esteem,

emotional instability, frivolity, insecurity, fear of difficulties, underdeveloped ability to empathize, low level of emotional intelligence.

Along with it, these features of the emotional sphere of a border guard who has committed a corruption crime are manifested against the background of highly developed volitional qualities of the studied category of persons, which are characterized by increased business activity, perseverance, entrepreneurship, energetic nature and purposefulness, persistence.

Of course, it cannot be said that the aforementioned moral and psychological characteristics of a corrupt border guard inevitably “force” them to commit appropriate illegal encroachments, but they are, so to speak, refracted through the prism of their dominant selfishness and personal interests, as well as in the conditions of external favorable preconditions (for example, the lack of delimitation and demarcation of the state border or its poorly guarded area), they serve as a favorable basis for further formation of the motive for criminal behavior.

CONCLUSION

Summing up the study, it should be noted that the identity of the criminal who committed a corruption crime can be attributed to the situational-criminogenic type. After all, the results of the research showed that such persons commit crimes (oftentimes repeatedly) not because of persistent anti-social attitudes and perceptions but in connection with the introduction of some groups of negative orientation into life, leading a lifestyle on the border of socially acceptable and anti-social. The criminal profile of a corrupt border guard is mainly a male aged 19-30 (52,27%), with higher education (43,18%), married (56,82%), has children (47,73%), including two or more in 42,85% of cases. Such persons have a total length of service in the cross-border service from 1 to 5 years (47,73%), sergeants (47,73%), or officers (32,95%), when committing a crime, they are guided by a selfish motive (94,32%). The majority (86,36%) of corrupt actions of border guards are to obtain illegal benefits for providing information on the least guarded area of the state border, through which it will be possible to carry out the illegal movement of smuggled or illegal migrants.

Corruption crime of border guards is a set of corruption crimes committed by servicemen and employees of the cross-border service during the manifestation of state border legislation in relations with persons crossing the state border, as well as when interacting with employees of other state institutions that perform control functions in the cross-border area.

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