

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa  
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp  
197402ZU34

# CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"  
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia  
Maracaibo, Venezuela



Vol.41

Nº 79

Octubre

Diciembre

2023



# A Special Status Victim: Criminal Liability for Assaulting a Government Official in Ukraine and Other Countries

DOI: <https://doi.org/10.46398/cuestpol.4179.35>

*Andrii Borovyk* \*  
*Iryna Tkachenko* \*\*  
*Bohdana-Yuliya Ivchenko* \*\*\*  
*Petro Mandzyk* \*\*\*\*  
*Eduard Solovyov* \*\*\*\*\*

## Abstract

The paper discusses some emerging issues of criminal liability for assaults against public officials in various jurisdictions. Emphasis is placed both on the comparative approach to analyzing the relevant criminal statutes and on the specific legal framework for the protection of the life and health of law enforcement officers. Based on the provisions of statutory criminal law and the case law of several countries, it is shown that the life, health and property of law enforcement officers enjoy a higher level of protection. This is explained by the fact that such persons are direct representatives of the state, perform their duties in public, remain under public scrutiny and, therefore, may become an easier target for assault crimes. In the conclusions of the research, it has been argued that the determination of the legal grounds, scope and limits of protection of public officials by criminal law should be carried out at the national level (or state level in a federal jurisdiction), based on the orientations and principles of the domestic criminal law policy and program of a given nation.

**Keywords:** assault; criminal liability; public official; officer of authority; damage caused by a crime.

\* Candidate of Legal Sciences, Docent, Vice President of the Scientific Institute of Public Law (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0000-0003-1834-404X>. Email: [aborovychok@gmail.com](mailto:aborovychok@gmail.com)

\*\* Candidate of Legal Sciences, Lecturer of Criminal Law Department, National Academy of Internal Affairs (Kyiv, Ukraine). ORCID ID: <http://orcid.org/0000-0002-0144-0708>. Email: [kachurooira@ukr.net](mailto:kachurooira@ukr.net)

\*\*\* Candidate of Legal Sciences, Inspector of the Department of educational and methodical work at Kharkiv National University of Internal Affairs (Sumy, Ukraine). ORCID ID: <https://orcid.org/0000-0002-5810-6065>. Email: [iuv15ukr.net@gmail.com](mailto:iuv15ukr.net@gmail.com)

\*\*\*\* Candidate of Legal Sciences, Researcher of the Scientific Institute of Public Law (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0009-0000-3337-543X>. Email: [institutelaw@sipl.com.ua](mailto:institutelaw@sipl.com.ua)

\*\*\*\*\* Chief of the Investigation Department of the Main Directorate of the National Police in Mykolaiv region (Mykolaiv, Ukraine). ORCID ID: <https://orcid.org/0000-0001-6433-004X>. Email: [ddt99@i.ua](mailto:ddt99@i.ua)

## Una víctima de estatus especial: Responsabilidad penal por agredir a un funcionario del gobierno en Ucrania y otros países

### Resumen

El documento analiza algunas cuestiones emergentes de la responsabilidad penal por agresiones contra funcionarios públicos en diversas jurisdicciones. Se hace hincapié tanto en el enfoque comparativo para analizar los estatutos penales pertinentes, como en el marco jurídico específico para la protección de la vida y la salud de los agentes del orden. Basándose en las disposiciones del derecho penal estatutario y en la jurisprudencia de varios países, se ha demostrado que la vida, la salud y la propiedad de los funcionarios públicos gozan de un mayor nivel de protección. Esto se explica por el hecho de que dichas personas son representantes directos del Estado, desempeñan sus funciones en público, permanecen bajo el escrutinio público y, por lo tanto, pueden convertirse en un objetivo más fácil para los delitos de agresión. En las conclusiones de la investigación se ha argumentado que la determinación de los fundamentos jurídicos, el alcance y los límites de la protección de los funcionarios públicos por medio del derecho penal debe llevarse a cabo a nivel nacional (o estatal en una jurisdicción federal), sobre la base de las orientaciones y los principios de la política y el programa internos de derecho penal de una nación determinada.

**Palabras clave:** agresión; responsabilidad penal; funcionario público; agente de la autoridad; daños causados por un delito.

### Introduction

Comparative analyses between different countries and systems has brought us extensive knowledge about crime and criminal justice in the modern world. Particularly fruitful have been comparisons between the world's two major legal systems – the so-called Anglo-American common law system and the continental civil law system.

Indeed, legal comparative analyses can cover various areas of criminal law regulation. The systems of public service are not an exception here.

Public officials are required to make important policy decisions as part of their daily service to the communities. Such decisions are often unpopular and, in many cases, politicians and public officials may become targets of threats and even physical attacks.

Nowadays, in almost any world jurisdiction assaulting a public officer constitutes a serious criminal offense. The penalties imposed by the court will depend on: classification of the offense (summary or indictable), nature and circumstances surrounding the offense and the injuries sustained by the public officer as a result of such offence. The bottom-line rule is this: government officials are out there to serve and protect, they are always on display for their activities, for both their achievements and mistakes; thus, their life, health and property require enhanced approach toward criminal law protection.

## 1. Methodology

This paper incorporates several research methods used for the purposes of comprehensive analyses and critical elaboration of conclusive remarks. The *comparative law method*, which has been used as the leading one throughout our research, has enabled to research legal grounds and specific forms criminal liability for assaulting public officials in various jurisdictions and to compare various liability frameworks in several jurisdictions. Overall, the comparative method remains the leading one in legal scholarship.

The *observation method* also made it possible to identify current legislative trends throughout the world with regard to formulating and enforcing crimes of assault against public victims. The observation method has also revealed some issues related to the need for further academic research in this emerging area of criminal law regulation and enforcement.

The *philosophical (dialectical)* method allowed to fully understand research issues at hand, their methodological grounds, to structure this research project properly and also to comprehend the object of the study on a step-by-step basis (Movchan *et al.*, 2022).

The *system-structural method* has been employed to analyze relevant criminal statutes and their structural positions in the national criminal laws of several world nations. In particular, this method has allowed to reveal the place of assault-related statutes within the criminal laws of several states, thus showing the underlying links (or their absence) between various criminal provisions.

As for the *statistical method* of collecting and summarizing material, it has been partially used in order to demonstrate data on annual number of relevant criminal prosecutions in a given country.

## 2. Discussion

From the very start, it is worth to point out that lawmaking and law-enforcement experience of any nation, including Ukraine, in terms of criminal law regulation and enforcement can be potentially useful for other countries.

On the one hand, public officials themselves are not immune from crimes and regularly commit offenses related to corruption and office abuse. For example, in Ukraine scholars have recently formulated specific elements, which determine the need to criminalize intentional failure to file a declaration and declare inaccurate information.

On the other hand, officials can and actually do become victims of various crimes aimed against them. This includes such serious offenses as murder, assault or robbery while in office. As one commentator put it, analysis of foreign experience of criminal law regulation in the discussed area is distinguished by the principle of national specificity, which is based on the priorities of state policy, legal traditions of a certain state, and the level of development of democratic institutions and institutions of civil society.

Thus, specific features in developed European countries are: a smaller number of criminal law norms that provide for socially dangerous acts against law enforcement officers and other public officials; recognition of protection of life, health and property of government representatives as distinct areas of prioritized criminal law regulation; criminalization of use of physical violence and attacks on such persons, and not mere threats to commit them (Criminal Codes of Austria, Denmark, Belgium, etc.); criminal liability is not provided for assaulting relatives of government officials in connection with the performance of their official powers (Criminal Codes of Germany, Georgia, Latvia, Lithuania, France, Sweden, Estonia); recognition of a person (persons) who assist a public official in the course their legal duty or on the request of such a person (Criminal Codes of the Netherlands, Israel etc.) (Kirbyatyev, 2021).

Several among the authors of this paper have recently researched some controversial issues related to public official as a victim of criminal insult and defamation (Borovyk *et al.*, 2023). Now we move on to analyze more dangerous offenses, which involve assaults on representatives of the government – public officials. Our analyses will include several jurisdictions – United States of America, Australia, Germany and Ukraine.

- **United States of America**

Various types of offenses against public officials related to their duties are criminalized both on federal and state levels in the United States.

On the federal level, 18 U.S. Code (the Title 18 is also unofficially called the U.S. Criminal Code) Chapter 7 “Assault” deals with various criminal types of assault against domestic and foreign officials as well as lay citizens.

For example, 18 U.S.C. § 111 “Assaulting, resisting, or impeding certain officers or employees” provides that “whoever (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or (2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service, shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned for not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both”.

In case a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) was used or a bodily injury was inflicted, offender shall be fined under this title or imprisoned not more than 20 years, or both (18 U.S. Code § 111).

The following provision, 18 U.S.C. § 111 “Protection of foreign officials, official guests, and internationally protected persons”, states that “whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined under this title or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon, or inflicts bodily injury, shall be fined under this title or imprisoned not more than ten years, or both” (18 U.S. Code § 112).

Thus, one can see that attacking a public official in America is a “serious business” with harsh legal consequences for the attacker.

As a good example on the state level, we can refer to the relevant Californian statute.

Section 217.1(a) of the Californian Penal Code provides, in particular: every person who commits any assault upon the President or Vice President of the United States, the Governor of any state or territory, any justice, judge, or former judge of any local, state, or federal court of record, any commissioner, referee, or other subordinate judicial officer of any court of record, the secretary or director of any executive agency or department of the United States or any state or territory, or any other official of the United

States or any state or territory holding elective office, any mayor, city council member, county supervisor, sheriff, district attorney, prosecutor or assistant prosecutor of any local, state, or federal prosecutor's office, a *former* prosecutor or assistant prosecutor of any local, state, or federal prosecutor's office, public defender or assistant public defender of any local, state, or federal public defender's office, a former public defender or assistant public defender of any local, state, or federal public defender's office, the chief of police of any municipal police department, any peace officer, any juror in any local, state, or federal court of record, or the immediate family of any of these officials, in retaliation for or to prevent the performance of the victim's official duties, shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment pursuant to subdivision (h) of Section 1170.

As one may observe from this statutory provision, Californian criminal law contains a rather extensive list of both "in office" and former government officials (including federal ones) and also immediate family members, who are recognized as potential victims of criminal assaults.

Anyone who tries to commit murder against an individual mentioned in subsection (a) with the intention of retaliating against or obstructing the victim's execution of their official responsibilities will face imprisonment in a state penitentiary for a duration ranging from 15 years to life, as outlined in Section 217.1(a) of the Californian Penal Code.

Indeed, murder of a public official is an even more 'serious business', which triggers much more severe criminal sanctions.

In order to prove that a defendant committed the offense of assault on a public official, a prosecutor must be able to establish the following elements: 1) the defendant committed an assault with a deadly weapon or by means of force likely to produce great bodily injury; 2) the defendant committed an assault on the person of a government official, former government official, or the immediate family of any of these officials; and 3) the defendant acted in retaliation for or to prevent the performance of the victim's official duties (California Penal Code, 2023).

In the United States, among the significant factors contributing to murders of law enforcement agents are gun laws and the right to wear a concealed weapon in particular.

In his well-written paper "Assault of Police" D. Bierie makes a good point: violent attacks against police represent a particularly important form of violence for social scientists and policymakers to understand. He then provides three arguments for the necessity of qualified research of such crimes of violence: 1) unique risks for officers, agencies, and the community – officers may experience a greater level of injury than other types of victims (all else held constant); 2) attacks against officers also can lead to important costs for agencies and thus taxpayers – this includes medical treatment for

injuries, time spent completing paperwork and holding hearings on the use of force, and reduced or disrupted resources when officers are placed on leave; 3) such form of violence is important to understand because such illegal acts reflect, to some degree, an attack on the rule of law and defiance of the justice system itself. The American commentator makes a conclusion that primarily for those reasons, police, policymakers, and the public would benefit from a deeper understanding of violence directed at police (Bierie, 2017).

Based on the results of his own in-depth research, American scholar D. Mustard observes that those states, which enact concealed carry laws have a slightly higher likelihood of having a felonious police death and also slightly higher rates of felonious police deaths prior to the law's passage. After passage of the right-to-carry laws, states exhibit a reduced likelihood of having a felonious police death rate and slightly lower rates of police deaths.

He also suggests that those who believe allowing private citizens to carry concealed weapons will endanger the lives of law enforcement officials do not even have anecdotal evidence to support them. Professor Mustard found no examples of law-abiding citizens with concealed weapons permits assaulting police officers. In contrast, there is at least one example of such a citizen coming to the aid of an officer (Mustard, 2001).

Thus, the widely spread opinion that gun laws always contribute to deadly and non-deadly assaults on police officers is a biased one, at least in the case of the U.S. policing and gun regulations.

- **Australia.**

The offence of assaulting a public officer is considered a serious assault in Australia. The penalties imposed will also vary depending on the injuries sustained by the public officer because of the assault.

Since Australia is a federal state, it has local Criminal Codes (those of six states) and a federal Criminal Code – the regularly compiled Criminal Code Act of 1995 (as of March 28, 2021). Due to space limitations for this research paper, we will focus on the relevant federal criminal law provisions.

According to Section 147.1, “Inflicting harm upon a Commonwealth public official, etc.” within the Australian Criminal Code, inflicting harm upon a Commonwealth public official is considered a federal offense. An individual (referred to as the first person) commits an offense under this provision if:

- (a) The first person engages in certain behavior;
- (b) The first person's behavior results in harm to a public official;
- (c) The first person has the intention to cause harm to the official through their behavior;

- (d) The harm is caused without the official's consent; and
- (e) The first person engages in this behavior due to one of the following reasons:
  - (i) The official's status as a public official; or
  - (ii) Any actions taken by the official in their capacity as a public official.

The discussed Section provides for the following penalties: (f) if the official is a Commonwealth judicial officer or a Commonwealth law enforcement officer – imprisonment for 13 years; or (g) in any other case—imprisonment for 10 years.

In a quite unique legislative approach (different from other jurisdictions) Sec. 147.1 of the Australian Criminal Code separately recognizes such form of criminal activity as causing harm to a former Governor-General, former Minister or former Parliamentary Secretary. Thus, a person (the first person) commits an offense if: (a) the first person engages in conduct; and (b) the first person's conduct causes harm to another person; and also (c) the other individual is a former Governor-General, ex-Minister, or former Parliamentary Secretary; and (d) the first person has the intent for their actions to result in harm to the other individual; (e) the harm is inflicted without the consent of the other individual; and (f) the first person's actions are motivated by one of the following factors:

- (i) the other individual's past status as a former Governor-General, former Minister, or former Parliamentary Secretary; or
- (ii) any actions carried out by the other individual in their previous role as a Governor-General, Minister, or Parliamentary Secretary.

Furthermore, Australian criminal law is designed to prosecute not only actual assaults on government officials but also threats of potential assaults against such persons. Thus, under Sec. 147.2 "Threatening to cause harm to a Commonwealth public official etc." of the Australian Criminal Code:

(1) An individual (referred to as the first person) commits an offense if: (a) The first person directs a threat towards another individual (the second person) or a third party, intending to cause serious harm; (b) The second person or the third party targeted by the threat holds a public office (c) The first person either: (i) Has the intention of causing the second person to genuinely fear that the threat will be carried out; or (ii) Acts recklessly, disregarding the potential fear caused in the second person due to the threat; and (d) The first person issues the threat based on one of the following reasons: (i) The official's status as a public official; or (ii) Any actions performed by the official in their capacity as a public official.

The penalty is as follows: (e) If the official targeted is a Commonwealth judicial officer or a Commonwealth law enforcement officer, the offender may face imprisonment for a duration of 9 years; or (f) In all other cases, imprisonment for a period of 7 years.

The criminal law statute establishes that in a prosecution for an offense against this section, it is not necessary to prove that the person threatened actually feared that the threat would be carried out (Criminal Code Act, 1995).

Based on the above-mentioned provisions, we can make an interim conclusion that Australia has introduced its own special legislative approach to holding those who attack public officials as criminally liable. In addition, the criminal penalties imposed are clearly defined – thus courts cannot impose any lower sentence under mitigating circumstances. This is different from Ukrainian legislative approach, which usually provides for a range of sanctions – from minimum to maximum ones. Also, the statutes, (based on their official language) are quite cumbersome – they are extensive and complicated, potentially with too lengthy descriptions of criminal behavior parameters.

A brief example on West Australian criminal law approach to criminalizing offenses against public officials.

Assaulting a public officer is recognized as a severe offense in Western Australia. Section 318(1)(d) of the state Criminal Code defines this offense: “Any individual who assaults a public officer in the course of their official duties or due to their role as an officer is guilty of a crime.” In cases where the offender pleads not guilty, the prosecution must prove all required offense elements beyond a reasonable doubt.

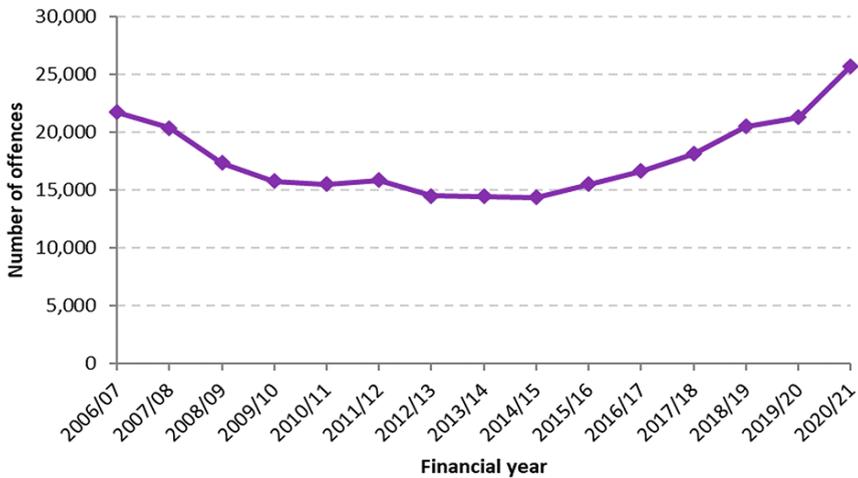
Potential penalties, as determined by the court, hinge on whether the case is heard in the Western Australia District Court or the Magistrates Court. Additionally, the severity of penalties depends on the extent of injuries sustained by the public officer due to the assault.

This offense can only be tried as a summary offense (in the Magistrates Court), if the perpetrator was not armed with a dangerous or offensive weapon and was not in the company of others immediately before or after the alleged offense. When tried in the Magistrates Court of Western Australia, if the offender is found guilty, the court may impose a maximum fine of up to \$36,000. Additionally, the court can prescribe a maximum prison term of up to three years.

If the offender causes injuries to a public officer, such as a police officer, affecting their well-being and comfort, the court is obligated to impose a mandatory prison sentence of at least six months. It is worth noting that the injuries inflicted on the officer must go beyond mere pain or discomfort experienced during the assault.

If the offender causes a public officer, like a police officer, to sustain bodily injuries that endanger life or are likely to result in permanent health damage (i.e., grievous bodily harm), the court must impose a mandatory prison term of no less than twelve months (Assaulting a police officer, 2023).

As a matter of proper illustration, the following diagram presents annual statistics on the number of police officers assaulted in the United Kingdom.



**Fig. 1. Number of police officers assaulted in the year ending March 2021, England and Wales (statistical data)<sup>6</sup>**

- **Germany.**

We will now turn to the relevant statutes in “flagship” criminal law jurisdiction within in the civil law jurisdictions – namely Germany. Indeed, for over two hundred years now, German Criminal Code has been a landmark document, which was closely read, interpreted and to some extent incorporated into national criminal laws of many other European (and beyond) states.

6 Source: Annex: Statistics on the number of police officers assaulted in the year ending March 2021, England and Wales. Updated 30 March 2022. <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2021/annex-statistics-on-the-number-of-police-officers-assaulted-in-the-year-ending-march-2021-england-and-wales>.

Division 6 “Resistance to state authority” of the German Criminal Code deals explicitly with both resistance-related and assault-related offenses against public officials in general and law enforcement agents in particular.

Section 113 of the German Criminal Code, titled “Resistance to Enforcement Officers,” outlines the following provisions:

Anyone who uses force or threatens to use force to oppose a public official or a soldier in the Federal Armed Forces carrying out their official duties, which include enforcing laws, statutory instruments, judgments, judicial decisions, or directives, may face a penalty of imprisonment for up to three years or a fine.

In especially serious cases, the penalty can range from six months to five years. Such serious cases are typically characterized by one or more of the following conditions:

- a) The offender or another person involved in the offense possesses a weapon or another dangerous object.
- b) The offender, through an act of violence, puts the assaulted person at risk of death or serious harm.
- c) The act is committed in collaboration with another offender.

This provision does not apply if the official act is unlawful. The same exception applies if the offender mistakenly believes that the official act is lawful.

Section 114, titled “Assault of Enforcement Officers,” states:

Anyone who physically assaults a public official or a soldier in the Federal Armed Forces assigned to enforce laws, statutory instruments, judgments, judicial decisions, or directives during the performance of their official duties may be sentenced to imprisonment for a duration ranging from three months to five years.

Additionally, Section 115, titled “Resistance to or Assault of Persons Equal to Enforcement Officers,” specifies the following provisions:

Sections 113 and 114 are applicable to safeguard individuals vested with the powers and responsibilities equivalent to police officers or who serve as investigators in the public prosecution service without being public officials.

Sections 113 and 114 also apply to protect individuals called upon to aid in the execution of official duties. Section 113 also applies to persons who, in the case of accidents, a common danger or an emergency, use force or the threat of force to hinder members of the fire brigade, the civil protection service, one of the rescue services or emergency medical services or a hospital emergency department who are rendering assistance. Persons

who assault those rendering assistance in such situations incur a penalty pursuant to section 114 (German Criminal Code, 2021).

Based on our interpretation of the relevant German criminal law provisions, we can synthesize the following observations: 1) German legislator is primarily focused on protecting law enforcement agents and military service members and, to a lesser degree, other public officials; 2) it has to be proven that a competent government agent – victim of assault – was acting in official capacity and in a lawful manner; 3) criminal law provides for aggravated forms of assaults and also prescribes rather severe penalties.

- **Ukraine.**

Finally, we turn to the “official assault” related section of Ukrainian criminal law. As described in domestic academic literature on the issue, proper functioning of any state is impossible without public (or government) management, i.e., regulated influence on both individuals and organizations by legal acts in order to ensure law and order and achieve other socially beneficial results. Thus, provisions on the most dangerous forms of obstruction of normal activities of state authorities, local self-government bodies, citizens’ associations and their representatives in the Criminal Code are concentrated in Chapter XV of its Special Part under the title “Criminal offenses against the authority of state authorities, local self-government bodies, citizens’ associations and criminal offenses against journalists” (Borovyk, 2022).

Section XV of the national Criminal Code contains several relevant provisions: interference in the activities of a law enforcement officer, forensic expert, employee of the state executive service, private executor (Art. 343); interference with activity of a statesman (Art. 344); threats or violence against a law enforcement officer (Art. 345); threats or violence against a statesman or a public figure (Art. 346); intended destruction or damage to property of a law enforcement officer, an employee of a state executive service body or a private executor (Art. 347); trespass against life of a law enforcement officer, a member of a community formation for the protection of public order, or a military servant (Art. 348); threats or violence against an official or a citizen who performs his/her public duty (Art. 350); interference with activity of a Member of Parliament of Ukraine or a council or of a local council (Art. 351); intended destruction or impairment of property owned by an official or a citizen who performs his/her public duty (Art. 352).

As one might see, Ukrainian criminal law distinguishes among various forms of criminal behavior against life, health and property of public officials. Such legal differentiation seems both logical and pragmatic; it

allows to protect basic rights of government representatives. In addition, when compared to German criminal liability model, provisions of the Criminal Code of Ukraine in many aspects remind codified statutes of other European countries. This serves as an indirect argument for the common legal framework in Europe, including somewhat similar Criminal Codes.

As an example, we will refer to Art. 350 of the Criminal Code of Ukraine, which sanctions threats or violence against an official or a citizen who performs his/her public duty. This legal norm provides:

1. Making threats of murder, serious physical harm, or significant property damage using globally harmful methods, directed towards an official, their close relatives, or a citizen carrying out their public duties, with the intent to hinder the official's or the citizen's public responsibilities or alter them for the advantage of the person making the threats, is subject to a penalty of up to six months of arrest or up to three years of restricted liberty.
2. Deliberate physical assault or causing minor or moderately severe bodily harm to an official or a citizen performing their public duties related to official or public activities, and such actions carried out against their close associates, may result in a penalty of three to five years of restricted liberty or imprisonment for the same duration.
3. Intentionally causing severe bodily harm to an official or a citizen performing their public duties related to official or public activities, and such actions committed against their close associates, can lead to imprisonment for a period ranging from five to twelve years” (Criminal Code of Ukraine, 2021).

Thus, we conclude that mere threats are recognized as a minor criminal offense; instead, intentional assaults on public officials constitute aggravated forms of criminal behavior with much more severe penalties.

## **Conclusions**

Based on our research, the following set of conclusions can be formulated. Determination of the legal grounds, scope and limits of the protection of government officials by means of criminal law should be carried out at the national (or state) level, based on the directions and principles of the internal criminal law policy and agenda of a given nation. Thus, an elaborated system of general and special measures of state protection of public figures against obstruction of the performance of their officially imposed duties and exercising their rights, as well as from encroachments on the life, health, housing and property of such persons in official capacity and their close relatives should be established and vigorously protected.

It is necessary to emphasize that the new era of socio-political developments in various world jurisdictions, including Ukraine, is constantly testing the strength and resourcefulness of many government institutions, including law enforcement system. Thus, establishing a just balance between the duties of government officials and their rights, including the right to effective criminal protection, should be recognized as a guarantee of the effectiveness of the reforms initiated therein.

It has been proven that public officials in any given jurisdiction and at any given time are required to make important policy decisions as part of their daily responsibilities. Thus, in many cases, politicians and public officials become targets of threats, physical attacks and even murders.

Nowadays, in almost any world jurisdiction assaulting a public officer constitutes a serious criminal offense. The penalties imposed by the court will depend on: classification of the offense (summary or indictable), nature and circumstances surrounding the offense and the injuries sustained by the public officer as a result of such offence. The bottom-line rule is this: government officials are out there to serve and protect, they are always on display for their activities, for both their achievements and mistakes; thus, their life, health and property require enhanced approach toward criminal law protection.

Finally, within this research paper it has been proven once again that comparative method becomes a major one when conducting in-depth analyses of criminal law in several jurisdictions at once. Thus, being able to compare foreign law with the domestic one in a professional and critical manner, to be able to draw important scientific conclusions becomes a major goal for such types of academic projects.

### **Bibliographic References**

- 18 U.S. Code § 111 – Assaulting, resisting, or impeding certain officers or employees. Available online. In: <https://www.law.cornell.edu/uscode/text/18/111>. Consultation date: 15/07/2023.
- 18 U.S. Code § 112 – Protection of foreign officials, official guests, and internationally protected persons. Available online. In: <https://www.law.cornell.edu/uscode/text/18/112>. Consultation date: 15/07/2023.
- ASSAULTING A POLICE OFFICER. 2023. Armstrong Legal. Available online. In: <https://www.armstronglegal.com.au/criminal-law/nsw/offences/assaulting-police-officer/>. Consultation date: 15/07/2023.

- BIERIE, David. 2017. "Assault of Police" In: *Crime & Delinquency*. Vol. 63, No. 8, pp. 899-925.
- BOROVYK, Andrii. 2022. A specific object of criminal offenses against representatives of the authorities. Actual problems of domestic jurisprudence. Available online. In: <https://doi.org/10.32782/392260>. Consultation date: 15/07/2023.
- BOROVYK, Andrii; TKACHENKO, Iryna; DEREVYANKO, Natalia; DIAKIN, Yaroslav. 2023. "Public Official as a Victim of Criminal Insult and Defamation: Comparative Research" In: *Cuestiones Políticas*. Vol. 41, No. 78, pp. 739-758.
- CALIFORNIA PENAL CODE. 2023. Section 217.1(a) PC: Assault on a Public Official. Available online. In: <https://www.losangelescriminallawyer.pro/california-penal-code-section-217-1-a-pc-assault-on-a-public-off.html>. Consultation date: 15/07/2023.
- CRIMINAL CODE ACT 1995. Available online. In: [https://www.legislation.gov.au/Details/C2021C00183/Html/Volume\\_1](https://www.legislation.gov.au/Details/C2021C00183/Html/Volume_1). Consultation date: 15/07/2023.
- CRIMINAL CODE OF UKRAINE. 2001. The Official Bulletin of the Verkhovna Rada, 2001, No. 25–26, Art. 131. Available online. In: <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en#Text>. Consultation date: 15/07/2023.
- GERMAN CRIMINAL CODE. 2021. Available online. In: [https://www.gesetze-im-internet.de/englisch\\_stgb/englisch\\_stgb.html](https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html). Consultation date: 15/07/2023.
- KIRBYATYEV, Oleh. 2021. Criminal law protection of the professional activity of law enforcement officers. Dissertation for obtaining the scientific degree of Doctor of Legal Sciences, Classical Private University. Zaporizhzhya, Ukraine.
- MOVCHAN, Roman; VOZNIUK, Andrii; KAMENSKY, Dmitriy; KOVAL, Iryna; GOLOVKO, Olga. 2022. "Criminal and legal protection of land resources in Ukraine and Latin America: comparative legal analysis" In: *Amazonia Investiga*. Vol. 11, No. 51, pp. 328-336.
- MUSTARD, David. 2001) "The Impact of Gun Laws on Police Deaths" In: *Journal of Law and Economics*. Vol. 44, No. 2, pp. 635-657.



UNIVERSIDAD  
DEL ZULIA

---

# CUESTIONES POLÍTICAS

Vol.41 N° 79

*Esta revista fue editada en formato digital y publicada en octubre de 2023, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

[www.luz.edu.ve](http://www.luz.edu.ve)  
[www.serbi.luz.edu.ve](http://www.serbi.luz.edu.ve)  
[www.produccioncientificaluz.org](http://www.produccioncientificaluz.org)