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Influence of typical investigative situations on communication interaction during interrogation in cases of violation of the laws and customs of war

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Abstract
The relevance is conditioned by the need to improve the organisation and tactics of conducting interrogations in war crimes proceedings. The purpose was to develop scientifically based approaches to organising the preparation and conduct of interrogations considering international standards of evidence. The methodological basis was a complex of general scientific and special legal methods, in particular, analysis, synthesis, system structural, comparative legal, formal legal, etc. The practical component included Ukrainian and foreign papers, legal acts, and scientific and practical recommendations. The study found that interrogation is a complex process that requires a comprehensive integration of knowledge of substantive and procedural legislation, criminalistics, social psychology, logic, international criminal law, and case law of international tribunals. As elements of evidentiary activity, the interrogation is in dialectical connection with subjectively oriented investigative situations, which are differentiated considering the procedural status of the interrogated persons, their psychological state, the level of involvement in criminal activities, and their place in the system of military

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and political subordination. The tactical line of interrogation is determined by choosing the optimal model of communicative interaction aimed at reproducing the crime event and verifying the accuracy of available information. Based on the human-centred approach, interrogation tactics should be based on the principles of a trauma-informed approach, ensuring psychological safety, preventing secondary traumatisation, observing ethical standards, and respecting the person. The psychological conditions of the interrogation consist in establishing communicative contact, which should be built on trust, minimising the level of anxiety, and readiness to give evidence. This objective can be achieved through proper preparation of the person responsible for establishing the facts and their ability to use the relevant tactical guidelines

Keywords:
war crimes; international criminal proceedings; subject of proof; interrogated person; psychological contact; tactical methods; psychological influence

Introduction

According to the reasonable opinion of some researchers, one of the most common reasons that complicates the conduct of interrogations in criminal proceedings on the fact of violation of the laws and customs of war is the insufficient level of professional knowledge of the subjects of proof regarding the specifics of the investigation of war crimes, including the ability to establish effective communication interaction. According to K. Shevchyshena (2024), significant shortcomings that negatively affect the process of proof are also the insufficient level of professional training (retraining) of authorised persons of pre-trial investigation bodies and the prosecution service on the specifics of conducting interrogations of relevant participants in the category of criminal proceedings under study. The researcher focused on the mandatory consideration by subjects of proving the psychological features of communicative interaction during this forensic investigative action. Among the latter, the researcher identified the psychoemotional state of interrogated persons, ignoring which significantly affects the ability of interrogated persons to provide complete, objective, and reliable testimony.

Therefore, proper preparation for conducting interrogations becomes of particular organisational importance during the investigation of war crimes, considering the features of communicative interaction between the subject of proof and the relevant participants in this judicial and investigative action. The study of this subject is important both for the theory of criminalistics and for the practice of investigating violations of the laws and customs of war. Other researchers also focused on this issue, however, did not provide complete answers. Thus, O. Dufenyuk (2022), identifying the corresponding blocks of complications that arise during the proof of war crimes, determined the communicative factors that, according to M. Hryga & O. Burnos (2024), can manifest in systemic disregard for international law, opposition to investigation, destruction or falsification of evidence, manipulation of facts, circumstances of the event, dissemination of disinformation, and the implementation of information and psychological influence both on the part of the interrogated person and the person conducting the interrogation.

That is why, from the standpoint of legal psychology, interrogation is a complex communicative process, within which verbal interaction is carried out between the subject of proof and the carrier of criminally significant information (Efimov, 2020). This interaction makes it necessary to apply psychologically based methods of establishing psychological contact, overcoming possible psychological resistance, and stimulating the reproduction of ideal traces of a criminal event through cognitively determined mechanisms of memory reproduction. Therefore, psychological contact in the process of proof is aimed at ensuring effective communicative interaction between the person receiving information and the person who is the carrier of this information, and creating an atmosphere of trust and motivational readiness to provide it. That is, the functional purpose of psychological contact is to obtain not any information and/or data, but actual data related to the subject of proof, obtained in compliance with the requirements of procedural law in a particular criminal proceeding (Komarynska *et al*., 2025).

According to Yu. Komarynska *et al*. (2025), establishment of psychological contact does not imply the use of friendly, conformist, or manipulative behaviours. According to research by T. Bettens *et al*. (2024), bias, tactlessness, or formalism also hinder the establishment of a trusting atmosphere. But the objectivity of the subject of proof, their professional endurance, procedural correctness, and strict enforcement of the rights of participants in criminal proceedings create the necessary psychological prerequisites for obtaining complete, truthful, and internally consistent testimony (McKersie, 2023). This model of behaviour contributes to the development of an atmosphere of trust, which is of fundamental importance for the implementation of the communicative function of interrogation.

In this regard, it should be noted that scientific research has repeatedly paid attention to discussing issues related to permitted and unauthorised methods of psychological influence on the interrogated person (Lake & Trerise, 2022), distinguishing such categories as morality and immorality, establishing psychological contact, and applying trauma-oriented approaches

to participants in this judicial and investigative action (Lazarenko, 2025). Actually, these and other aspects should also be analysed through the prism of conducting interrogations in proceedings concerning violations of the laws and customs of war, considering the procedural status of the participants in the interrogation and the forensic characteristics of the interrogated persons.

In this context, preparation for questioning takes on a special significance for ensuring a balance between procedural admissibility, forensic expediency, and ethical behaviour of the subject of proof, which should remain within the limits of the permitted and normatively regulated psychological impact on the interrogated person. In the forensic sense, the thorough organisation of an interrogation encompasses a comprehensive analysis of the initial information that has developed at the relevant time of the investigation, referred to as the investigative situation. This allows the subject of proof to evaluate objective data on the event of a crime (time, place, method, etc.), analyse subjective factors related to the person who needs to be interrogated (procedural status, psychological state, possible reactions to tactical techniques and questions raised), and based on a comprehensive assessment of these information determine the sequence of interrogations of the relevant participants in the proceedings, plan the tactics of their conduct, formulate a system of questions, choose persons who should be involved in this process, and determine the time, place and technical means of recording the results of its conduct. Therefore, the purpose of this study was to determine typical investigative situations of interrogation and characterise their impact on communicative interaction considering the tactical method of influencing the interrogated person.

Materials and Methods

The normative basis of the study was the provisions of national and international legislation regulating the legal grounds for conducting interrogations in proceedings on the fact of violation of the laws and customs of war. The study used the provisions of the Rome Statute of ICC[1] and rules of Procedure and Evidence of ICC[2]. This provided an opportunity to analyse international standards of proof from the perspective of international legislation developed by the civilised world considering the case law of international criminal proceedings. Special attention was paid to the international standards for conducting questioning set out in the structural model "Preparation and Planning, Engage and Explain, Account, Closure, Evaluation" (Forensic Interview Solutions, 2025), and the requirements of the ICC regarding the activities of prosecutors and investigators[3]. This helped to substantiate the tactical methods of behaviour of subjects of proof with participants in interrogations in cases of this category of offences.

The practical component of the study was to improve the organisational basis for preparing and conducting interrogations in criminal proceedings on violation of the laws and customs of war using scientifically based approaches. Within the framework of the study, the papers by Ukrainian and foreign researchers were analysed, including those containing fundamental provisions and statistical data on the problems of investigating war crimes, which was also the theoretical basis of the study. Considering various scientific approaches and opinions, conclusions have been formulated regarding the improvement of the organisation of interrogations and communicative interaction among their participants in proceedings of this category.

The methodological basis consisted of a system of general scientific and special legal methods of scientific cognition, the use of which has ensured the comprehensiveness, consistency, and scientific validity of the results obtained. The use of the system structural method helped to determine the investigative situations of interrogations, characterise their elements, and analyse the system of tactical methods for organising and conducting interrogations. The comparative legal method provided an opportunity to compare the international standards of proof defined in the relevant provisions and recommendations with the requirements of national criminal proceedings. Formal legal method was used to clarify the content of legal categories and develop author's approaches.

Results and Discussion

Investigative situations during interrogation in cases of war crimes are formed under the influence of procedural, forensic, psychological, social, political, informational, moral and ethical factors. Their nature is determined not only by the subject of proof, but also by the position of the interrogated person, their psychoemotional state, the degree of awareness of the circumstances of the crime committed, the presence or absence of external influence, in particular, information and propaganda or socially discriminatory, and the context of the combat situation in which the investigation takes place. It is also necessary to consider the tactical and strategic advantages of the parties to the armed conflict, the state of forces, resources of the aggressor state, and the position of the interrogated person (serviceman, prisoner of war, or civilian) in relation to the party that they

[1] Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[2] Rules of Procedure and Evidence are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court. (2002, September). Retrieved from https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf.
[3] Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. (2007, October). Retrieved from https://zakon.rada.gov.ua/laws/show/994_927.

perceive as victorious or defeated. These circumstances determine the nature of the interrogated person's behaviour, their willingness to give truthful testimony or deny facts, and the tactical behaviour of the investigator during the organisation and conduct of the interrogation.

In the forensic literature, the classification of investigative situations in criminal proceedings of the studied category of crimes is traditionally carried out based on an objective-activity approach, which is determined by the type of criminal activity, the place of its commission, the method of implementing criminal intent, and other objective characteristics of a criminal offence (Velikanov, 2002). The analysis of investigative situations through the prism of interrogation tactics requires complementing this approach with subjective and communicative factors, which are determined by the specifics of interrogation as a communicative investigative (search) action, the effectiveness of which depends not only on the type of violations of the laws and customs of war, but also on the individual psychological and procedural characteristics of the interrogated persons. Within the framework of this approach, investigative situations are proposed to be considered as an integrated forensic category, determined not only by the circumstances of criminal activity, but also by the totality of procedural, informational, and personal characteristics of persons subject to questioning, in particular, their procedural status, role in a criminal event, level of awareness, motivation to cooperate with pre-trial investigation bodies, and psychological, emotional, and social status.

These characteristics are not directly covered by the type of criminal offence, but they significantly affect the development of the investigative situation of an interrogation, determine its communicative structure, and the choice of tactical techniques during its conduct. Thus, alongside the traditional objective-activity-based classification of investigative situations, it appears appropriate to distinguish a subject-oriented differentiation based on the procedural status and forensically relevant characteristics of the persons being interrogated. It is these circumstances that determine the communicative structure of the interrogation, the possibility of obtaining evidentiary information, and the choice of specific tactics in the process of conducting it.

Considering the above, the scientific literature identifies investigative situations that arise during the interrogation of victims and witnesses of war crimes and other criminal offences related to armed conflict, and investigative situations related to the interrogation of suspects, in particular, those who are located outside the state in which the pre-trial investigation is carried out. A separate group consists of investigative situations that arise during the interrogation of minors and underage victims, interrogations in a court session with the participation of an investigating judge, and interrogations via videoconference (Kravchuk & Bondarenko, 2022; Klymenko *et al*., 2024). The scientific literature focuses on interrogations of prisoners of war, which is conditioned by the specifics of their status in the context of international legal regulation (Novhorodska *et al*., 2024; Savchyn & Sukhoverskyi, 2024).

Within the framework of the proposed differentiation, it is also advisable to distinguish investigative situations related to interrogations of victims among victims of war crimes, military personnel who were eyewitnesses or direct participants in a criminal event, prisoners of war or detained members of armed formations, commanders of military units and other military officials (service) persons (military leaders) responsible for giving orders that violated the norms of international humanitarian law, and persons who are in the zone of information influence or under the influence of criminal propaganda. Each of these categories of participants in the interrogation is characterised by specific criminalistically significant features, procedural status, role in a criminal event, level of awareness, motivation for cooperation, psychological and social characteristics that determine the specifics of the development of the investigative situation of the interrogation, the volume and nature of evidentiary information, and the choice of appropriate tactics for conducting it.

For example, in investigative situations of questioning witnesses from among eyewitnesses of a war crime, the tactical line of communication interaction should be aimed at reconstructing the event of a criminal offence, considering the features of perception and memorisation of information under stress. According to some researchers, it is important to avoid leading questions and value judgements, ensuring a gradual transition from general to specific circumstances, allowing the witness to freely describe events in chronological order. In this context, special attention should be paid to temporal, spatial, and personal landmarks that provide an opportunity to verify the validity of evidence generated on memories, and compare them with other factual data (Chornous, 2020; Voloshyna & Androsiuk, 2020).

When preparing for the interrogation of victims of war crimes, it is necessary to consider the increased psychological complexity of this investigative situation. The victim may show emotional exhaustion, acute stress or post-traumatic reactions, fragmentary memories or partial amnesia, in connection with which it is important to provide psychological support, avoid repeated traumatisation, and consider the gender, age, and cultural characteristics of the interrogated person.

In this context, it is recommended to apply the method of free presentation of information in combination with elements of cognitive interviews (Kubarev & Borgan, 2022). For example, the investigator may suggest that the victim mentally return to the scene, describe the surrounding environment (weather conditions, sounds, lighting, smells), and reproduce the event first in a direct and then reverse chronological sequence

or from the position of another participant in the event. Such techniques help to restore latent memory traces and reduce the impact of suggestion. As a basis, this contributes to the activation of cognitive processes of the interrogated person and increases the completeness, accuracy, and reliability of the testimony received, which is of fundamental importance for the development of evidence in criminal proceedings on war crimes.

During the interrogation of military personnel, from among eyewitnesses or direct participants of the event, the tactical line of the investigative situation requires establishing a correlation between the official information that the military has within the framework of official activities and the actual circumstances of the criminal event. It is necessary to bear in mind the potential conflict between the requirements of military subordination and the obligation to provide truthful testimony in criminal proceedings. In such circumstances, the investigator must strike a balance between the legal guarantees of the interrogated person and the requirements of military discipline, avoid value judgements, and create an atmosphere of procedural impartiality. As a result, this contributes to the development of trust and increases the readiness of the serviceman to give full and truthful testimony (Bettens *et al*., 2024.).

When interrogating prisoners of war or detained members of armed groups, the investigator must strictly observe the procedural guarantees and norms of international law, including the provisions of the Geneva Conventions and the Rome Statute of the ICC. Any actions that can be interpreted as pressure, coercion, or humiliation of the dignity of the interrogated person are unacceptable and directly affect the admissibility of the testimony received, even if it is true. The main purpose of such questioning is to form a voluntary and reliable statement of the circumstances of the criminal event without violating the international legal status of the person being questioned. To achieve this goal, interrogation tactics include creating an atmosphere of trust, ensuring confidentiality, providing psychological support, clearly informing the interrogated person's rights, and avoiding any value judgements (Lake & Trerise, 2022).

The use of audio and video recording of an interrogation allows increasing the transparency of the procedure, monitoring compliance with procedural and international legal standards, and reducing the risks of unintentional or intentional pressure on the interrogated person. The tactical approach involves obtaining information about the personal role of the interrogated person in criminal actions, the level of their awareness and knowledge about what happened, and collecting information about other participants in the crime. The correct organisation of such an interrogation allows establishing a causal relationship between the orders, actions of participants and consequences, forms an evidence base for determining individual responsibility, and provides an opportunity to verify the data obtained by other participants in the evidentiary process.

When questioning military personnel from among the commanders or military chiefs responsible for giving orders that violate the norms of international humanitarian law, the investigator must consider the high level of intellectual tension, the availability of legal knowledge, and awareness of the internal structure of military service, decision-making mechanisms, and the nature of command relations. Preparation for such an interrogation includes a detailed analysis of the military structure, service hierarchy and subordination, which allows forming a system of questions aimed at establishing causal relationships between the orders given, their execution, and the consequences for the civilian population or participants in the conflict. The main task is to determine the level of awareness of the commander, their motives, and consistency of orders with existing legislation and military norms, the real possibility of performing alternative actions that could prevent violations of international humanitarian law, and monitoring the implementation of orders by subordinates.

In a complex approach to interrogations of prisoners of war, detained members of armed formations, and commanders of military units determines the tactical behaviour of the investigator, considers psychological, social, and procedural factors, and also provides a balance between the reliability of the information received, procedural admissibility, and compliance with ethical standards of professional activity. According to O. Taran (2022), this is important for building an objective evidence base, establishing individual and team responsibility, and ensuring the effectiveness of war crimes investigations at the national and international levels.

In investigative situations of questioning persons who are in the zone of information influence or under the influence of propaganda, it is important to distinguish the interrogated person's own observations from cognitive images constructed as a result of information influence. This involves establishing which information is based on direct experience and actual observation, and which is the result of manipulative influence, suggestion, or ideological interpretation of an event. The tactical purpose of such an interrogation is to establish the actual knowledge of the person and separate it from assessments, emotional reactions, and worldview attitudes that may distort the content of the testimony.

From this, it can be concluded that these investigative situations have common patterns due to a number of objective and subjective circumstances. Firstly, the success of an interrogation depends not only on the amount of information received, but also on its reliability and correlation with other factual data. This is conditioned by the nature of the proof process, which involves the integration of heterogeneous evidence and the possibility of mutual verification of information. In this regard, interrogation tactics must be consistent

with the norms of international criminal and humanitarian law, in particular, the provisions of the Rome Statute of the ICC, the Geneva Conventions, and their additional protocols, including other acts guaranteeing the protection of human and civil rights and freedoms.[1].

Secondly, the effectiveness of the interrogation largely depends on the investigator's ability to integrate psychological and communicative aspects into the process of obtaining evidentiary information. This involves taking into consideration the individual psychological and social characteristics of the interrogated persons, their motivation, level of awareness, and the possible impact of stressful or traumatic factors. This approach allows optimising the structure of questions, the logic and sequence of their formulation, and the methodology for presenting information, which directly contributes to improving the completeness, accuracy, and reliability of the received testimony and the development of an appropriate evidence base in criminal proceedings on war crimes.

That is why communicative interaction should provide for a high level of speech culture of the investigator, knowledge of normative and professional vocabulary, and appropriate communication skills. According to experts in the field of forensic psychology, the communicative competence of an investigator is manifested in the ability of the latter to provide psychological interaction with the interrogated person, activate cognitive processes, regulate motivational and emotional-volitional states (Voloshyna & Androsiuk, 2020). Based on the behavioural line chosen by each interrogated person, the investigator should develop an appropriate communication strategy that contributes to the effective receipt of reliable and complete testimony. In this regard, communication skills should consider the educational level, social status, national and cultural characteristics, professional activity, and individual psychological characteristics of the interrogated person.

In criminal proceedings concerning violations of the laws and customs of war, the investigator's ability to engage in intercultural and interdisciplinary interaction is crucial. This involves, in particular, understanding of the norms of international humanitarian law, the specifics of the military organisation and hierarchical structure, the specifics of the functioning of military units in combat conditions, and the impact of combat stress and post-traumatic psychological reactions on the behaviour of participants in the event. It is equally important to consider the typical behavioural models of direct participants in an armed conflict, prisoners of war, and civilians who were in conditions of armed conflict, since these factors directly affect the nature of their testimony and the specific features of communication interaction during interrogation.

The interrogation of persons who have been subjected to procedural coercion measures primarily related to deprivation of liberty, including prisoners of war and other persons under the control of the state or its bodies, requires special tact and professional balance (Novhorodska *et al.*, 2024). In this regard, according to the well-founded opinion of some researchers, the investigator's desire to objectively and fully clarify the circumstances of a criminal offence, establish not only incriminating, but also exculpatory or mitigating circumstances, correct attitude to the interrogated person, proper explanation and provision of his procedural rights and legitimate interests, guaranteed by the norms of international law, can contribute to the establishment of constructive psychological contact even in difficult conditions of interrogation.

In forensic tactics, there is a conventional distinction between establishing psychological contact in a conflict and conflict-free investigative situation. In a conflict-free situation, the investigator and the interrogated person are focused on joint, objective clarification of the circumstances of the incident. Their relationship is not complicated by expressed distrust or opposition, and communicative interaction is mainly cooperative in nature. But in conflict situations, communication can acquire the features of psychological confrontation, which leads to the emergence of a communicative conflict (Korobka, 2020). Such a conflict can manifest itself in giving deliberately false testimony, refusing to give it, evading answers to questions, deliberately distorting facts, demonstrative incompetence, simulating amnesia or psychological disorientation, and abuse of formal procedural grounds (for example, referring to the need for the participation of a defence lawyer without a real need to do so) or in attempts to exert psychological pressure on the investigator.

Furthermore, psychological counteraction does not exclude the need to establish psychological contact, which even in the conditions of confrontation between the parties remains a prerequisite for obtaining criminalistically significant information. In conflict situations, interrogation is characterised by a combination of elements of psychological contact and psychological struggle, and their ratio is not constant and may change during one interrogation depending on the development of the tactical situation. This condition can be caused not only by the behaviour of the interrogated person, but also by the erroneous tactical line of the investigator, in particular, by manifestations of bias, nervous tension, tactlessness, demonstrative distrust, or deviation from the principle of professional neutrality (Hrechka, 2023).

In criminal proceedings concerning violations of the laws and customs of war, psychological opposition to interrogated persons can take specific forms. In

[1] Universal Declaration of Human Rights. (1948, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_015#Text.

particular, in references to the execution of orders of commanders, appeals to demands of military discipline or collective responsibility, ideological rationalisation of violence, demonstrative loyalty to the military-political leadership, and in the use of a strategy of group solidarity or so-called "silent conspiracy". A separate manifestation of such opposition may be deliberate refraining from giving evidence or formal confirmation of only well-known circumstances without disclosing details that have significant evidentiary value.

Under such conditions, the task of the investigator is not to escalate the conflict, but to gradually transform the confrontation into a controlled communication process by applying legitimate tactical techniques. These techniques should be aimed at reducing the level of psychological stress, actualising the personal responsibility of the interrogated person, and stimulating the reproduction of objective circumstances of the incident. To effectively predict and overcome psychological opposition, the investigator must carry out intellectual and analytical activities related to predicting possible decisions and behavioural reactions of the interrogated person. Such activity is based on the consideration of its procedural status, individual psychological characteristics, motivation for cooperation, level of legal and professional awareness, and tactical preferences of the prosecution, which are determined by familiarity with the materials of criminal proceedings and the possibility of optimal choice of the time, place, and procedure for conducting an interrogation.

In forensic psychology and criminalistics in particular, such cognitive activity of an investigator is defined as "reflection", that is, the ability to model probable cognitive states and behavioural strategies of the interrogated person, exercise self-control of their own behaviour, and timely correct the applied tactics in accordance with the dynamics of the investigative situation of the interrogation (Pisnyi, 2023). In other words, if interrogation is considered as a specific type of research of a secondary source of information, then reflection is nothing more than penetration into the inner world of the interrogated person, which is a necessary condition for activating communication and obtaining reliable testimony.

In any case, questioning in proceedings concerning violations of the laws and customs of war must be carried out exclusively within the limits of a procedurally permissible form and comply with the requirements of criminal procedure legislation and international law. In this context, measures of psychological influence are conventionally classified as permissible and unacceptable, legal or illegal, authorised or unauthorised. However, the most successful is the use of the category of legality of psychological impact measures as a broader concept, which implies not only their formal compliance with the norms of national and international law, but also consistency with the goals of law enforcement practice, the principles of criminal proceedings, and scientifically based recommendations (Sokyran, 2018).

The permissibility of measures of psychological influence can take place only within the framework of the procedural activity of the investigator and not cover non-procedural forms of communication with participants in the process. Basic and natural in this regard, as most researchers emphasise, is the belief, which is understood as the establishment of an internal attitude of the interrogated person to provide complete, truthful, and consistent testimony. The opposite of this method is coercion (imposition), which consists in the illegal establishment of motives for giving evidence, which is essentially a type of psychological violence (Kovalchuk, 2022).

Psychological coercion usually consists of the use of threats, deception, manipulative influence, or other forms of pressure from the subject of proof aimed at restricting the freedom of expression of the will of the interrogated person (Lefterov, 2019). This means that during the exercise of psychological influence, freedom of choice of behaviour, and decision-making should be guaranteed to the interrogated person, and the actions of the person conducting the interrogation should comply not only with the requirements of national legislation, but also with the principles of professional ethics and international standards for the protection of human rights.

In this regard, tactical methods of interrogation should be formed considering not only the individual psychological characteristics of the participants in the communication process, but also the specifics of the conditions in which they are during the commission or perception of a criminal event, especially in the context of an armed conflict. Such conditions cause an increased level of psychological stress, the possibility of repeated traumatisation, fragmentary perception of events, and other factors that directly affect the nature and content of indications.

Thus, it is advisable to systematise the appropriate tactical tools at the level of tactical methods, which are proposed to be understood as holistic ways of organising an interrogation, implemented through a system of interrelated tactical techniques united by a common goal and aimed at achieving a specific tactical result. The first of these methods is to define the method of empathic involvement, which is one of the fundamental means of establishing constructive communicative interaction and establishing stable psychological contact with the interrogated person.

The psychological readiness of an investigator to communicate with a person who may have been injured as a result of military operations is an important prerequisite for establishing stable psychological contact. Empathic behaviour does not involve emotional empathy or loss of professional distance. Instead, it should manifest itself in the investigator's ability to

understand the internal state of the interlocutor, correctly respond to their psychological reactions, and create a sense of security and procedural security.

In the activities of the ICC, psychological support for victims and witnesses is determined by an important prerequisite for the completeness and reliability of their testimony. In this context, a support service (Victims and Witnesses Unit) operates within the structure of the permanent international tribunal, which, considering the provisions of the Rome Statute of the ICC and the ICC Rules of Procedure and Evidence, provides medical, psychological, and other necessary assistance, and takes measures to ensure the safety, protect the dignity, and safeguard the privacy of persons participating in the proceedings (Rule 17)[1].

Although the provisions of the Rome Statute of the ICC do not explicitly consolidate the principle of empathic involvement in individual norms, it is formally reflected in the practice of the ICC, which actually reflects its implementation through standards of treatment of victims and witnesses aimed at guaranteeing their physical safety, psychological well-being, dignity, and privacy. Thus, in accordance with the rules of procedure and evidence, the ICC must ensure that the place of questioning facilitates the provision of complete, truthful and hones testimony, and guarantees the physical safety and psychological comfort of the interrogated person (Rule 67). This underlines the desire of international standards of judicial procedure to combine the procedural requirements of proof with practical measures aimed at creating safe and psychologically acceptable conditions for a person's participation in international criminal proceedings.

Rule 88 provides for the possibility of involving the relevant actors in the conduct of the interrogation, in particular a psychologist, a representative of the support service for victims and witnesses or, if necessary, a family member of the person being questioned while giving evidence. Such measures are aimed at stabilising the psychological state of the person, minimising repeated traumatisation, reducing the level of stress, and ensuring the procedural safety of the participant in the proceedings, which together creates appropriate conditions for providing complete, consistent and reliable testimony.

In conjunction with the Rule 67, these assurances demonstrate the ICC's integration of procedural standards of proof with a human-centred approach to the organisation of questioning, which considers the physical and mental state of the person, their vulnerability, experience of violence, or participation in armed conflict. This circumstance is consistent with the provisions of the Rome Statute of the ICC to ensure respect for the dignity, safety of participants in the trial, and the well-being of victims and witnesses (Art. 55)[2].

The next tactical method, which should be distinguished among the tactical methods of interaction during interrogation, is the tactic of gradual entry into communication. In criminal proceedings concerning violations of the laws and customs of war, haste in proving or direct psychological pressure on the interrogated person is not only ineffective, but also potentially such as to cast doubt on the admissibility of the evidence received. The tactic of gradual entry involves a step-by-step construction of the communication process. When it is implemented at the initial stage, the investigator initiates a neutral or procedural and informational topic of communication that is not directly related to the circumstances of the crime committed. This allows reducing the level of emotional stress, creating a sense of predictability of the process, and lay the foundation for the so-called phase trust (Zhovtiuk, 2024). Only after the establishment of primary psychological contact is a gradual transition to substantive, clarifying and, if necessary, detailed questions about the circumstances of a criminal offence carried out.

This method correlates with the approaches established in international standards for conducting interrogations. In particular, in the structure of the "PEACE" model (FIS, 2025), which is used in the practice of law enforcement agencies of the civilised world, special attention is paid to two stages of this model, in particular, preparation and planning, and involvement and clarification (familiarisation). Together, these approaches focus the subject of proof on careful preparation for questioning, assessment of the psychological characteristics of the interrogated person, and on the development of a clear and safe communication environment.

In this context, the investigator is advised to study the materials of the criminal proceedings as thoroughly as possible, determine the subject matter of the interrogation and the range of persons to be interrogated, and establish mutual understanding with the person being interrogated. This involves establishing psychological rapport, demonstrating concern for the well-being of the interlocutor, ascertaining their preferences regarding the format and duration of the interrogation, and creating a calm atmosphere if they are anxious or nervous.

Preparation for questioning is not a universal procedure, it is carried out in relation to specific individuals, depending on the specific criminal proceedings. In the context of war crimes investigation, step-by-step preparation is particularly important, as it allows considering possible manifestations of post-traumatic reactions, fragmentary memory, avoidance of traumatic memories, or increased anxiety. Gradual entry

[1] Rules of Procedure and Evidence are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court. (2002, September). Retrieved from https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf.

[2] Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.

into communication reduces the risk of re-injury and simultaneously contributes to obtaining more structured and internally consistent indications. Thus, the tactic of gradual entry into communicative interaction is not only a tool for establishing psychological contact, but also a means of ensuring the procedural quality of evidence that meets both the requirements of national criminal procedure legislation and international standards for the treatment of participants in international criminal proceedings.

In this regard, it is advisable to distinguish the following tactical method of establishing communicative interaction, which consists in the use of neutral means of establishing psychological contact, which is covered by such components as posture, facial expressions, intonation expressiveness of speech, spatial distance, pace of speech, and thematic neutrality of the initial communicative interaction. In war crimes proceedings, the investigator's nonverbal behaviour can be crucial for forming psychoemotional contact with the interrogated person. In particular, excessive formality, strict regulatory manner of communication or a cold, monotonous tone can provoke secrecy, a defensive reaction, or an increase in anxiety of the interlocutor. Instead, maintaining a calm, open posture, controlled facial expressions, a moderate pace of speech, and a predictable question structure helps to stabilise the interrogated person's emotional state and reduce the communication barrier.

The above is consistent with the findings of individual researchers who emphasise the importance of nonverbal communication in the communication process during questioning. According to the researchers, nonverbal communication performs an auxiliary function, increasing the semantic significance of verbal information and helping to maintain the continuity of communication interaction. According to the observations of researchers, nonverbal actions ensure the preservation of psychological contact and can replace individual words or phrases, conveying the same meaning as the verbal form of communication (McKersie, 2023; Pasichnichenko, 2024), meaning the creation of such a safe, non-aggressive and psychologically stable environment that directly implies control over the nonverbal behaviour of the subject of proof and avoiding dominant or such forms of communication that have a coercive psychological impact.

Another method of establishing psychological contact includes psychological neutralisation of communication barriers. In cases involving war crimes, there are often persons questioned who are in a state of fear of possible persecution and punishment, guilt, or demonstrative hostility towards a particular party to the conflict. In such situations, the main task of the investigator is to gradually reduce the level of psychological stress by creating an atmosphere of professional equality, focusing on the objectivity of the investigation and preventing manifestations of bias. In this context, the investigator should not only explain the procedural rights of the person being questioned, but also draw their attention to the provisions of international criminal law that guarantee an impartial and fair attitude to the proceedings (Art. 64-66 ICC)[1].

Attention should also be paid to the need to comply with guarantees of psychological safety of participants in the process, their protection, and prevention of any pressure, bias, discrimination, or other forms of improper influence. These principles are consolidated in both the Rules of Procedure and Evidence of the ICC[2], and in the Code of Professional Conduct for the Office of the Prosecutor[3], which determines the obligation of authorised subjects of proof to observe objectivity, neutrality, and ethical norms of behaviour at all stages of the evidentiary process.

A separate tactical method in the process of establishing psychological contact is to consider the cultural and ethnic characteristics of the interrogated person. In the context of armed conflicts, representatives of different parties may have different ideas about such values as honour, dignity, duty, guilt, shame, etc. Ignoring these factors reduces the effectiveness of communication interaction and can lead to distortion or incompleteness of the received readings. The subject of proof should be prepared to work in a multicultural environment, not ignore the need for prior consultation with specialists in ethnopsychology, and also consider the specifics of the language, nonverbal communication patterns, and socio-cultural context in which the interrogated person is located.

International practice, in particular, the Rules of Procedure and Evidence of ICC, emphasises the need to create conditions of psychological safety for persons involved in the process, considering their cultural and ethnic characteristics (Rule 18, 19)[4]. Such measures contribute to ensuring the reliability and completeness of evidence, reduce stress, and maintain the procedural dignity of the participants in the process, which meets generally recognised international standards for the protection of human rights and freedoms.

[1] Rome Statute of the International Criminal Court. (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_588#Text.
[2] Rules of Procedure and Evidence are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court. (2002, September). Retrieved from https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf.
[3] Code of Professional Conduct for the Office of the Prosecutor. (2013, September). Retrieved from https://zakon.rada.gov.ua/laws/show/994_927.
[4] Rules of Procedure and Evidence are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court. (2002, September). Retrieved from https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf.

The final method of communicative interaction in this study is to maintain a balance between humanity and procedural discipline. The humanistic approach to interrogation does not exclude tactical purposefulness and procedural certainty. On the contrary, it involves combining respect for the dignity of the individual with strict adherence to the algorithms of proof, neutrality, and professional self-control of the investigator. That is, empathy as a tool for establishing psychological contact should remain within the professional role of the investigator and not be transformed into excessive emotional empathy, which can affect the objectivity of the assessment of factual data. In this context, establishment of psychological contact should be combined with strict compliance with the procedural algorithm of interrogation, the logic of proof, and the requirements of criminal procedure legislation.

The investigator, while demonstrating respect for the dignity and psychological state of the interrogated person, is obliged to ensure neutrality, impartiality, and self-control, without allowing the influence of their own emotional reactions on the development of evidentiary conclusions (Lake & Trerise, 2022). This balance is consistent with the international standards of fair trial consolidated in the Rome Statute of the ICC, and with the professional requirements for the activities of prosecutors and investigators, documented provisions on the observance of the principles of justice and ethical restraint.

Conclusions

In the context of proving criminal offences in violation of the laws and customs of war, a complex of procedural and forensic conditions is established, determined by normative, organisational, tactical, psychological, and information technology factors. These conditions are in a dialectical relationship with investigative situations, the mechanism for committing war crimes, and the system of evidence, which determines the specifics of the organisation and implementation of evidence activities.

Tactical conditions of interrogation are determined by the choice of the optimal model of communicative interaction, the construction of a system of questions aimed at reproducing the event of the crime in the mind of the interrogated person, and the use of techniques for cognitive activation of memory, reconstruction of the context of the event, and verification of the reliability of the evidence provided. In the presence of psychotraumatic experience, the tactical model of interrogation should be based on the principles of a trauma-informed approach, psychological safety, and prevention of secondary traumatisation.

The psychological conditions of the interrogation consist in forming a trusting communicative atmosphere, minimising the level of anxiety, and ensuring the psychological readiness of the person to give evidence. The subject of proof must have the skills to recognise manifestations of psychological defence, dissociative manifestations, post-traumatic disorder, and deliberate forms of misinformation. Of particular importance is the interrogation of persons who have survived military operations or witnessed massive violations of international humanitarian law, which makes it advisable to involve specialists in the field of psychology.

Together, these conditions form an integrated system of methodological guidelines for evidence, which are aimed not only at improving the reliability of evidence, but also at ensuring a humanistic paradigm of evidence activity by combining legal, forensic, moral, ethical, and psychological components. In such circumstances, the effectiveness of evidentiary activity is determined by the ability of authorised subjects of investigative bodies to synthesise procedural, organisational, tactical, psychological, and information and technological elements of the preparation and conduct of questioning into a single methodologically sound proof strategy that ensures the completeness, accuracy, and legality of the obtained evidentiary information.

In this context, the proposed subjective-communicative approach to the classification of investigative interrogation situations correlates with the approaches developed in international criminal justice. In particular, in the practice of international criminal tribunals and ICC, the tactics of questioning participants in criminal proceedings are differentiated based on their procedural status, psychological state, level of involvement in criminal activities, and their place in the system of military command and hierarchy of subordination.

During the interrogation of victims, trauma-informed techniques are used, which provide for the creation of a safe environment, adaptation of the communication strategy to the psychoemotional state of the person and the use of memory restoration techniques. When interrogating military chiefs, the main emphasis is placed on establishing elements of command responsibility, while when interrogating prisoners of war and members of armed formations – on clarifying their status as a combatant, actual participation in combat operations, and involvement in the commission of international crimes.

One of the key aspects of proving in criminal proceedings on the fact of violation of the laws and customs of war is the establishment of command responsibility, which provides for proving the fact of giving an illegal order, and the inaction of commanders or military superiors to prevent or stop illegal actions by subordinates who grossly violate the norms of international humanitarian law. In this context, the interrogation of commanders (chiefs) and subordinates of military personnel is the central source of evidentiary information about the structure of command, the decision-making procedure, the mechanism for implementing orders, and the actual awareness of military officials about the commission of serious violations of international humanitarian law.

Thus, the proposed approach to the classification of investigative interrogation situations in cases of violation of the laws and customs of war is consistent with current trends in the development of forensic theory and practice of international criminal justice. Its application contributes to improving the effectiveness of evidence by considering the procedural status, and criminalistically significant, psychological and communicative characteristics of interrogated persons, which is of methodological importance for the development of adapted interrogation tactics in the practice of pre-trial investigation bodies.

Therefore, interrogation in criminal proceedings concerning the violation of the laws and customs of war is a complex and multidimensional process that requires the integration of knowledge of criminal procedure law, criminalistics, social psychology, logic, and international humanitarian law and the practice of international criminal proceedings. This interdisciplinary approach is aimed simultaneously at ensuring a humane treatment of the interrogated person and obtaining complete, reliable, permissible, evidentiary, and internally consistent information, considering the rule of law, international standards of proof and fair trial, consolidated both in the provisions of the Rome Statute of the ICC and the case law of international tribunals.

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Conflict of Interest

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Вплив типових слідчих ситуацій на комунікативну взаємодію під час допиту у справах про порушення законів та звичаїв війни

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Анотація
Актуальність дослідження зумовлена необхідністю вдосконалення організації і тактики проведення допитів у провадженнях про воєнні злочини. Метою статті є розроблення науково обґрунтованих підходів до організації підготовки та проведення допиту з урахуванням міжнародних стандартів доказування. Методологічну основу становить комплекс загальнонаукових і спеціально-юридичних методів, зокрема системно-структурного, порівняльно-правового, формально-юридичного, а також аналізу, синтезу тощо. Практична складова охоплює українські та зарубіжні наукові праці, правові акти й науково-практичні рекомендації. Дослідженням встановлено, що допит є складним процесом, що потребує комплексної інтеграції знань матеріального та процесуального законодавства, криміналістики, соціальної психології, логіки, міжнародного кримінального права й прецедентної практики міжнародних трибуналів. Як елементів доказової діяльності допит перебуває в діалектичному зв'язку із суб'єктивно орієнтованими слідчими ситуаціями, які диференціюють з урахуванням процесуального статусу допитуваних осіб, їх психологічного стану, рівня залучення до злочинної діяльності, а також місця в системі військово-політичного підпорядкування. Тактична лінія допиту залежить від вибору оптимальної моделі комунікативної взаємодії, спрямованої на відтворення події злочину та перевірку достовірності наявної інформації. З урахуванням людиноцентричного підходу тактика допиту має ґрунтуватися на принципах травма-інформованого підходу, забезпечення психологічної безпеки, недопущення вторинної травматизації, дотримання етичних стандартів і поваги до людини. Психологічні умови допиту полягають у встановленні комунікативного контакту, що має формуватися на довірі, мінімізації рівня тривожності та готовності до надання показань. Досягнути цієї мети можливо за умов належної підготовки суб'єкта доказування та вміння останнього використовувати відповідні тактичні орієнтири

Ключові слова:
воєнні злочини; міжнародне кримінальне судочинство; суб'єкт доказування; допитуваний; психологічний контакт; тактичні методи; психологічний вплив