

COMPARATIVE TABLE
to the Draft Law of Ukraine “On Amendments to Certain Legislative Acts
on the Enforcement of International Criminal and Humanitarian Law”
(On Amendments to the Criminal and Criminal Procedure Codes of Ukraine
concerning the implementation of the norms of International Criminal and Humanitarian Law)

Content of the provision (norm) of the current act of legislation	Content of the relevant provision (norm) of the draft law (for Second reading)
<p>Criminal Code of Ukraine (Verkhovna Rada of Ukraine (VRU), 2001, No. 25-26, p. 131)</p>	
<p>Article 8. The Law on Criminal Liability for Crimes Committed by Foreigners or Stateless Persons outside Ukraine</p> <p>1. Foreigners or stateless persons who do not permanently reside in Ukraine who have committed crimes abroad, shall be held liable in Ukraine under this Code in the cases provided for in international treaties or if they have committed grave or particularly grave crimes against rights and freedoms of the citizens of Ukraine or the interests of Ukraine under this Code.</p> <p>Absent</p> <p>2. Foreigners or stateless persons who do not permanently reside in Ukraine shall also be held liable in Ukraine under this Code if they have committed, in complicity with officials who are citizens of Ukraine, any of</p>	<p>Article 8. The Law on Criminal Liability for Crimes Committed by Foreigners or Stateless Persons outside Ukraine</p> <p>1. Foreigners or stateless persons who do not permanently reside in Ukraine who have committed crimes abroad, shall be held liable in Ukraine under this Code in the cases provided for in international treaties or if they have committed grave or particularly grave crimes against rights and freedoms of the citizens of Ukraine or the interests of Ukraine under this Code.</p> <p>2. Foreigners or stateless persons who do not permanently reside in Ukraine who have committed any of the crimes set out in Articles 437-438-5, 442 and 442-1 of this Code outside of Ukraine shall be held liable in Ukraine under this Code, regardless of the cases (conditions) provided for in part one of this Article, if such persons are in the territory of Ukraine, but cannot be extradited (transferred) to a foreign state or an international judicial institution for criminal prosecution or such extradition (transfer) has been refused.</p> <p>3. Foreigners or stateless persons who do not permanently reside in Ukraine shall also be held liable in Ukraine under this Code if they have committed, in complicity with officials who are citizens of Ukraine, any of the crimes set out in Articles 368, 368³, 368⁴, 369 and 369² of this Code, or if</p>

<p>the crimes set out in Articles 368, 368⁻³, 368⁻⁴, 369 and 369⁻² of this Code, or if they offered, promised, gave unlawful benefit to such officers, or accepted the offer, promise of such benefit or received such benefit.</p>	<p>they offered, promised, gave unlawful benefit to such officers, or accepted the offer, promise of such benefit or received such benefit.</p>
<p>Absent</p>	<p>Section VI-1 FEATURES OF CRIMINAL LIABILITY OF MILITARY COMMANDERS, OTHER PERSONS ACTING AS MILITARY COMMANDERS AND OTHER SUPERIORS FOR CERTAIN CRIMES OF SUBORDINATES</p> <p>Article 31-1. Criminal liability of military commanders, other persons acting as military commanders and other superiors</p> <p>1. A military commander or another person who actually acts as a military commander shall be criminally responsible for any of the crimes set out in Articles 437-438-5, 442 and 442-1 of this Code committed by a subordinate who was at the time of committing a crime under his actual command and control, or, as the case may be, under his actual authority and control, as a result of his failure to exercise proper control over such a person, provided that the military commander or other person actually acting as a military commander knew or consciously assumed, or should and could have known that the said subordinate person had committed or intended to commit such a crime, but did not take the measures which they should and could have taken within the limits of their powers to prevent or stop the commission of the crime or to report the crime to the competent authority.</p> <p>2. A superior whose legal status is not provided for in paragraph one of this article shall be criminally responsible for any crime set out in Articles 437-438-5, 442 and 442-1 of this Code, if such crime concerned activities that fall under his actual responsibility and control and was committed by a subordinate who was at the time of committing a crime under his or her actual authority and control, as a result of his failure to exercise proper control over such a person, if such a superior knew or consciously assumed that the subordinate person was committing or intended to commit such a crime; and did not take the measures which he</p>

should and could have taken within the limits of his powers to prevent or stop the commission of the crime or to report the crime to the competent authority.

3. A military commander or another person who actually acts as a military commander or another superior shall be criminally responsible for the relevant part of this article and that article (part of the article) of the Special Part of this Code that provides for a crime committed by their subordinate.

Note. 1. A military commander in this article shall be understood to mean a person who, under appropriate legal grounds, is authorized to exercise command and control over one, several or many subordinates who take part in hostilities and belong to the armed forces of the State.

2. Another person who actually acts as a military commander in this article shall be understood to mean a person under the authority and control of which, in connection with the conduct of hostilities, there are one, several, or many subordinates who take part in hostilities and do not belong to the armed forces of the state.

3. The supervisor in this article shall be understood to mean a person not specified in paragraphs 1 and 2 of this note to this Article, who is holding a position or is in a position that gives authority (power) and control over one, several or many subordinates.

Article 44. Legal Grounds and Procedure for Exemption from Criminal Liability

1. A person who committed a crime shall be exempted from criminal liability in the cases provided for in this Code.

2. Exemption from criminal liability in the cases provided for in this Code shall be carried out exclusively by a court. The procedure for exemption from criminal liability shall be established by law.

3. Absent

Article 44. Legal Grounds and Procedure for Exemption from Criminal Liability

1. A person who committed a crime shall be exempted from criminal liability in the cases provided for in this Code.

2. Exemption from criminal liability in the cases provided for in this Code shall be carried out exclusively by a court. The procedure for exemption from criminal liability shall be established by law.

3. Exemption from criminal liability shall not apply in cases of crimes against peace, security of humanity and international legal order, as provided for in Articles 437-438-5, 442 and 442-1 of this Code.

<p>Article 49. Exemption from Criminal Liability with regards to Expiration of Limitation Period</p> <p>...</p> <p>5. The limitation period shall not apply in the case of committing crimes against the national security bases of Ukraine provided for in Articles 109-114-1, against the peace and security of mankind provided for in Articles 437-439 and Article 442-1 of this Code.</p>	<p>Article 49. Exemption from Criminal Liability with regards to Expiration of Limitation Period</p> <p>...</p> <p>5. The limitation period shall not apply in the case of committing crimes against the national security bases of Ukraine provided for in Articles 109-114-1, 439 of this Code.</p>
<p>Article 68. Sentencing for an unfinished crime and for the crime of complicity</p> <p>...</p>	<p>Article 68. Sentencing for an unfinished crime and for the crime of complicity</p> <p>...</p> <p>4. Life imprisonment for the purpose of committing a crime and attempting to commit a crime shall not apply, except in cases of committing crimes against the national security bases of Ukraine provided for in Articles 109-114-1 of this Code, against peace, security of humanity and international legal order provided for in Articles 437-438, 438-2 – 438-4, 439, 442, 442-1 and 443 of this code.</p>
<p>Article 69. The imposition of a milder sentence than provided by law</p> <p>1. In the presence of several circumstances that mitigate the punishment and significantly reduce the severity of the crime, taking into account the perpetrator, the court, motivating its decision, may, except in cases of conviction for a corruption crimes, impose a basic punishment below the minimum limit set in the sanction of the article (sanctions of part of the article) of the Special Part of this Code, or move to another, milder type of basic punishment, not specified in the sanction of the article (sanction of part of the article) of the Special Part of this Code for this crime. In this case, the court has no right to impose a penalty below the minimum limit set for this type of punishment in the General Part of this Code. For the commission of a crime punishable by a basic punishment in the form of a fine of more than three thousand non-taxable minimum incomes, the court on the grounds</p>	<p>Article 69. The imposition of a milder sentence than provided by law</p> <p>1. In the presence of several circumstances that mitigate the punishment and significantly reduce the severity of the crime, taking into account the perpetrator, the court, motivating its decision, may, except in cases of conviction for a corruption crimes or crimes against peace, security of humanity and international legal order, provided for in Articles 437 - 438-5, 442, 442-1 of this Code, impose a basic punishment below the minimum limit set in the sanction of the article (sanctions of part of the article) of the Special Part of this Code, or move to another, milder type of basic punishment, not specified in the sanction of the article (sanction of part of the article) of the Special Part of this Code for this crime. In this case, the court has no right to impose a penalty below the minimum limit set for this type of punishment in the General Part of this Code. For the commission of a crime punishable by a</p>

<p>provided for in this part may impose a basic punishment in the form of a fine not exceeding a quarter lower than the minimum limit, established in the sanction of the article (sanctions of the part of the article) in the Special Part of this Code.</p> <p>...</p>	<p>basic punishment in the form of a fine of more than three thousand non-taxable minimum incomes, the court on the grounds provided for in this part may impose a basic punishment in the form of a fine not exceeding a quarter lower than the minimum limit, established in the sanction of the article (sanctions of the part of the article) in the Special Part of this Code.</p> <p>...</p>
<p>Article 74. Exemption from punishment and serving the sentence</p> <p>...</p> <p>5. A person may also be exempted from punishment by a court order on the grounds provided for in Article 49 of this Code.</p> <p>6. Absent</p>	<p>Article 74. Exemption from punishment and serving the sentence</p> <p>...</p> <p>5. A person may also be exempted from punishment by a court order on the grounds provided for in Article 49 of this Code.</p> <p>6. Exemption from punishment and its serving, except for exemption under Parts 2 and 3 of Article 74, Articles 81 and 84 of this Code, shall not apply in cases of crimes against peace, security of humanity and international legal order, provided for in Articles 437 - 438-5, 442, 442-1 of this Code.</p>
<p>Article 80. Exemption from serving a sentence in connection with the expiration of the limitation period of execution of the indictment</p> <p>...</p> <p>6. The statute of limitation shall not apply in the case of convictions for crimes against the peace and security of humanity provided for in Articles 437-439 and part one of Article 442 of this Code.</p>	<p>Article 80. Exemption from serving a sentence in connection with the expiration of the limitation period of execution of the indictment</p> <p>...</p> <p>6. The statute of limitations shall not apply in the case of conviction for crimes, provided for in Article 439 of this Code.</p>
<p>Article 432. Looting</p> <p>Theft of the things of the killed or wounded in the battlefield (looting)</p> <p>-</p> <p>shall be punishable by imprisonment for a term of three to ten years.</p>	<p>Exclude</p>
<p>Article 433. Violence against the population in the area of hostilities</p> <p>1. Violence, unlawful destruction of property, and unlawful seizure of</p>	<p>Exclude</p>

<p>property under the pretext of military necessity, committed against the population in the area of hostilities, - shall be punishable by imprisonment for a term of three to eight years.</p> <p>2. Robbery committed against the population in the area of hostilities - shall be punishable by imprisonment for a term of seven to ten years.</p>	
<p>Article 434. Poor treatment of prisoners of war</p> <p>Poor treatment of prisoners of war, which has occurred repeatedly, or was connected with special cruelty, or was directed against the sick and injured, as well as careless performance of duties in respect of sick and wounded persons by those in charge of their treatment and care, in the absence of signs of a more serious crime - shall be punishable by imprisonment for a term of up to three years' imprisonment.</p>	<p>Article 434. Careless performance of duties in respect of sick and injured persons</p> <p>Careless performance of duties in respect of the sick and injured persons by those in charge for their treatment and care, in the absence of signs of a more serious crime - shall be punishable by imprisonment for a term of up to three years.</p>
<p>Article 435. Illegal use and abuse of the symbols of the Red Cross, Red Crescent, Red Crystal</p> <p>1. Wearing in the area of hostilities the symbols of the Red Cross, Red Crescent, Red Crystal by persons who are not entitled to it, as well as abuse during a special period other than martial law, of flags or signs of the Red Cross, Red Crescent, Red Crystal or painting assigned to sanitary vehicles, - shall be punishable by restriction of liberty for a term up to two years.</p> <p>2. Wearing in the area of hostilities the symbols of the Red Cross, Red Crescent, Red Crystal by persons who are not entitled to it, as well as abuse in the state of martial law of the flags or signs of the Red Cross, Red Crescent, Red Crystal or painting assigned to sanitary vehicles, - shall be punishable by imprisonment for a term of up to two year.</p>	<p>Exclude</p>
<p>Article 436. Propaganda of war</p> <p>Public calls for an aggressive war or an armed conflict, as well as the</p>	<p>Article 436. Public calls for an act of aggression or the unleashing an armed conflict of a non-international character</p> <p>Public calls for an act of aggression or the unleashing an armed</p>

production of materials calling for such acts to be distributed or disseminated

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shall be punishable by community service for a term of up to two years, or arrest for a term of up to six months, or imprisonment for a term up to three years.

conflict of a non-international nature, as well as the production of materials calling for such acts for the purpose of their dissemination or dissemination of such materials –

shall be punishable by arrest for a term of up to six months or imprisonment for a term of up to three years.

Note 1. An act of aggression in this Article and Article 437 of this Code means the use of the armed forces by a state against the sovereignty, territorial integrity or political independence of another state, or in any other way incompatible with the Charter of the United Nations, in particular any of the following acts, irrespective of the declaration of war:

1) the invasion or attack by a state's armed forces into the territory of another state, or any military occupation, whatever its temporary nature, resulting from such an invasion or attack, or any annexation by force of the territory of another state or part thereof;

2) bombardment by armed forces of a state in the territory of another state or use of any weapon by a state against the territory of another state;

3) blockade of ports or shores of a state by the armed forces of another state;

4) attack by a state's armed forces on land, sea or air forces or naval and air fleets of another state;

5) the use of the armed forces of one state that are located in the territory of another state in agreement with the receiving state, in violation of the terms of the treaty, or any extension of their stay in such territory after the termination of the treaty;

6) the action of a state which allows its territory which it has made available to another state to be used by that other state to commit an act of aggression against a third state;

7) the sending by the state or on behalf of the state of armed groups, irregular forces or mercenaries carrying out acts of use of armed force against another state of such a serious nature as to make them equivalent to the acts listed above, or the state's significant involvement therein.

	<p>2. Articles 436, 438-438-5 of this Code refer to armed conflicts of a non-international nature, meaning prolonged armed clashes within the territory of a state between government forces (including armed forces or other state military formations) and one or more organized armed formations (armed groups), exercising control over a part of the territory of the state which enables them to conduct continuous and coordinated hostilities, or between such formations (groups).</p> <p>Non-international armed conflict does not include cases of public nuisance and situations of internal tension (for example, mass riots, terrorist acts, individual acts of violence, etc.).</p>
<p>Article 437. Planning, preparation, starting and waging of an aggressive war</p> <p>1. The planning, preparation or starting of an aggressive war or a military conflict, as well as participation in a conspiracy to commit such acts, - shall be punishable by imprisonment for a term of seven to twelve years.</p> <p>2. Waging an aggressive war or aggressive hostilities shall be punishable by imprisonment for a term of ten to fifteen years.</p>	<p>Article 437. Crime of aggression</p> <p>1. Planning, preparing, initiating or executing by a person capable of effectively controlling or directing the political or military activities of a state, an act of aggression which, by its nature, seriousness and scale, is a gross violation of the Charter of the United Nations, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.</p> <p>Note. For the purposes of Articles 437 – 438-5, 442 and 442-1 of this Code, the provisions of international treaties approved by the Verkhovna Rada of Ukraine and customary international law in force at the time the respective act was committed, as well as the practice of applying these provisions by international judicial institutions (tribunals) shall be taken into account.</p>
<p>Article 438. Violation of rules of the warfare</p> <p>1. Cruel treatment of prisoners of war or civilians, deportation of civilian population for forced labor, pillage of national treasures on occupied territories, use of methods of the warfare prohibited by international instruments, or any other violations of rules of the warfare recognized by international instruments consented to by binding by the Verkhovna Rada</p>	<p>Article 438. War crimes against a person</p> <p>1. Deliberate commitment in connection with an international armed conflict:</p> <p>1) facilitating the relocation or forcible transfer of part of the civilian population of the occupying state to the occupied territory or all or part of the occupied territory, both within and outside that territory;</p>

(Parliament) of Ukraine, and also giving an order to commit any such actions,

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shall be punishable by imprisonment for a term of eight to twelve years.

2. The same acts accompanied with an intended murder, -
shall be punishable by imprisonment for a term of ten to fifteen years,
or life imprisonment.

2) forcing a prisoner of war or other person under the protection of international humanitarian law to serve in the armed forces of the opposite side of the conflict;

3) forcing citizens of the opposite side of the conflict to engage in hostilities against their own country, even if they were serving in the armed forces of such opposite party before the armed conflict began;

4) unreasonable delay in repatriation of a prisoner of war or another person under the protection of international humanitarian law after the end of hostilities, -

shall be punishable by imprisonment for a term of six to twelve years.

2. Deliberate commission (causing) in connection with an international armed conflict or a non-international armed conflict with respect to a person under the protection of international humanitarian law:

1) deportation of population, that is, forcible and in the absence of grounds under international law transfer (eviction) of one or more persons from the territory in which they are lawfully present, to the territory of another state;

2) the forcible transfer of the population, that is, forced and in the absence of grounds provided for by international law, the transfer (eviction) of one or more persons from the territory in which they were lawfully present to another locality within the same state;

3) recruitment or involvement of persons under the age of fifteen years in the armed forces or other state military formations, or other entities (groups) involved in the armed conflict, as well as the use of such persons for participation in hostilities;

4) deprivation of a person under the protection of international humanitarian law, the right to a fair and independent trial;

5) acts that violate human dignity;

6) capturing or holding a person as a hostage;

7) unlawful imprisonment;

8) rape, sexual exploitation, forced prostitution, forced pregnancy,

forced sterilization or any other form of sexual abuse;

9) torture or other inhumane treatment dangerous to life or health at the time of infliction, including unlawful conduct of any kind of experiments on a person, the use of illegal methods of treatment;

10) causing moderate or severe bodily harm;

11) injuring of a person referred to in subparagraph 3 of paragraph 2 of the note to this article, -

shall be punishable by imprisonment for a term of seven to fifteen years.

3. Committing a premeditated murder in connection with an international armed conflict or a non-international armed conflict against a person under the protection of international humanitarian law, -

shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.

Note. 1. In Articles 438-438-5 of this Code, an armed conflict of an international nature shall be understood to mean any conflict between two or more states with the use of armed forces. An armed conflict of an international nature also takes place in all cases of partial or complete occupation of the territory of the state, even if there is no any armed resistance.

2. In Articles 438 and 438-2 of this Code persons protected by international humanitarian law shall be understood to mean:

1) in the context of an international armed conflict, any person protected under the Geneva Conventions for the Protection of Victims of War of 12 August 1949 and the Additional Protocol to the Geneva Conventions of 12 August 1949 for the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, including the sick, injured, shipwrecked, prisoners of war, medical and religious personnel and civilians;

2) in the context of a non-international armed conflict, any person protected under Article 3, common for the Geneva Conventions for the Protection of Victims of War of 12 August 1949 and the Additional

Protocol to the Geneva Conventions of 12 August 1949, that concerns the protection of victims of non-international armed conflicts (Protocol II), dated 8 June 1977, including sick, injured, shipwrecked, persons not directly involved in hostilities and are under the control of the Party to the conflict, including persons who had previously participated in hostilities on the opposite side of the conflict;

3) in the context of an international armed conflict or a non-international armed conflict, members of the armed forces or persons directly involved in hostilities (combatants) who have laid down their weapons or for any other reason have more means of defense (hors de combat) and are not under the control of the opposite side of the conflict.

3. For the purposes of Articles 438-438-5 of this Code, an act shall be deemed to have been committed in connection with an armed conflict in cases where the existence of an armed conflict has significantly affected the person's ability to commit the act he or she is charged with, or the manner in which the act was committed, or the purpose for which it was committed.

4. Direct transfer in this article shall be understood to mean the relocation of persons from the civilian population of the occupying State to the occupied territory, regardless of their consent, which is organized, coordinated or controlled by persons exercising power or authority on behalf of the occupying State.

Indirect transfer referred to in this article shall be understood to mean the creation by persons exercising power or authority on behalf of the occupying State of such living conditions as have induced or forced persons from the civilian population of the occupying State to relocate to the occupied territory, or persons from the occupied territory to be relocated within and beyond that territory.

5. The deprivation of the right to a fair and proper trial in this Article shall be understood to be a violation of the legal (procedural) guarantees provided for in Articles 84, 86, 87, 99, 103-106 of the Geneva Convention on the Treatment of Prisoners of War of 12 August 1949, Articles 33, 67, 71-74, 117 of the Convention for the Protection of the Civilian Population during the War of 12 August 1949, subparagraph (d)

of Article 3, paragraph 1, common to these conventions of 12 August 1949, Article 75 of the Additional Protocol to the Geneva Conventions of 12 August 1949 concerning the protection of my victims national armed conflicts (Protocol I) of 8 June 1977, Article 6 of the Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977, paragraph (h) of Article 23 of Annex to the IV Convention on the Laws and Customs of the Land War and its Annex: Regulations on the Laws and Customs of the War on Land, of 18 October 1907.

6. Under Articles 438 and 442-1 of this Code, forced pregnancy means the unlawful deprivation of liberty of any woman who has been made pregnant by force, with a view to altering the ethnic composition of any population or committing other violations of international humanitarian law with a nature of war crimes or crimes against humanity.

7. Torture in this Article shall be understood as the acts provided for in Article 127 of this Code.

8. Other inhuman treatment in this article shall be understood to mean acts that caused severe physical pain or physical or moral suffering, in the absence of signs of torture.

9. An act that violates human dignity in this article should be understood as an insult, humiliation or other act with respect to a person (including that committed against a deceased person) which, given the cultural identity of such a person, harmed his or her human dignity but did not cause severe physical pain or physical or moral suffering.

Article 438-1. War crimes against property

1. Deliberate commitment in connection with an international armed conflict or armed conflict of a non-international nature of seizure or damage or destruction of property, if it is not justified by military necessity –

shall be punishable by imprisonment for a term of six to twelve years.

	<p>2. The same acts, if they are large-scale, - shall be punishable by imprisonment for a term of ten to fifteen years.</p> <p>Note. Seizure of property in this article and article 438-5 of this Code should be understood as any restriction or deprivation of the owner of such property (state, natural or legal person) of the opportunity to exercise the competence that form the right to property.</p>
Absent	<p>Article 438-2. War crimes involving the use of prohibited methods of warfare</p> <p>1. Deliberate commission (implementation) in connection with an international armed conflict or a non-international armed conflict:</p> <p>1) the use of the presence of civilians or other persons under the protection of international humanitarian law to protect a particular locality, area or armed forces from hostilities;</p> <p>2) statements that there will be no mercy, that is, statements addressed to persons engaged in hostilities on the opposite side of the conflict, that in the event of termination of participation in the hostilities, these persons will not be able to take advantage of the guarantees contained in international humanitarian standards rights, but will be deprived of life or left in a state of danger, - shall be punishable by imprisonment for a term of six to eight years.</p> <p>2. Deliberate commission (implementation) in connection with an international armed conflict or a non-international armed conflict:</p> <p>1) attacks on an unsecured and non-military target, settlement, or object;</p> <p>2) assault that knowingly to the perpetrator constitutes a risk of death or injury to civilians, damage to civilian objects or extensive, long-term and serious damage to the environment that is clearly disproportionate to the specific and directly anticipated military advantage;</p>

3) attacks on installations or structures containing dangerous forces, which could have caused, knowingly for the perpetrator, excessive destruction or injury to civilians or to cause excessive damage to civilian objects;

4) attacks on a building intended for the purpose of religion, education, art, science or charity, historical monuments, hospitals or places of focus for the sick and wounded, if this is not a military target;

5) attacks on a non-military civilian target;

6) attacks on civilians or individuals who are not directly involved in hostilities

7) acts aimed at creating hunger for the civilian population as a method of warfare, by depriving it of the items necessary for the survival, including by creating obstacles to the provision of assistance under the Geneva Conventions for the Protection of War Victims of 12 August 1949;

8) injuring a combatant with the use of treachery, - shall be punishable by imprisonment for a term of seven to fifteen years.

3. Committing (implementation) treachery in connection with an international armed conflict or armed conflict of a non-international nature, provided for in paragraph 1 or 2 of this Article, if it caused grievous bodily harm or death of a combatant from the opposite side of the conflict or a civilian person, as well as killing of a combatant with the use of treachery, -

shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.

Note. 1. In this article, treachery refers to acts intended to inspire confidence of a combatant that belongs to the opposite party to the conflict and to make him / her believe that he or she is entitled to the protection or is required to provide such protection in accordance with the rules of international humanitarian law, to further betray such confidence in the future.

2. Installations and structures in this article shall be understood as

	<p>dams, chemical and oil plants, nuclear power plants, even if they are military facilities.</p>
<p>Absent</p>	<p>Article 438-3. War crimes consisting of the use of prohibited methods of warfare</p> <p>1. Usage in connection with an international armed conflict or armed conflict of a non-international nature of prohibited methods of warfare, prohibited by international humanitarian law, including weapons, ammunition, or equipment that cause excessive damage or suffering, or are indiscriminate in nature - shall be punishable by imprisonment for a term of six to ten years.</p> <p>2. The same act, if it caused grievous bodily harm to a person belonging to the opposite side of the conflict or to a person from the civilian population, - shall be punishable by imprisonment for a term of seven to twelve years.</p> <p>3. The act provided for in paragraph 1 of this Article, if it caused the death of a person belonging to the opposite side of the conflict or a person from the civilian population, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.</p> <p>Note. For the purposes of this Article, the use of prohibited by international humanitarian law methods of warfare must include:</p> <ol style="list-style-type: none"> 1) poison or poisoned weapons; 2) suffocating, poisonous or other similar gases and any similar liquids, materials or agents; 3) bullets that are easily torn or flattened in the human body, such as shell bullets, the hard shell of which does not cover the entire heart or have cuts; 4) chemical weapons;

	<p>5) weapons with the main action to cause damage with fragments that are not detected in the human body by X-rays;</p> <p>6) laser weapons specially designed for use in hostilities only or in particular to cause permanent blindness to unprotected human eyes;</p> <p>7) weapons that use microbiological or other biological agents or toxins, regardless of their origin or method of production.</p>
Absent	<p>Article 438-4. War crimes against humanitarian operations and use of symbols</p> <p>1. Deliberately attacking in connection with an international armed conflict or a non-international armed conflict:</p> <p>1) personnel, facilities, materials, equipment, units or vehicles engaged in the delivery of humanitarian assistance or peacekeeping missions in accordance with the Charter of the United Nations, as long as they are entitled to the protection enjoyed by civilians or civilian objects in accordance with international law;</p> <p>2) buildings, materials, equipment, medical facilities or vehicles with the appropriately marked distinctive emblem or distinctive mark established by international humanitarian law, or personnel authorized to use such emblems or marks, - shall be punishable by imprisonment for a term of seven to twelve years.</p> <p>2. The same act, if it caused the death of the victim or caused grievous bodily harm, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.</p> <p>3. The unlawful use in the course of an international armed conflict or an armed conflict of a non-international character the distinctive emblem or distinctive mark established by international humanitarian law, the flag of a parliamentarian or flag, military insignia or the uniform of an enemy or the United Nations, which caused grievous bodily harm or</p>

	<p>death of the victim, - shall be punishable by imprisonment for a term of seven to fifteen years, or life imprisonment.</p> <p>Note. In this article, the emblem established by international humanitarian law shall be understood to mean the emblems defined in the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, the Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, the Additional Protocol to the Geneva Conventions of 12 August 1949, concerning the adoption of the additional distinctive emblem (Protocol III) of 08 December 2005 and the Convention for the Protection of Cultural Property in the case of military conflict of 14 May 1954.</p>
<p>Absent</p>	<p>Article 438-5. War crimes against cultural properties protected by international humanitarian law</p> <p>1. Deliberate committing in connection with an international armed conflict or an armed conflict of a non-international nature, contrary to the norms of international humanitarian law, in relation to a cultural property protected by international humanitarian law attacks, seizure or act of vandalism, - shall be punishable by imprisonment for a term of seven to thirteen years.</p> <p>2. Actions provided for in part one of this article, if they are of a large-scale nature or have been committed in relation to a cultural property under enhanced protection, a unique cultural property or a World Heritage Site, – shall be punishable by imprisonment for a term of seven to fifteen years.</p> <p>3. Deliberate use in connection with an international armed conflict</p>

or an armed conflict of a non-international nature, contrary to the norms of international humanitarian law, of cultural property under enhanced protection or adjacent places to support hostilities, –

shall be punishable by imprisonment for a term of eight to twelve years.

4. The actions provided for in part three of this article, if they are of a large-scale nature, –

shall be punishable by imprisonment for a term of ten to fifteen years.

Note: 1. The cultural property in this Article and Article 445-1 of this Code should be understood as movable and immovable property, buildings and centers provided for in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, which are under general, special or enhanced protection under international humanitarian law. The list of cultural property under special protection is contained in the International Register of Cultural Property under Special Protection.

2. The cultural property under enhanced protection in this Article shall should be understood as the cultural property included in the International List of Cultural Property under Enhanced Protection.

3. The unique cultural property in this article should be understood as the cultural property belonging to objects of national cultural heritage, objects of cultural heritage of national value entered in the State register of immovable monuments of Ukraine, unique monuments of the Museum fund of Ukraine, unique documents of the National Archival Fund, especially valuable, rare documents and collections. This definition applies only to acts the subject of which have been the cultural properties of Ukraine.

4. The act of vandalism in this article should be understood as the intentional demolition, destruction or damage of cultural property.

<p>Article 442. Genocide</p> <p>1. Genocide, that is a willfully committed act for the purpose of total or partial destruction of any national, ethnic, racial, or religious group by extermination of members of any such group or inflicting grave bodily injuries on them, creation of life conditions aimed at total or partial physical destruction of the group, decrease or prevention of childbearing in the group, or forceful transferring of children from one group to another, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.</p> <p>2. Public calls to genocide, and also making any materials with calls to genocide for the purpose of distribution, or distribution of such materials, - shall be punishable by arrest for a term up to six months, or imprisonment for a term up to five years.</p>	<p>Article 442. Genocide</p> <p>1. Genocide, that is, an act intentionally committed with the aim of total or partial destruction of any national, ethnic, racial or religious group as such by:</p> <ol style="list-style-type: none"> 1) deprivation of life of members of this group; 2) causing them serious injuries or mental disorder; 3) creating for the group living conditions aimed at its total or partial physical destruction; 4) taking measures designed to prevent childbearing in such a group; 5) forced transfer of children from one group to another, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment. <p>2. Public calls to commit the acts provided for in paragraph 1 of this Article, proclaimed with the aim of the total or partial destruction of any national, ethnic, racial or religious group as such, and the production of materials calling for such acts, to be disseminated or distributed, - shall be punishable by imprisonment for a term of three to seven years.</p>
<p>Absent</p>	<p>Article 442-1. Crimes against humanity</p> <p>1. Deliberate commission (causing) within the framework of a conscious large-scale or systematic attacks on a civilian population:</p> <ol style="list-style-type: none"> 1) persecution, i.e. deprivation of the right to enjoy fundamental human rights, on political, racial, national, ethnic, cultural, religious, gender or other discriminatory grounds defined by international law; 2) deportation of the population, that is, forced and in the absence of grounds provided for by international law, the relocation (eviction) of one or more persons from the territory in which they were lawfully located to the territory of another state; 3) forcible transfer of population, that is, forced and in the absence

of grounds provided for by international law, the transfer (eviction) of one or more persons from the territory in which they were lawfully located to another locality within the same state;

4) rape, sexual exploitation, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence;

5) enslavement or human trafficking;

6) enforced disappearance;

7) unlawful imprisonment;

8) torture;

9) moderate or grievous bodily harm, -

shall be punishable by imprisonment for a term of seven to fifteen years.

2. Deliberate commission within the framework of a conscious large-scale or systematic attack on a civilian population:

1) apartheid;

2) extermination;

3) murder, -

shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.

Note. 1. The attack on a civilian population in this article shall be understood to mean the repeated (three or more times) commission of any of the acts referred to in this article in order to carry out or to support the policy of a State or organization aimed at commission of such an attack.

2. Forcible disappearance in this article shall be understood to mean the arrest, detention, abduction or deprivation of liberty of a person in any other form, with subsequent refusal to acknowledge the fact of such arrest, detention, abduction or deprivation of liberty of a person in any other form or concealment of the fate or whereabouts of such person, and the refusal to admit the fact of arrest, detention, abduction or imprisonment of a person in any other form or concealment of information about the fate or whereabouts of such person.

3. The term "apartheid" shall have the meaning assigned to it by the

	<p>Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973.</p> <p>3. Extermination in this article shall be understood to mean the deprivation of life of one or more persons by intentionally created living conditions aimed at destroying part of the population, including by denying them access to food or medicines.</p> <p>4. Torture in this article shall be understood as the intentional infliction of severe physical pain or physical or moral suffering to a person under the control of the perpetrator.</p>
<p>Absent</p>	<p>Article 445-1. Illegal actions with cultural properties in connection with the armed conflict</p> <p>1. Carrying out archeological explorations, excavations contrary to the norms of international humanitarian law in the occupied territory, modification or change of the type of use of cultural property in the occupied territory aimed at concealing or destroying evidence of cultural, historical or scientific nature, or other use of cultural properties in connection an armed conflict contrary to the norms of international humanitarian law, in the absence of indicia of a crime under Article 438-5 of this Code, – shall be punishable by imprisonment for a term of five to ten years.</p> <p>2. Illegal movement of cultural property outside the occupied territory or illegal transfer of ownership of cultural property located in the occupied territory, committed in connection with an armed conflict contrary to international humanitarian law, – shall be punishable by imprisonment for a term of seven to twelve years.</p>
<p>FINAL AND TRANSITIONAL PROVISIONS</p> <p>Absent</p>	<p>FINAL AND TRANSITIONAL PROVISIONS</p> <p>Section III</p> <p>1. Unless the acts provided for in Articles 437-438-5, 442, 442-1 of this Code were recognized as crime under the criminal responsibility law of Ukraine at the time of their commission, but were recognized as a crime</p>

of genocide, a crime of aggression, a crime against humanity or a war crime under international law, it is considered that such acts at the time of their commission were recognized as crimes under the legislation of Ukraine on criminal liability.

2. Part 2 of Article 8 of this Code shall enter into force on 1 January 2021, but not earlier than the date of introduction of amendments to the Criminal Procedure Code of Ukraine and other related laws of Ukraine regarding the peculiarities of criminal proceedings against persons provided for in this Part.

The Criminal Procedural Code of Ukraine

(Bulletin of the Verkhovna Rada of Ukraine (VRU), 2013, № 9-10, № 11-12, № 13, p. 88)

Article 216. Investigative jurisdiction

...

2. Security investigators conduct pre-trial investigations of crimes under the articles 109, 110, 110², 111, 112, 113, 114, 114¹, 201, 258-258⁵, 265¹, 305, 328, 329, 330, 332¹, 333, 334, 359, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine.

Article 216. Investigative jurisdiction

...

2. Security investigators conduct pre-trial investigations of crimes under the articles 109, 110, 110², 111, 112, 113, 114, 114¹, 201, 258-258⁵, 265¹, 305, 328, 329, 330, 332¹, 333, 334, 359, 422, 436, 437, 438, **438-1, 438-2, 438-3, 438-4, 438-5**, 439, 440, 441, 442, **442-1**, 443, 444, 446, 447 of the Criminal Code of Ukraine.

....

Article 297¹. General provisions of a special pre-trial investigation

...

2. A special pre-trial investigation is carried out on the basis of the decision of the investigating judge in criminal proceedings for the crimes provided for in the Articles

109, 110, 110², 111, 112, 113, 114, 114¹, 115, 116, 118, parts 2-5 of Article 191 (in case of abuse of authority), Articles 209, 258, 258¹, 258², 258³, 258⁴, 258⁵, 348, 364, 364¹, 365, 365², 368, 368², 368³, 368⁴, 369, 369², 370, 379, 400, 436, 436¹, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447 of the Criminal Code of Ukraine, in relation to a suspect, other than a minor, who is hiding from the investigative bodies and the court for the purpose of evasion

Article 297¹. General provisions of a special pre-trial investigation

...

2. A special pre-trial investigation is carried out on the basis of the decision of the investigating judge in criminal proceedings for the crimes provided for in the Articles

109, 110, 110², 111, 112, 113, 114, 114¹, 115, 116, 118, parts 2-5 of Article 191 (in case of abuse of authority), Articles 209, 258, 258¹, 258², 258³, 258⁴, 258⁵, 348, 364, 364¹, 365, 365², 368, 368², 368³, 368⁴, 369, 369², 370, 379, 400, 436, 436¹, 437, 438, **438-1, 438-2, 438-3, 438-4, 438-5**, 439, 440, 441, 442, **442-1**, 443, 444, 445, 446, 447 of the Criminal Code of Ukraine, in relation to a suspect, other than a minor, who is hiding from the investigative

<p>of criminal responsibility and has been put on the interstate and / or international wanted list. Special pre-trial investigations into other crimes are not allowed, except for the cases where crimes are committed by persons hiding from law enforcement agencies and courts for the purpose of evading criminal responsibility or are wanted on an interstate and / or international wanted list and are investigated in one criminal proceeding referred to in this Part, and the release of materials thereto may adversely affect the completeness of the pre-trial investigation and trial.</p>	<p>bodies and the court for the purpose of evasion of criminal responsibility and has been put on the interstate and / or international wanted list. Special pre-trial investigations into other crimes are not allowed, except for the cases where crimes are committed by persons hiding from law enforcement agencies and courts for the purpose of evading criminal responsibility or are wanted on an interstate and / or international wanted list and are investigated in one criminal proceeding referred to in this Part, and the release of materials thereto may adversely affect the completeness of the pre-trial investigation and trial.</p>
<p>Law of Ukraine "On the Application of Amnesty in Ukraine" (Bulletin of the Verkhovna Rada of Ukraine, 1996, № 48, p. 263)</p>	
<p>Article 4. Amnesty may not be applied to: ... Amnesty also does not apply to persons convicted of premeditated murder; torture; forced donation; unlawful deprivation of liberty or kidnapping of a person, in the event of causing death, or causing grievous bodily harm resulting in death. ...</p>	<p>Article 4. Amnesty may not be applied to: ... Amnesty also does not apply to persons convicted of premeditated murder; torture; forced donation; unlawful deprivation of liberty or kidnapping of a person, in the event of causing death, or causing grievous bodily harm resulting in death, crimes against peace, security of humanity and the international legal order provided for in Articles 437-438-5, Article 442 and Article 442-1 of the Criminal Code of Ukraine. ...</p>