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THE SUPREME COURT IN ITS ATTEMPTS TO UNDERSTAND THE INTRICACIES OF CRIMINAL INTRICACIES OF CRIMINAL OF NORMS ON COLLABORATIONISM (ANALYSIS OF THE DECISION OF 10.12.2024)

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Abstract. In this article, the author analyzes the Supreme Court's decision of December 10, 2024, which sets out the legal positions of the highest instance on certain aspects of the qualification of military collaboration (Part 7 of Article 111-1 of the Criminal Code), its features, and distinction from related crimes. In terms of methodology, the article first provides a brief summary of the circumstances of the case considered by the Court and describes the charges found to be proven. Next, the essence of the defense's complaint and the qualifications made by the Supreme Court

are briefly outlined.

The main part of the article is devoted to a step-by-step analysis of all legal positions set out in the Supreme Court's judgment. The author concludes that the reasoning used by the Court is largely to be approved, in particular, in terms of pointing to the essential feature of collaborationism. The court's position on the distant form of collaboration, including information collaboration, is also worthy of approval. At the same time, the analysis revealed dubious statements and contradictions in the Court's argumentation, in particular, in the part that the Court changed the qualification of the act from Part 7 of Article 111-1 to Article 114-2 of the Criminal Code (while Article 111 of the Criminal Code was completely ignored).

Keywords: *collaborationism; collaborationist activities, high treason, crimes against the basis of national security of Ukraine, criminal liability, criminal law.*

Statement of the problem. The multifaceted forms of collaborationism and the considerable structure of the article on collaboration activities not only complicate law enforcement [7, p. 24], but also give rise to legal interpretation difficulties for scholars, and make it necessary to refer to legislative provisions again and again, to rethink them from different angles, in different contexts. Almost immediately, the Supreme Court, one of the main functions of which is to ensure uniform law enforcement, also became actively involved in the interpretation of wartime legislative innovations. On 10 December 2024, the CCU issued a ruling in case № 202/13808/23, which concerned the legal assessment of military collaboration and some related issues and sparked lively discussions in the academic community.

The state of research of the problem. The issue of legal assessment of military collaboration and its correlation with high treason and other related criminal offences has been the subject of scientific research, in particular by such researchers as N.

Antoniuk, O. Bondarenko, O. Kravchuk, O. Marin, R. Movchan, Y. Pysmenskyi, N. Symonenko, M. Khavroniuk. Different approaches to addressing these issues were expressed, some of them with opposite content, others offering solutions close to a single consensus. The CCS Resolution has become a new impetus to the search for truth in attempts to understand the intricacies of wartime legislative novels, and this article is the result of that search.

The purpose of the article is to provide a legal analysis of the CCU Resolution of 10 December 2024. To this end, the article begins with a brief summary of the circumstances of the case considered by the Supreme Court and the relevant wording of the charge which are important for the analysis. Then, the author analyses the individual legal positions of the CCU in turn and draws conclusions as to the correctness/incorrectness of such positions in terms of existing scientific approaches and the author's vision of the issues of legal assessment of collaboration activities.

Summary of the main material. The wording of the charge and the circumstances of the case as established by the local court and confirmed by the appellate court. By a verdict of the Industrial District Court of Dnipro city of 21 July 2023, the defendant was convicted under Part 7 of Art. 111-1 of the Criminal Code for military collaboration (collaboration activities) in the form of assisting illegal armed or paramilitary groups created in the temporarily occupied territory and armed groups of the aggressor state in conducting hostilities against the Armed Forces of Ukraine and other military formations of Ukraine. The convict was sentenced to 15 years' imprisonment with deprivation of the right to hold certain positions or engage in certain activities related to the performance of organisational and administrative functions in state and local government bodies for 15 years with confiscation of property [4].

The court found that the accused, being a citizen of Ukraine, being at his place of residence, intentionally, with a personal motive, under martial law, on 29 May 2023,

using his mobile phone, using a social network account, in personal correspondence with another user at the request of the latter, transmitted information about the location of Ukrainian military formations in the city of Lyman, Donetsk region (Ukraine-controlled territory), in particular, about the location of their personnel near gas stations, in trade pavilions, near the fishery. It was established that the user with whom the accused corresponded was a gunner of one of the brigades of the illegal armed group of the so-called 'DPR'.

Legal reasoning of the cassation instance. In the cassation appeal, the defence counsel requested reclassification of the defendant's actions to a less serious crime under Part 2 of Article 114-2 of the CC ('unauthorised dissemination of information') due to the incorrect application of the criminal law. The CCU agreed with the incorrect application of the criminal law, reclassifying the offence as a less serious crime under part 3 of Article 114-2 of the CC (qualified 'unauthorised dissemination of information'), and sentenced the defendant to 11 years' imprisonment as the main punishment [8].

In the course of its argumentation, the CCU provided justifications that, given the provisions of part 6 of Article 368 of the CPC and parts 5 and 6 of Article 13 of the Law of Ukraine 'On the Judicial System and Status of Judges', have a quasi-precedent (quasi-regulatory) value, will certainly be taken into account by the parties to criminal proceedings in cases of collaboration and may have far-reaching consequences (at least until legal conclusions of a different content are formulated in another resolution).

On the immanent feature of collaboration. The issues of the legal nature of collaboration and its correlation with related acts, primarily with high treason, are fundamental in the context of qualification of collaboration, and have been in the focus of scientific research since the addition of Article 111-1 to the CC. Whether this legislative novelty was an act of criminalisation (in its narrow sense) or an act of

differentiation of liability for treason directly affects law enforcement, in particular in terms of the correlation of related criminal offences and the potential retroactive effect of criminal law in time. While scholars have been discussing this topic, court practice has followed different paths, often opposite ones. Therefore, the position of the highest court, which would set the vector for legal practice and promote uniform interpretation of complex legal provisions by the courts, was expected by the entire legal community and the general public. At the same time, one can understand the difficult position of the Supreme Court, since formulating legal conclusions on such an issue, the complexity of which is primarily due to legislative shortcomings (which only the lazy have not mentioned) is, to put it mildly, an asterisked task. In this regard, it is worth agreeing with Yevhen Pysmenskyi's assessment of this decision of the CCU as ‘quite bold’ [3].

First of all, I would like to commend the court's arguments that in the context of armed aggression by one state against another, the phenomenon of cooperation between the population and the enemy is widespread, one of the manifestations of which is collaboration, and the latter, in turn, is possible only under conditions of occupation, which precisely determine the essence of this phenomenon, and finally, that the phenomenon of collaboration cannot exist outside the occupied territory.

These arguments allow us to fix the following initial positions that characterise the social and legal nature of collaboration:

1) cooperation with the enemy is a constant companion of armed conflicts related to occupation and has been known since ancient times. As historian Gerhard Hirschfeld famously put it, ‘cooperation with the enemy is as old as war and occupation’ [2, p. 11]. And since the aggression of the Russian Federation led to the occupation of a significant part of the densely populated territory of Ukraine, the number of acts of cooperation with the aggressor is not insignificant for obvious reasons. Therefore, the

spread of the phenomenon of collaborationism in the temporarily occupied territories of Ukraine is natural and cannot generally indicate the level of commitment/hostility of the local population to the occupier;

2) not all interaction/cooperation with the enemy is collaboration. The term 'collaborationism' has a pronounced negative connotation, which is expressed in treacherous cooperation with the enemy [6, p. 77, 114]. In other words, this term should refer only to those acts of behaviour that pose a significant degree of public danger and that entail criminal liability or other forms of negative legal assessment by the state. Not every interaction with the occupier is 'treasonous', especially under occupation, and therefore collaborationism is a separate form of cooperation with the enemy as a broader concept;

3) collaborationism is possible only under conditions of occupation and this, as the CCC rightly put it, defines the essence of this phenomenon. It is this reasoning that is worthy of applause. For the first time, the mandatory essential feature of collaboration, i.e., cooperation under occupation, was reflected at the level of a decision of the highest cassation instance. The population of the occupied territory is under the full control of a large number of armed military personnel of a foreign state, so in one way or another, the conditions of occupation are an environment of constant real and potential violence [6, p. 105]. The main feature that influences the recognition of a territory as occupied is the existence of effective control over this territory by the occupier, i.e. the conditions of occupation. Since effective control is a conditio sine qua non of belligerent occupation [1, p. 43], interaction with the occupier 'under conditions of occupation of the territory' is generally identical to interaction with him 'in the occupied territory', and therefore, the discussion about what is the immanent feature of collaboration - the place of commission (occupied territory) or the situation (conditions of occupation) - is generally scholastic and does not matter in principle.

However, having recognised the conditions of occupation as an essential feature of collaborationism, the Supreme Court in its further argumentation drew (or invented) a feature that has little to do with the established essence of this phenomenon - 'the presence of stable ties of the subject with the occupied territory'. Firstly, it is possible to have a stable connection with this territory, but to be outside the influence of the occupation conditions. For example, a person who has lived in a certain territory all his/her life moves to the territory controlled by Ukraine, say, to Lviv, leaving his/her home, property, environment, etc. after its occupation. If such a person, while in Lviv, begins to interact with representatives of the aggressor and provides information, material or other assistance to its armed forces, the act obviously bears signs of treason and does not require privileging under the article on collaboration, since the essential feature of collaborationism - cooperation under occupation (in the occupied territory) - is absent in his or her actions. On the other hand, if we are guided by this criterion, it may be that the actions of a person who first appeared in the occupied territory and who has not yet formed a stable connection with it, being under the effective control of hostile forces, will not be qualified as collaboration. Secondly, the attribute of 'stable ties' lacks clarity, as 'stability' and 'ties' can take on various manifestations, giving the law enforcement officer an extremely wide margin of appreciation.

We cannot agree with this 'creativity' of the Supreme Court. Further consideration by the courts of the conclusion that there is a stable connection with the occupied territory as an inherent feature of collaboration may in many cases not only contradict the essence of collaborationism, as pointed out by the Supreme Court itself, but may also lead to unfair mitigation of responsibility for treason. In view of this, it is proposed to be guided by the original provision on the conditions of occupation as an inherent feature of military collaboration under Part 7 of Article 111-1 of the CC.

On the correlation between Part 7 of Article 111-1 of the CC and Article 111 of

the CC. The Supreme Court also noted that the acts that now constitute military collaboration and are provided for in Part 7 of Article 111-1 of the CC used to be subject to qualification under Article 111 of the CC ('High treason') before the amendments to the CC were made. In other words, the legislative novelisation resulted in differentiation of liability for such manifestations of treason as participation in the relevant military illegally created formations or formations of the aggressor state or in assisting them in conducting hostilities against the military formations of Ukraine. At the same time, the Supreme Court somewhat contradicts its own judgements, noting that such acts 'were separately criminalised by the Law of Ukraine "On Amendments to Certain Legislative Acts on the Establishment of Criminal Liability for Collaboration Activities" No. 2108-IX of 03 March 2023'.

Criminalisation of socially dangerous acts and differentiation of criminal liability describe criminal law phenomena based on different criteria: criminal/non-criminal (criminalisation) and more dangerous/less dangerous (differentiation) [5, p. 39]. If, as noted by the court, these acts were criminalised as high treason even before the advent of Part 7 of Article 111-1 of the CC, then criminalisation obviously did not take place, but instead there was a differentiation (mitigation) of liability. However, this contradiction can be generally levelled if we consider that in this case we were talking about the use of the term 'criminalisation' in a broad (though not precise) sense - as a process and result of defining (describing) a socially dangerous act in the CC, regardless of whether such an act was punishable before.

Earlier publications have already noted that the addition of Article 111-1 lex lata to the CC was the result of two parallel processes: 1) differentiation of liability for high treason in terms of mitigation of punishment for acts of cooperation committed during the occupation (most forms of collaboration committed before 16 March 2022, were covered at the time of their commission by Article 111 of the CC); 2) criminalisation

of certain socially dangerous acts of collaboration in terms of most manifestations of public appeals and objections described in Part 1 of Article 111-1 of the CC, and cooperation of persons who are not citizens of Ukraine (in particular, Parts 4 and 6 of Article 111-1 of the CC) [6, p. 213]. As for part 7 of Article 111-1 of the CC, its provisions clearly differentiate responsibility: they mitigate it compared to the sanction of part 2 of Article 111 of the CC (high treason under martial law), but increase it compared to the sanction of parts 2, 3 and 4 of Article 260 of the CC (in particular, in terms of participation in illegal armed groups).

At the same time, it is worth emphasising the correctness of the mitigating differentiation in comparison with liability for high treason, which at first glance may raise objections, because it would seem that it is rational to mitigate liability for military collaboration as the most serious form of high treason? Yes, there is a logic in this, based on the nature of collaboration described above, as it is committed in extreme conditions - under the effective control of the occupier. Enlistment in the military service of the occupier and provision of appropriate assistance to its military units, committed outside such effective control or vice versa - under occupation - have different degrees of public danger. In the end, it is fair to say that despite being committed under occupation, the acts under Part 7 of Art. 111-1 of the CC are punished without exaggeration (the main punishment is imprisonment for a term of 12 to 15 years).

At the same time, since the legislator avoided direct mention in Part 7 of Art. 111-1 of the CC of the conditions of occupation as a mandatory feature of military collaboration, this led to the fact that in court practice this rule qualified cases of such cooperation both under occupation and outside their influence, as already noted in previous publications [see 6, pp. 464-465]. In this regard, the analysed CCU resolution

provides these provisions with legal certainty in terms of distinguishing between high treason and collaboration in the form of military collaboration and can serve as a guide for law enforcement officers, since it concludes that the essence of military collaboration under Part 7 of Article 111-1 of the CC is its commission under occupation. Therefore, if a citizen of Ukraine joined the armed forces of the aggressor or assisted them in conducting hostilities against the military formations of Ukraine on the territory controlled by Ukraine or outside Ukraine, the act should be qualified as high treason (Part 2 of Article 111 of the CC), while the commission of such actions under occupation is subject to assessment under Part 7 of Article 111-1 of the CC.

On remote interaction with the enemy and information collaboration. In the analysed resolution, the CCU also stated that 'interaction with the enemy may be remote, which is a specific feature of primarily informational acts committed to the detriment of Ukraine both in the temporarily occupied territory and in the territory controlled by Ukraine, or even abroad. However, even the recognition of the possibility of contactless interaction with the enemy should not change the social and legal nature of collaboration as such, which as a phenomenon exists only in the occupied territories' []. It has already been noted in scientific publications that interaction with the occupier can be remote or take place 'in exile' (in terms of official collaboration), including after the de-occupation of the territory, which excludes the application of Art. 111-1 of the CC, because it takes place outside the occupied territory (outside the influence of extreme conditions) [6, p. 100]. Therefore, this conclusion of the CCU also deserves to be recognised as 'bold' and long-awaited.

It is interesting that the conclusion is formulated in a general way, i.e. in such a way that it applies not only to information acts that may be covered by part 7 of Article 111-1 of the CC, but also to other forms of information collaboration. It seems that this should ultimately allow local and appellate courts, the prosecution and the defence to

use these arguments when deciding on the seemingly most confusing correlation between Part 1 of Article 111-1 of the CC and Article 436-2 of the CC. Public objections and public appeals under part 1 of Article 111-1 of the CC are a criminal offence and are punishable, without exaggeration, with extremely lenient penalties - only deprivation of the right to hold office or engage in certain activities. How else can we explain such an extraordinary mitigation of liability (compared to the sanctions under Article 436-2 of the CC) than by taking into account the fact that such information acts are committed in the extreme conditions of occupation? Is it possible to equally assess (punish) the denial of aggression/occupation committed by a resident of the occupied territory under the full control of this aggressor/occupier and the denial committed on the territory controlled by Ukraine? Obviously, no.

Armed with the conclusion of the Supreme Court that information collaboration, despite its remote commission, must be carried out within the occupied territory, it is possible to ensure legal certainty in the issue of the correlation between public appeals/objections provided for in both Art. 1 of Art. 111-1 and Art. 436-2 of the CCU: their commission under the occupation is subject to assessment under Part 1 of Art. 111-1 of the CCU (as information collaborationism, less strictly), and outside such conditions - under Art. 436-2 of the CCU (more strictly). Since most public appeals/objections that are currently classified under part 1 of Article 111-1 of the CC are committed outside the occupation, in terms of legal consequences, the introduction of such a distinction will significantly affect the change in law enforcement and will obviously dramatically increase the number of proceedings under Article 436-2 of the CC.

I anticipate that this approach may encounter a counter-argument due to legislative shortcomings - the emergence of a potential gap in regulatory regulation. The fact is that Art. 436-2 of the CC does not formally mention public calls to support

the actions/decisions of the aggressor, cooperation with it and non-recognition of the extension of Ukraine's sovereignty to the occupied territories, as provided for in Part 1 of Art. 111-1 of the CC. Therefore, it may seem that the distinction between these criminal offences on the basis of whether they are committed under occupation or not may lead to the fact that such calls committed outside the occupation will not be criminalised. In fact, given the established broad approach to the semantic and linguistic analysis of information acts, it is unlikely that such public calls will not contain signs of justification, recognition of the legitimacy or denial of aggression/occupation or glorification of aggression/occupation. So in reality, the risk of a gap is virtually zero. Of course, the ideal solution would be for the legislator to provide for the same list of information acts committed both under occupation and outside it, but such a solution can only be provided by the parliament, not the Supreme Court.

It is worth mentioning another problem to be solved by the legislator, as it is potentially difficult to resolve at the level of interpretation by the Supreme Court without being accused of excessive judicial activism: the problem of legal assessment of public appeals and objections made in collusion with representatives of the aggressor state, on their behalf. The point is that the information acts provided for in Part 1 of Art. 111-1 and Art. 436-2 of the Criminal Code are by their nature unilateral acts related to the violation of the prohibition on dissemination of statements that play along with the aggressor, stir up the public, and victimise victims of aggression for the second time. Such actions are fundamentally different in nature from cases where a person disseminates statements of the relevant content on the instructions of the enemy (a bilateral act), which must be convincingly established. As it seems, the fact of receiving a task from a representative of the aggressor (enemy) is the basis for a separate assessment of the act as treason in the form of defection to the enemy and/or assistance

in conducting subversive activities against Ukraine. Such activities outside of the occupation should be assessed under Part 2 of Article 111 and the relevant part of Article 436-2 of the CC.

Instead, the qualification of its implementation under occupation is complicated by the fact that the mitigation caused by the conditions of occupation does not actually occur, since the implementation of information activities in cooperation with the aggressor, provided for in Part 6 of Art. 111-1 of the CC, due to the legislator's wording of the negative feature ‘in the absence of signs of treason’, makes it impossible to apply Part 6 to cases of public appeals/objections on the instructions of the aggressor under occupation. As a result, legal uncertainty leads to injustice and unequal application of the norms: the qualification under Part 2 of Article 111 of the CC does not take into account the fact that cooperation takes place under occupation, and the assessment under Part 1 of Article 111-1 of the CC equates acts of fundamentally different nature of public danger - simple dissemination of prohibited information and execution of enemy tasks. This means that unilateral information acts under occupation, which, by the way, sensu stricto are not collaboration (cooperation, interaction) at all, should be separated into a separate article, while those that are established to have been committed on the instructions of the aggressor (in cooperation with him) should be qualified under Part 6 of Article 111-1 of the CC after the exclusion of the negative feature ‘in the absence of signs of treason’.

On the legal uncertainty of the provisions of Part 7 of Article 111-1 of the CC and the correlation with the provisions of Article 114-2 of the CC. The Supreme Court also found that the addition of Article 114-2 to the CCU gave rise to legal uncertainty in the provisions of Part 7 of Article 111-1 of the CCU, since similar information acts acquired different qualifications in the context of differentiation of liability. In making this distinction, the CCU recognised the priority of the article on ‘unauthorised

dissemination of information'.

The legal justification for the advantage of Art. 114-2 of the CC over Part 7 of Art. 111-1 of the CC was based on the rule of resolving a temporal conflict set out in paragraph 2 of Part 3 of Art. 66 of the Law of Ukraine 'On Lawmaking' No. 3354-IX of 24 August 2023, according to which, in the event of a conflict between legal acts of equal legal force, the norms contained in the legal act that came into force later take precedence [9]. According to the CCU, since the Law of Ukraine amending the CC with Article 114-2 (No. 2160-IX) came into force later than the Law of Ukraine amending the CC with Article 111-1 (No. 2108-IX), the article on 'unauthorised dissemination of information' is applicable. It is difficult to agree with this argument. Article 66 of the Law of Ukraine 'On Lawmaking' is designed only for cases of conflict between different legal acts (of equal or different legal force), and not between the norms within the same legal act [6, p. 558]. According to Part 2 of Article 3 of the CC, the laws of Ukraine on criminal liability adopted after the entry into force of this Code shall be incorporated into it after their entry into force. In other words, the provisions of Laws 2108-IX and 2160-IX have become an organic part of a single legal entity - the Code, which excludes the application of the rules on resolving conflicts between different legal acts. The application of the rule on temporal conflict in relation to different provisions of the Special Part of a single regulatory act in such cases may lead to unpredictable consequences, including ignoring the rules on competition of norms established for criminal law, which are precisely intended to distinguish between the corpus delicti of criminal offences.

Finally, according to the final provisions of the Law of Ukraine 'On Lawmaking', despite its entry into force, it has not yet entered into force. In turn, it is the effect of a legal act, within the meaning of parts 1 and 5 of Article 57 of the same Law, that is its implementation in relation to social relations that arose after its entry into force, and

therefore the reliance on its provisions as the basis for the CCU's legal opinion looks, to put it mildly, questionable.

Since the essential feature of military collaboration is its commission under conditions of occupation, in the absence of such conditions in the case analysed by the Supreme Court, at least two articles should remain in view - on high treason (Article 111 of the CC) and on ‘unauthorised dissemination of information’ (Article 114-2 of the CC), for which the conditions of occupation are not a mandatory feature. This means that Part 7 of Article 111-1 of the CCU does not have any problems in terms of legal certainty (of course, only with the court's conclusion on the inherent feature of collaborationism).

The problem of correlation arises between high treason and qualified ‘unauthorised dissemination of information’, but the CCU referred only to Article 114-2 of the CC, and completely ignored Article 111 of the CC. Instead, it should have focused on the distinction between these two crimes, which is summarised as follows: while high treason in one way or another involves cooperation (interaction) with the enemy and/or foreign states, foreign organisations or their representatives, ‘unauthorised dissemination of information’ excludes such cooperation. This distinction seems obvious and is based on at least the following arguments. Firstly, the CC has only recently been supplemented by Article 114-2 and we all know what kind of acts were the reason for the amendments to the CC. We are talking about cases of dissemination on the Internet (telegram channels, Facebook, etc.) of information about the direction, movement of international military assistance to Ukraine, as well as information about the movement, movement or location of military formations of Ukraine. Such dissemination is carried out by citizens ‘recklessly’, as stated in the explanatory note to the draft law [10]. This obviously excludes cases where information is disseminated on purpose on the instructions of the enemy. Secondly, a comparison

of the gravity of treason (a particularly serious crime even outside martial law) and 'unauthorised dissemination of information' (under Part 1 - a minor crime, under Part 2 - a serious crime, including in the presence of martial law) indicates that Article 114-2 of the CC cannot cover cases of dissemination of relevant information on the instructions (by conspiracy) of the aggressor/his representatives; there are no privileging grounds for this. Thirdly, part 3 of Art. 114-2 of the CC, under which the actions of the accused were qualified, contains a direct legislative indication that this provision can be qualified only in the absence of signs of high treason and espionage.

In view of this, the actions of the accused in the analysed case should have been qualified under parts 1 or 2 of Article 114-2 of the CC or Article 111 of the CC, depending on whether they were committed on the instructions (by conspiracy) with a representative of the aggressor state and whether the accused was aware of this fact in the circumstances of the case. It is interesting that neither the verdict of the court of first instance nor the subsequent decisions of the courts of appeal and cassation contain a statement that the accused was aware that he was providing information to a representative of the enemy. The court decisions only established that the other user with whom the accused exchanged messages was an enemy gunner. Therefore, if the circumstances of the case demonstrate beyond reasonable doubt that there is such awareness (e.g., the user stated this in correspondence, or the user's account data - photo, personal information, previous posts and reposts, etc.), the act should be qualified as high treason, and in the absence of such awareness - under Article 114-2(1) or (2) of the Criminal Code, or, if there are qualifying signs and no cooperation with enemy representatives - under Article 114-2(3) of the Criminal Code.

It is clear that the CCU found itself in a difficult situation, as the appeal and cassation appeals were filed by the defence, which makes it virtually impossible to reclassify the case to a more serious crime (high treason). However, procedural

obstacles in a particular case should not lead to incorrect conclusions in terms of substantive law, which will be taken into account in all future proceedings on similar issues.

Conclusions. The legal positions formulated in the Supreme Court's ruling under consideration can be assessed in two ways: on the one hand, they can be recognised as bold and long-awaited, and on the other hand, they also contain questionable statements full of contradictory arguments.

The Court's conclusions about the conditions of occupation as an essential feature of collaborationism are positive, while further substitution of this feature with the existence of stable ties between the subject and the occupied territory is objectionable. The legal position that military collaboration (part 7 of Article 111-1 of the CC) was covered by Article 111 of the CC before the amendment of the CC with the relevant provision is also worthy of approval, which indicates differentiation of responsibility, as well as the mandatory nature of information/distance collaboration in the occupied territories. At the same time, the Court's position on the superiority of Part 3 of Article 114-2 over Part 7 of Article 111-1 of the CC is controversial and questionable. It seems that the transfer of information about the deployment of Ukrainian military formations to representatives of the aggressor's military formations should be qualified as high treason (Art. 111 of the CC) in the absence of occupation conditions, and as military collaboration (Part 7 of Art. 111-1 of the CC) in the presence of such conditions.

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