MINISTRY OF INTERNAL AFFAIRS OF UKRAINE
NATIONAL ACADEMY OF INTERNAL AFFAIRS

LAW JOURNAL

OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS

Scientific Journal

Volume 13, No. 4
2023

Kyiv
2023

ISSN 2519-4216
E-ISSN 2519-4313
DOI: 10.56215/naia-chasopis/4.2023

Founder:
National Academy of Internal Affairs

Year of foundation: 2011

Recommended for printing and distribution
via the Internet by the Academic Council
of National Academy of Internal Affairs
(Minutes No. 26 of December 29, 2023)

Certificate of state registration
of the print media
Series KB 25016-14956 ПР of October 19, 2021

The journal is included in the list of professional publications of Ukraine
Category "B". Branch of sciences – legal, specialty – 081 "Law"
(order of the Ministry of Education and Science of Ukraine of December 28, 2019 No. 1643)

The journal is presented international scientometric databases, repositories and scientific systems: DOAJ, CrossRef, ISSN International Centre, ORCID, ERIH PLUS, Electronic repository NAIA, Research Bible, VNLU, Professional publications of Ukraine, Index Copernicus, Google Scholar

Law Journal of the National Academy of Internal Affairs / Ed. by S. Cherniavskyi (Editor-in-Chief) et al. Kyiv: National Academy of Internal Affairs, 2023. Vol. 13, No. 4. 84 p.

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МІНІСТЕРСТВО ВНУТРІШНІХ СПРАВ УКРАЇНИ
НАЦІОНАЛЬНА АКАДЕМІЯ ВНУТРІШНІХ СПРАВ

ЮРИДИЧНИЙ ЧАСОПИС
НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ

Науковий журнал

Том 13, № 4
2023

Київ
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ISSN 2519-4216
E-ISSN 2519-4313
DOI: 10.56215/naia-chasopis/4.2023

Засновник:
Національна академія внутрішніх справ

Рік заснування: 2011

Рекомендовано до друку та поширення
через мережу Інтернет Вченою радою
Національної академії внутрішніх справ
(протокол № 26 від 29 грудня 2023 р.)

Свідоцтво про державну реєстрацію
друкованого засобу масової інформації
серії КВ 25016-14956 ПР від 19 жовтня 2021 р.

Журнал входить до переліку фахових видань України
Категорія «Б». Галузь наук – юридичні, спеціальність – 081 «Право»
(наказ Міністерства освіти і науки України від 28 грудня 2019 р. № 1643)

Журнал представлено в міжнародних наукометричних базах даних, репозитаріях та пошукових системах: DOAJ, CrossRef, ISSN International Centre, ORCID, ERIH PLUS, Електронний репозитарій НАВС, Research Bible, НБУ ім. В.І. Вернадського, Фахові видання України, Index Copernicus, Google Scholar

Юридичний часопис Національної академії внутрішніх справ : наук. журн. / [редкол.: С. Чернявський (голов. ред.) та ін.]. – Київ : Нац. акад. внутр. справ, 2023. – Т. 13, № 4. – 84 с.

Адреса редакції:
Національна академія внутрішніх справ
03035, пл. Солом'янська, 1, м. Київ, Україна
Тел.: +38 (044) 520-08-47
E-mail: info@lawjournal.com.ua
www: https://lawjournal.com.ua/uk

LAW JOURNAL
OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS
Volume 13, No. 4

Editorial Board

ЮРИДИЧНИЙ ЧАСОПИС
НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ
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ЗМІСТ

UDC 340. 3:311.4
DOI: 10.56215/naia-chasopis/4.2023.09

Methodological principles of building an international rating as a component of information and analytical provision of law enforcement activities

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Abstract
Due to the fiscal needs of a modern state, the issue of choosing methods for assessing priority and effective directions of development of law enforcement structures is becoming increasingly relevant. The purpose of this article is to justify a methodological approach, rules, modern techniques, and methods to effectively determine the rating level of the activity of a specific law enforcement structure, unit, or the system as a whole. General scientific methods (generalization, abstraction, analogy, analysis, and synthesis) and a system of statistical methods – mass observations, absolute, relative, and average comparative values, tabular, correlation-regression, and analysis of score estimates, parametric analysis, modelling, etc., were used for the study. For a comprehensive characterization of international rating assessment, a series of constructive approaches has been proposed, which can be used separately or simultaneously, depending on the need. The identification of existing types of assessment from the standpoint of qualitative and quantitative characteristics made it possible to form a legal assessment of each of them, to justify the expediency of using a universal type of law enforcement activity assessment – international rating assessment, based on the compilation of a universal indicator. This allows evaluating both qualitative and quantitative characteristics of a particular object, law

Article's History:
Received: 01.09.2023
Revised: 12.12.2023
Accepted: 29.12.2023

Suggest Citation:
Zakhozhai, V., Kalina, I., & Korolchiuk, V. (2023). Methodological principles of building an international rating as a component of information and analytical provision of law enforcement activities. *Law Journal of the National Academy of Internal Affairs*, 13(4), 9-21. doi: 10.56215/naia-chasopis/4.2023.09.

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enforcement system, and determining the country's ranking in the overall international rating. It has been proven that comparing the results of the activities of different structural units, types of law enforcement activities, regional and international structures involves conducting both internal and external ranking. Based on the research results, it is recommended to ensure the information focus of indicators with a view to standardizing procedures, dividing them into stimulants and depressants. As one of the simplified and accessible methods for assessing the international rating, the use of a multidimensional average is proposed, the algorithm of which is described in the article. The practical value of this work lies in the fact that the proposed methodologies can be used in decision-making and justification of management decisions

Keywords:
international rating assessment; ranking; modelling; information and analytical support; efficiency; monitoring

Introduction

The Russian military invasion of Ukrainian territory has led to an increased military burden on both the economy and society of Ukraine and its partners. This has created an urgent need to fill defence budgets efficiently. This necessitates the implementation of more effective mechanisms for assessing the performance of state structures to save budgetary funds and prevent the funding of inefficient projects, particularly in the field of law enforcement. Evaluating the effectiveness of law enforcement activity as a comprehensive indicator that characterizes its performance is a necessary condition for creating an optimal and balanced regulatory system as a component of national security.

The attention of scholars both in Ukraine and abroad is focused mainly on the methodological and practical principles of building an international ranking in such areas of human activity as economic, financial, social, educational, etc. At the same time, new challenges have contributed to the fact that this issue has been raised as one of the priorities in the field of law enforcement. Researchers G.T.W. Wong & M. Manning (2022) raise the issue of modifying the process of solving crimes by detectives and investigative police, which allows them to increase the effectiveness of their work without increasing the number of police resources. In this case, the pooled frontier analysis method is used to measure the relative performance of police districts in Hong Kong from 2007 to 2015. An effective district is a model for an ineffective one in terms of ensuring and achieving optimal input and output of broadcasts to solve crimes. This study represents the first cutting-edge analysis of police effectiveness in solving crime in Hong Kong using the most recent effectiveness methodology. In doing so, the authors have created a methodology that can be used to inform police policy on the use of scarce resources and improve crime detection efficiency without compromising other institutional objectives.

S. Baldwin *et al.* (2022) assessed the performance of 122 active duty police officers in a realistic fatality scenario to test whether performance was affected by officers' level of operational skills training, years of police service, and stress response. The average performance score for the scenario was 59%, with 27% of participants making at least one deadly error. The level of training and years of service in the police had different and complex effects on both performance and errors. The results show the need to critically analyse police training practices and continue to improve training based on evidence. In other words, ranking law enforcement officers in terms of professional abilities, stress in critical situations, etc. is an integral part of improving the performance of all law enforcement agencies.

A logical continuation of the issues raised is the study by M. Asif *et al.* (2018), who describe the use of various performance measures to make decisions on resource allocation, prioritize improvements, and set benchmarks for performance improvement. The various performance measures are presented in a structured framework. The key contribution is the creation of a multifaceted performance measurement system that can provide a detailed understanding of the sources of inefficiency and help to make scientific decisions.

Noteworthy is the research aimed at diagnosing international experience in assessing the effectiveness of law enforcement agencies in preventing crime. V. Halunko *et al.* (2021) conclude that such an assessment in different countries is based on a set of quantitative and qualitative criteria. At the same time, such criteria sometimes contradict each other, as some are beneficial for bureaucratic reporting, while others reflect the interests of society.

The effectiveness of a police organization and the level of security it provides to citizens largely depends on its governance and characteristics. A. Orlovic (2020) conducted a survey in the Croatian police service using a five-point rating scale from poor to excellent. The survey involved 106 police station commanders working in police administrations, headquarters located in regional police administrations, and adjacent police administrations. The survey indicated that police managers perceive the quality of all five main management functions and their sub-functions to be mediocre. The purpose of this study was to obtain a preliminary diagnosis of the (perceived) status of police leadership, as well as to determine the relevance and necessity of the

main functions and sub-functions. management and their establishment in the police system.

In conclusion, the research theme is relevant, but there are few scientists conducting studies specifically on ranking in law enforcement. Therefore, the aim of this study was to substantiate the methodological principles of constructing an international rating as a component of information and analytical support for law enforcement activities.

Materials and Methods

The methodological toolkit is based on such general scientific methods as the method of generalization, abstraction, analogies and empirical methods of research, analysis and synthesis, and system analysis. A system of statistical methods is used to a large extent – mass observations, absolute, relative, and average comparative values, correlation, and regression and cluster analysis, matrix, scoring, modelling and others. Since the proposed article is mainly methodological in nature, it is based on several methodological approaches of both general scientific and special nature.

The method of generalization made it possible to record the general features and properties of law enforcement actions, both at the level of individual law enforcement agencies and at the international level. The method of abstraction used in this article made it possible to build an objective international rating and assess the quality of law enforcement activities from individual law enforcement agencies to the international level. In the course of a creative approach to solving this problem, the article uses the method of analogies, which proves that the level of certain law enforcement agencies (regions, countries) meets international standards and their priority in terms of efficiency (quality) of activity. The method of system analysis created the basis for a logical and consistent approach to the problem of supporting management decision-making in the field of law enforcement. In this case, the international ranking is presented as an object of an integral set of elements – law enforcement agencies of regions and countries in the totality of relations and connections between them, i.e. as a system model.

The empirical research method has a fairly wide range of statistical methodological tools in its arsenal, which is an appropriate means of learning and testing the results of research on law enforcement in general and the determination of the international efficiency rating. Practice has shown the priority role of using statistical tools as a means of knowledge in the formation and use of information and analytical support for assessing the effectiveness of law enforcement management. It is crucial for the definition and validity of empirical research.

In the course of diagnosing the issues raised, the world law enforcement system was imaginatively divided into subsystems according to the allocation of law enforcement structures (regions, countries) with further in-depth consideration of each of them. Thus, relying on the peculiarities and specifics of the analytical research method, which contains elements of simplification, abstraction and formalization, the author has studied and identified certain aspects of law enforcement, properties, and interrelationships. At the same time, the use of synthesis as a method allowed imaginatively combining the individual aspects, properties, connections, and components of the law enforcement world as a complex whole into a unity. This expands on previous experience and constructs new approaches to addressing this issue. Using absolute and relative indicators, the author applies the method of averages as one of the most reliable and simple methods for determining the international law enforcement efficiency rating. In particular, the author recommends for practical use the multidimensional average, which is a type of integral assessment of complex law enforcement phenomena, and which is used to rank or typify law enforcement agencies. The use of the correlation-regression method of analysis made it possible to establish the relationship between the results of law enforcement agencies' (regions, countries) activities and the factors that shape them.

One of the most effective means of understanding the laws, trends, and patterns occurring in the field of law enforcement is modelling as a simplified, schematic image of reality. By replacing the real law enforcement process with a certain construction which reproduces the main, most essential features, abstracting from the secondary, insignificant ones, the article presents a holistic model for determining the international rating. It meets the main requirement for such models – similarity and adequacy to the real law enforcement process.

The article presents a system of methods for creating international ratings that can be used both separately and with the use of all methods simultaneously. These include the method of building international ratings based on the ranking of key performance indicators characterizing the activities of law enforcement agencies at all hierarchical levels of management, the method of cluster analysis, the matrix method, the scoring method, the comparative rating assessment, and the international rating analysis. The above system of methods for international rating assessment of law enforcement efficiency is relevant, comprehensive and focused on meeting the requirements of international standards.

Results

Improving the efficiency of law enforcement management requires the creation of a mechanism for identifying and optimizing the use of reserves and developing constructive ways to use them. This requires the development and implementation of specific recommendations for measuring the degree of their impact on the outcomes. The most common types of assessment are

qualitative, quantitative and rating. Qualitative evaluation belongs to the category of verbal evaluations that are not included in a regulated scale. Such assessments are often not ordered either by composition or by the rank of the grades used. A qualitative assessment, at a minimum, meets or satisfies the requirements. The content of qualitative evaluations is significantly enhanced if it is specified in advance which aspects of the object were evaluated (e.g., relevance, practical significance, novelty, effectiveness, meeting deadlines, etc.), thus forming a vector of evaluations whose components correspond to certain features or criteria. Quantitative measurement, expressed in numerical form, also has a multifaceted and insufficiently standardized structure. Numerical indicators can be both dimensional, expressed in certain units of measurement, and dimensionless, relative.

Given the above, it is most appropriate to choose a universal type of assessment that can be used to determine the level of performance at all hierarchical levels of governance, from primary law enforcement agencies to the international level, such as an international rating assessment. It is also important to bear in mind that rating assessments are dynamic (predictable) and can be adjusted if necessary, which makes this type of assessment universal. In the course of such an assessment, it is important to ensure the uniformity of the underlying data, since, as a rule, various types (names) of assessment are distinguished in the course of the analysis. The information used in the assessment procedures should be transparent to all stakeholders interested in a reliable assessment (Zakhozhai, 2023).

The international rating is a certain class, a number assigned in the process of quantitative or qualitative characteristics of individual objects, phenomena, and international law enforcement processes. In the modern sense, an international rating is a comprehensive assessment of the state of the analysed entity, which is formed on the basis of international rating standards and makes it possible to assign it to a certain categorical feature (class). In other words, the results of the study of the activities of certain entities are expressed by a combination of symbols, which are used to make a certain clustering. The main goal of official international ratings, the classification of which is presented in Table 1, is to provide reliable information to build law enforcement policy on their basis, which is to focus on the structures and countries that have the highest rating.

Table 1. Classification of ratings

<table>
<tr><th colspan="4">Law enforcement sphere</th></tr>
<tr><th>Rating of military power</th><th>Reliability rating of departmental structures</th><th colspan="2">Anti-corruption rating</th></tr>
<tr><td>Rating by forms of ownership</td><td>Starting rating</td><td>Rating of the level of corruption</td><td>Rating of perception of corruption</td></tr>
<tr><td>Cybersecurity rating</td><td>Current rating</td><td colspan="2">Rating of prevention, detection, investigation, and prosecution of terrorist financing</td></tr>
<tr><td>Rating of corporate governance</td><td>Control rating</td><td colspan="2">Rating of the most dangerous countries</td></tr>
<tr><td>Rating by the number and share of the imprisoned population</td><td>Synthesizing rating</td><td colspan="2">Ranking of countries by the level of intentional homicides</td></tr>
<tr><td rowspan="3">Ranking by number of suicides</td><td>Individual rating</td><td colspan="2">Financial stability rating</td></tr>
<tr><td>Integral rating</td><td colspan="2" rowspan="2">Social rating of departmental structures</td></tr>
<tr><td>Rating by types of crimes</td></tr>
</table>

Source: systematized by the authors

When analysing law enforcement activities, the question arises of the possibility of comparing the performance of different structural units, regional structures, types of law enforcement activities, including law enforcement structures at the European and international level. This is done by addressing two methodological aspects. The first is related to the comparison of international or regional law enforcement indicators selected by the analyst based on the importance of these values for providing a comprehensive characterization. This comparison is called "external". The second concerns the problem of compliance of the achieved results with a certain benchmark against which the results are compared. In this case, the benchmark may be, for example, a certain planned task that a particular unit (region, country) must fulfil during the period under review, the results of the baseline period, or simply a perception of a certain "ideal" level of law enforcement agencies' performance. To address the first aspect (external comparison), various types of ratings are used, while the second aspect is related to the development of integrated ways to assess the dynamics of law enforcement performance, which can be called "internal". The methodology of parametric analysis is used in the course of rating compilation. However, normative conclusions are drawn on the basis of a quantitative comparison, i.e., based on selected indicators (coefficients) weighted by their relative importance, the total score of law enforcement units is calculated, which is the basis for determining the final place in the ranking.

Methodological approaches to determining the international rating of, for example, law enforcement

agencies in a region or a country make it possible to compare their effectiveness in time and space. The implementation of this approach allows for a more thorough approach to the process of reforming and restructuring law enforcement units (Zakhozhai, 2023). Its application makes it possible to present their activities at different hierarchical levels of management, from the structural unit to the international level, in the most generalized way, to identify the most effective ones and to make appropriate management decisions more reasonably. It is important to note that international rating assessments may also consider industry-specific features of the work being carried out. The assessment can be carried out using each of the methods described above separately, or using all methods simultaneously.

The method of creating a ranking based on many indicators is relatively simple and is based on ranking law enforcement agencies according to the values of key indicators selected for analysis. At the same time, a systematic comprehensive approach to a comprehensive assessment of law enforcement agencies in general is more reasonable. The advantage of this method is its ease of use, while the disadvantage is that not all indicators characterize the state of law enforcement.

The cluster analysis method allows dividing the set of law enforcement agencies (countries) under study into groups called clusters according to certain criteria. To form a rating, for example, in accordance with the level of the crime situation in the regional aspect, the cluster analysis method is recommended to use the following indicators: the level of prevalence of criminal offences in society; the intensity of criminal offences; the level of criminal activity of crimes (how many crimes are committed on average by one criminal); the level of severity of criminal offences and others. The results of the cluster analysis can be presented as shown in Table 2.

Table 2. Results of cluster analysis

Country	Cluster				
	1	2	3	4	Final
USA	X	X	X	X	X
Great Britain	X	X	X	X	X
Ukraine	X	X	X	X	X
etc.	–	–	–	–	–

Source: developed by the authors

In Table 2, clusters 1-4 correspond to the values of the above indicators. If a country or region is ranked 1st in a cluster by the criterion of maximizing the relevant indicator, it is given 1 point, if it is ranked 2nd – 2 points, and so on. The countries (regions) are arranged in the final cluster based on the principle of minimum points. Thus, the final cluster is a rating assessment of the overall level of crime in a country (region). The advantage of this method is that it is the most accurate, while the disadvantage is the inaccessibility and difficulty of obtaining the necessary information.

The matrix method of analysis is used for a generalized assessment of the effectiveness of law enforcement. It is based on the concept that reveals the process of law enforcement through the input-output system in the form of a matrix model. The matrix model of law enforcement analysis is based on a square table – a matrix. The elements of the matrix reflect the specific content that each individual title consists of. Some of them are quite well known, while others are not well known and do not have precise names (for example, the ratio of production assets to material costs and other relationships). Nevertheless, they characterize one or another aspect of law enforcement activities and are considered as coefficients that characterize law enforcement activities (Zakhozhai, 2017). The indices of relative indicators under the diagonal of the matrix are used to determine the value of the rating number:

$$A = \frac{\sum_{i=1}^{n} A_i}{n}, \quad (1)$$

where A_i is the index (growth rate) of the i element matrix models; n– quantity elements.

With the help of the matrix method, a comparative analysis of law enforcement activity in the dynamics for several reporting periods is carried out and the value of the general indicator of the effectiveness of the activity is determined. If the value of the generalizing indicator exceeds 1, then the efficiency has increased, if not, it has decreased. This method gives both a generalized description of the state of law enforcement activity and the dynamics of its development, and also determines changes in the process and results of work, as well as reveals reserves for improving the efficiency of activity.

The scoring method is relatively simple and is based on the conclusions of experienced experts. The rating is assigned in accordance with the system of indicators by the sum of points. Indicators are divided into classes: 1st class – indicator values exceed established or theoretically justified standards; 2nd class – indicator values are at the normative level; 3rd class – the values of indicators are lower than the normative level. During the calculation of the rating, various options for assigning indicators to one or another class are possible. The indicator in the first case is estimated at 3 points, in the second – at 2 points, in the third – at 1 point. The results of the analysis using the method of point evaluations can

be presented in Table 3. At the same time, the criterion for forming the rating is the maximum sum of points for all indicators. Thanks to the use of this method, it is possible to identify the strengths and weaknesses of each analysed object, and the evaluation is a subjective assumption of experts, which is its drawback.

Table 3. The results of the analysis by the ballpoint method evaluations

Law enforcement agencies of the country	Groups indicators				Total points
	1st class/points	2nd grade/points	3rd grade/points	4th grade/points	
A	X	X	X	X	X
B	X	X	X	X	X
C	X	X	X	X	X
etc.					

Source: developed by the author

The method of comparative rating evaluation consists in the fact that the basis of the final indicator is a comparison of the objects of law enforcement structures (region, country) for each indicator with a conditional reference law enforcement agency that has the best results, in such a structure all indexes acquire optimal values. In general, the method of comparative rating evaluation of the structure of law enforcement activities can be presented in the form of the following sequence of execution of the following actions. First, initial data are presented in the form matrices (A_{ij}), i.e table in which the rows are written rooms indicators ($i = 1, 2, 3 \dots n$), and in columns – numbers enterprises ($j = 1 \dots m$). With and each indicator is defined the maximum value and is entered in the column conditional reference by a thrush ($m + 1$). Then the initial ones matrices of the law enforcement unit (A_{ij}) are standardized relatively corresponding indicator reference law enforcement officer division by the formula:

$$X_{ij} = \frac{A_{ij}}{max\ A_{ij}}, \quad (2)$$

where X_{ij} – standardized indicators of the state of the j law enforcement unit. At the next stage for each analysed under the section, value him rating assessment determined by the formula:

$$P_i = \sqrt{(1 - x_{1i})^2 + \dots + (1 - x_{nj})^2}, \quad (3)$$

where P_i – rating assessment of the ilaw enforcement unit; $x_{1i} \dots x_{nj}$ – standardized Indexes of the i law enforcement unit. At the last stage, the structural units are arranged (ranked) in descending order of the rating assessment. The unit with the lowest comparative score has the highest rating. The advantage of this method is that the assessment is based on public reporting data of law enforcement agencies, while the disadvantage is that it is time-consuming to make calculations.

The method of international ranking analysis of law enforcement activity is based on the fact that its level is determined by the allocation and use of means and sources of its formation. The evaluation criteria are the relevant coefficients. Such coefficients are grouped by the main areas of law enforcement activity. On this basis, it is possible to assess the level of law enforcement activity not in terms of proximity to the reference level, but in terms of distance from the critical level. Therefore, when choosing a reference base for rating assessment, it is necessary to introduce the concept of "conditionally satisfactory law enforcement structure" of a region or country. It can be assumed that a conditionally satisfactory law enforcement structure has indicators that meet the normative minimum values determined on the basis of the criteria of law enforcement effectiveness. The rating number (R) is determined by the formula:

$$P = \sum_{i=1}^{L} \frac{1}{LN_i} K_i, \quad (4)$$

where L is the number of indicators which are used for rating assessment; N_i – regulatory requirements for the i coefficient; $\frac{1}{LN_i}$ – gravimetric index of the i coefficient; K_i – i coefficient. When full compliance values coefficients of law enforcement activity $K_1 \dots K_L$ their normative minimal levels of the rating of the studied structure will be equal to 1, it is selected as the rating conditionally to the satisfaction of the law enforcement structure. The level of the structure with a rating score of less than 1 is characterised as unsatisfactory.

Options for reconciling the results obtained by different methods can be carried out using the arithmetic mean method, the mathematical method of weighting the assessment results, the subjective weighting of the assessment results, and the combined method. The most reliable results of an integrated international rating assessment are achieved when using the combined method.

Thus, the main areas of application of international performance ratings include: management decision-making; planning and forecasting of performance indicators of a particular law enforcement agency (country, region); conducting market research; compiling tables of the use of ratings in these areas; taking into account the scope of application of ratings in each of the key areas, as well as the purposes of the ratings. Thus, the author proposes a classification of types of international ratings, which describes their different types

by areas of application, as well as systematic methods for compiling international ratings of law enforcement agencies. Based on the analysis, it can be concluded that the methods of international rating assessment are diverse and ambiguous. Their application allows for the most objective assessment of the effectiveness of a law enforcement agency (country, region).

Based on the use of comprehensive methods, the following model of rating assessment of law enforcement agencies (country, region) is proposed. The weight of individual indicators can be determined by experts and is derived from a specific political, social situation and other factors. Law enforcement activities are assessed on the basis of a certain set of indicators, which are used to make an integral assessment and determine the corresponding rating. Generally, the generalising indicator for the *j* multidimensional object is defined as the arithmetic mean of the standardised values of the indicators:

$$G_j = \frac{1}{m}\sum_{i=1}^{m} z_{ij}, \quad (5)$$

where G_j is a multidimensional indicator reflecting the generalizing property of the *j* object; z_{ij} – the standardized value of the *i* indicator of *j* object; *t* is the total number of indicators. This method of aggregation averages the values of the indicators included in the set of the set; all of them can be considered equal (equally weighted), which does not happen in real conditions. Mitigating this undesirable phenomenon can be done by using weighting factors that reveal the importance of each indicator, as well as their significance and position in the study. This process does not lend itself to a clear functional definition, and the assignment of weighting factors can be carried out mainly by experts after a comprehensive analysis of the qualitative essence of the phenomenon.

However, the weighting factors are mostly subjective and therefore not reliable enough. Greater objectivity can be achieved by establishing the relationship between the results of the activities of individual objects and the factors that determine them. For this purpose, it is advisable to resort to the methods of correlation-regression analysis, which measure the relationship between the effective feature *y* characterizing the effect of the activity and the factor features $x_1, x_2 ... x_n$ on the basis of which the international rating of this or that region or country is built. At the same time, the overall effect must be distributed among individual factors.

For this, you can use multivariable linear equations:

$$y = b_0 + b_1x_1 + b_2x_2 + ... + b_nx_n. \quad (6)$$

Taking into account multicollinearity the relationship between the indicators, the assessment of the weight of individual factors in the formation of the resulting characteristic can be determined on the basis of indicators of multiple determination of R^2, pair correlation r_{ij} and standardized regression coefficients - β - according to the formula:

$$d_j = \frac{\beta_j r_{x,yi}}{R^2}. \quad (7)$$

At the same time, an assessment of the importance of the influence of each of the indicators of a set of features on the general property of the object is carried out, and the form of a multidimensional indicator is formed – an arithmetically weighted average:

$$G_j = \sum_{i=1}^{m} z_{ij} d_i, \quad (8)$$

where d_1 is the weight of the *i* indicator and $\sum_{i=1}^{m} d_i = 1$.

Therefore, the construction of a multidimensional generalizing indicator can be carried out in four stages: formation of a set of characteristic indicators x_i; alternative method of standardization of indicators; justification of the function of weighting coefficients d_i; determination of the procedure for aggregating indicators.

An important condition in the process of forming a set of signs is ensuring the information unidirectionality of indicators, which is connected with the definition of generalizing indicators, the influence of which may be different. Indicators can have different information orientation, which must be taken into account when forming a general indicator. According to the gradation of information orientation, the indicators are divided into stimulators and destimulators . There is a direct relationship between the values of the generalizing indicator G_j and the stimulator indicator, and the inverse relationship with the value of the destimulator indicator.

This is considered in the data standardization procedure, the main purpose of which is to establish the effectiveness of indicators of a set of characteristics that are reduced to one basis (foundation), that is, the transition to dimensionless values while maintaining the ratio between individual indicators. It is important to ensure that all indicators of a set of signs are standardized according to the same procedure, which depends on the content of the indicators and the purpose of the study. The standardization procedure includes the following indicators: standardization of rank scale indicators and standardization of metric scale indicators. The first globalization direction is defined in three ways:

- if the indicators are evaluated by experts, and the features of the set are a set of expert evaluations, then the latter can be replaced by the corresponding ranks;
- if the set of features consists of indicators that are measured by different types of scales, then the values of the indicators can be replaced by ranks;
- if the indicators cannot be directly represented in a numerical expression (opinions), then their value can be displayed using a rank scale.

Since the ranking of objects usually occurs from R_{min} to R_{max}, the minimum rank is given to the maximum

value of the stimulus indicator and the minimum value of the destimulator indicator. In this case, a lower rating value indicates a higher rating of the object.

The second globalization direction in the procedures of standardization of indicators of a set of features is the mathematical exploitation of algorithms for indicators of the metric scale. Their essence consists in comparing the empirical values of the indicator x_{ij} with a certain value a, which can be: the maximum value of the indicator x^{max} the minimum value of the indicator x^{min} average value $\bar{x}$; reference (or conditional) value x^0. Mathematically, such a procedure can be written either in the form of standardized deviations $\frac{x_{ij}-a}{q}$, (where q is the unit of standardization), or in the form of relations $\frac{x_{ij}}{a}$. These two procedures have one important property, which is characterized by the help that considers the informational orientation of the indicators of the characteristic set, as well as the use of certain modified standardization formulas for indicators-stimulators and destimulators.

Standardized deviations from the mean level are traditionally used in multivariate analysis, where they have the form:

a) for stimulants:

$$z_{ij(\text{st})} = \frac{x_{ij}-x}{\sigma_i}, \quad (9)$$

b) for destimulators :

$$z_{ij(\text{dest})} = \frac{x-x_{ij}}{\sigma_i}, \quad (10)$$

where σ_i is the standard deviation of the i iindicator. However, this standardization procedure has one rather significant limitation. Since it is based on average values and standard deviations of indicators, it is used only for qualitatively homogeneous populations with a distribution of elements close to normal. During the conduct of some law enforcement studies or socio-economic law enforcement studies, international economic and law enforcement comparisons, it is sometimes difficult to ensure the fulfilment of this condition. In such a case, the procedure based on deviations, where the unit of standardization is the variation range of the indicator, will be effective. At the same time, there is a transition to standardized values of indicators:

a) for stimulants:

$$z_{ij(\text{st})} = \frac{x_{ij}-x_i^{min}}{x_i^{maxx_i^{min}}}, \quad (11)$$

b) for destimulators:

$$z_{ij(\text{dest})} = \frac{x_i^{maxx_{ij}}}{x_i^{maxx_i^{min}}}. \quad (12)$$

The choice of the value a is determined by the need to ensure the information unidirectionality of the standardized values z_{ij}. The stimulator indicator will characterize the higher development of the phenomenon in the field of law enforcement, if its value x_i becomes closer to the maximum x^{max}; therefore the difference will be greater (x_{ij} - x_i^{max} ()). In the case of the destimulator indicator , under the same conditions, the value x_i should approach the minimum x^{min}, then the difference will be greater ($x_j^{maxx_{ij}}$ ()). Thus, the value of z_{ij} addition is always between 0 and 1 and has a direct relationship with the state of development of the object: its value approaches 1 at a high value of the i indicator, and vice versa.

As one of the simplified methods, the method of multivariate average is used. For this purpose, a set of surveillance objects (law enforcement structures of various levels – countries, regions, etc.) is selected to establish , for example, a rating of the level of activity efficiency. An appropriate system of indicators is formed (x_{ij}), on the basis of which integral evaluation is carried out. The values of these indicators are calculated for each object and on average for their aggregate:

$$\overline{x_j} = \frac{\sum x_{ij}}{n}. \quad (13)$$

To eliminate the scale of these indicators, generalizing indicators are calculated (p_{ij})in the form of indicators of individual objects to their average value for the totality of objects:

$$p_{ij} = \frac{x_{ij}}{\overline{x_j}}. \quad (14)$$

The average value is calculated ($\overline{p}_i$):

$$\overline{p}_i = \frac{\sum p_{ij}}{k}, \quad (15)$$

where k is the number of indicators used in calculations. The ranked series ($\overline{p}_i$) is the corresponding rating of the structural law enforcement units of the objects, which characterizes the level of its effectiveness. Columns 1-3 of Table 4 for the totality of law enforcement structural subdivisions provide conditional data on three indicators (R_{ij})that characterize law enforcement activities in seven countries.

Table 4. An example of a rating evaluation of the effectiveness of law enforcement agencies of different countries

Law enforcement agencies of the country	Performance indicators			Standardized deviations from the mean			$\sum P_i$	$\overline{P} = \frac{\sum P_i}{3}$	Rating (rank)
	The level of repelled cyberattacks (L_v)	The level of disclosure of criminal offences (L_r)	The level of disclosure of administrative offences (L_a)	P_1	P_2	P_3			
1	0.72	0.44	0.24	1	1.07	0.61	2.68	0.89	4
2	0.68	0.34	0.28	0.94	0.83	0.72	2.49	0.83	6

Table 4, Continued

Law enforcement agencies of the country	Performance indicators			Standardized deviations from the mean			$\sum P_i$	$\overline{P} = \frac{\sum P_i}{3}$	Rating (rank)
	The level of repelled cyberattacks (L_v)	The level of disclosure of criminal offences (L_r)	The level of disclosure of administrative offences (L_a)	P_1	P_2	P_3			
3	0.89	0.31	0.91	1.24	0.76	2.33	4.33	1.44	1
4	0.75	0.42	0.37	1.04	1.02	0.95	3.01	1	3
5	0.45	0.46	0.33	0.62	1.12	0.86	2.6	0.87	5
6	0.83	0.49	0.37	1.53	1.19	0.95	3.67	1.22	2
7	0.69	0.41	0.2	0.96	0.51	0.51	1.98	0.66	7
Σ	5.01	2.87	2.7	–	–	–	–	–	–
Mean value (R)	0.72	0.41	0.39	–	–	–	–	–	–

Note: the data is conditional
Source: developed by the authors

For further calculations, it is necessary to set the average value $\overline{R}$ for each indicator:

$$\overline{R}_1 = 0{,}72;\ \overline{R}_2 = 0{,}41;\ \overline{R}_3 = 0{,}39. \quad (16)$$

Thereafter, it is necessary to calculate the indicators of the deviation of the values values P_{ij} from the average:

$$P_{ij} = \frac{R_{ij}}{\overline{R}_j}. \quad (17)$$

The results of the calculations are shown in columns 4-6 of table 4, the sum of these indicators is in column 7, and the average value is in column 8. Based on the ranks of the indicators $\overline{R}_i$ (column 9), it is possible to compare the level of the summary assessment of the effectiveness of the law enforcement agencies of the countries. All indicators accepted for calculation have a single direction. The rating (rank) is assigned from the largest value of the average standardized deviation to the smallest. The highest rating (rank) is the 3rd structural division of the Ministry of Internal Affairs, the lowest is the 7th. If there is a need for acceleration and improvement during the practical implementation of the considered methodology, it is advisable to use appropriate software and the latest IT technologies.

Discussion

Existing research on the methodological foundations of international rankings is global, as any situation and activity of state institutions should be assessed in a qualified and objective manner. Such an assessment depends on certain indicators, mainly coefficients or a certain type of rating. In researching this issue, it became clear that evaluation can apply to any area of activity. In modern science, such assessments are most often carried out mainly in the economic, environmental, and social spheres, and much less in law enforcement. In the economic sphere, it is common to create ratings of banks, enterprises, risks, business processes, etc. In the course of international ratings, systems of certain indicators are usually used, which are the same for each country. There are ratings that are not included in all countries for certain economic, political or socio-cultural reasons.

The creation of international rankings simplifies the research procedure for certain respondents, consumers, competitors, or society. S. Shojaei *et al.* (2018) note that there are several institutional barriers (formal and informal) at different stages of the venture capital (VC) investment process that hinder funding. Thirty-one detailed surveys were conducted, and the data were analysed using grounded theory, and the study concludes that the main barrier is the lack of a credit rating/score system. This suggests that rating provides wider opportunities for evaluation in any area, including law enforcement, i.e. when an international rating of law enforcement agencies is built, society has better opportunities to determine the effectiveness of a particular structural unit, management, or agency as a whole.

Noteworthy are the studies by I.Yu. Yepifanova *et al.* (2021) on the use of methodological approaches to assessing management decisions of investment attractiveness. The scientists found that several methods are inherent in the methods for assessing investment attractiveness: the method of rating, expert and integral assessment of investment attractiveness; method of comparisons; matrix method; profitability triangle; differentiated approach; methods based on the use of artificial intelligence. The article supports further development and use of the matrix approach to assessing the level of investment attractiveness of enterprises. The use of this approach in law enforcement agencies will make it possible to carry out a comparative analysis for a certain period and determine the effectiveness or ineffectiveness of law enforcement activities, identify the indicators that led to the current state.

In today's environment, when a significant number of countries are trying to stabilize their economies and introduce new advanced technologies that will enhance their development, and competition between large countries is intensifying, the investment attractiveness of regional and state-owned structures is becoming an

important issue. At the same time, state-owned companies in these countries are under tremendous economic pressure and strategic hunger, and usually suffer from a lack of investment resources. Both conventional and international ratings are used to reliably prioritize their investments. Considerable attention is paid to this issue by F. Krueger *et al*. (2020). To assess the effectiveness, the researchers propose to consider ratings as a tool for overcoming risks in the field of environmental social and corporate governance (ESG). The proposals can be applied in law enforcement, as risks, their assessment, and prevention apply to any area, especially where there is a danger to personnel, i.e. law enforcement agencies. Thus, when applying such tools, it will increase the opportunities for making effective investment decisions (Hartzmark & Sussman, 2019). At the same time, numerous scientific studies pay attention to the economic consequences of ESG performance when using the rating as a risk management tool (Hubbard *et al*., 2017; Lins *et al*., 2017; Wan *et al.,* 2023). Researchers are also studying how ESG affects pricing and price increases if investor demand for ESG characteristics increases (Engle *et al.,* 2020; Pedersen *et al*., 2021). The introduction of ESG into law enforcement will create an opportunity to empirically assess the magnitude of the effect of measures taken by law enforcement authorities to increase the detection of criminal cases (crimes).

As China's economy has shifted to a sustainable model, the Chinese socially responsible investment (SRI) market has expanded rapidly, which has deeply stimulated the development of environmental, social and governance (ESG) ratings for Chinese companies. The latter have launched their ESG rating systems. Y. Zhu (2023) suggested that information users should consider a more diverse and comprehensive information perspective when using these ratings. Among them, it is necessary to consider the sources of information for each rating, which are based on the firm's public disclosures, mainly including annual reports and CSR/ESG reports. Ratings such as MSCI and SynTao include information on corporate social networks in their sources; FTSE uses a more proactive strategy, including communication with rated firms to research their undisclosed information. At the same time, discrepancies in ESG ratings are noted (Zhu *et al.,* 2023; Zheng & Aishan, 2023). It is worth noting that these rating models can also be applied to cyber policing. Information might be divided into certain types and an operational process is carried out: collection of raw information; sorting of raw information and filling in basic indicators. The basic indicators are then summarized to form a rating score and verified to form the final result. These operational processes systemize the work of law enforcement agencies and ensure their effective functioning.

During the 2010s, the issue of sustainable finance became increasingly important to investors, and ESG ratings were widely used to put ESG investment strategies into practice. Strikingly, it has been widely documented in both academic literature and investment practice that the ESG ratings of a given firm can vary widely across rating providers. However, although ESG rating discrepancies have been widely criticized, only a few studies have examined the sources and determinants of rating discrepancies. M. Liu (2022) tested whether quantitative ESG disclosure contributes to rating convergence between agencies. The author found that, taken together, the results indicate that quantitative ESG disclosure distorts rating discrepancies. This study can be linked to law enforcement to identify the determinants of differences in ratings conducted by law enforcement agencies in different districts, regions, and countries. Provide them with the same algorithm for conducting rankings and for determining efficiency and further effective actions.

Methodological approaches to determining the rating in the educational sphere are widely presented in the literature. This is understandable, as professional development for teachers at different levels of education is important for the future of the country, and improving teaching effectiveness is a key aspect of human education and professionalism. To assess the effectiveness of teaching in institutions of different levels of education, ratings of pupils, students, young scientists, teachers, as well as leading educational institutions of the world, etc. are used. These rankings can inform policies and practices related to teaching evaluation, graduate employability, and professional development in education (Liu *et al*., 2023). There are many such rankings, and they usually reflect the specifics of the educational institution and the professional orientation of its contingent. This research can also be applied in law enforcement to assess the specifics of law enforcement activities and the professional orientation of law enforcement officers. Thus, the study of A.A. Babych & K.O. Yandola (2021) provides an example of rating the success of the educational activities of a higher education institution.

As for ratings in law enforcement, this is a relatively new stage in the development of methods for assessing the effectiveness of law enforcement agencies, but when carrying out this assessment using different methodological approaches, a positive result can be obtained for the whole society, since some ratings help to assess critical situations, and society itself can assess law enforcement agencies using information systems. For example, J.L. Regens *et al.* (2016) conducted a study to assess the situational awareness of various police officers in terms of their individual ability to identify nine key behaviours that indicate terrorist activity. The selected group of police officers was recruited from state, county, and municipal law enforcement organizations. The respondents were asked to rate each component of the scenario on an 11-point Likert-type suspicion scale.

The authors noted statistically significant differences by agency type, officer designation (patrol or detective), experience, gender, agency size, and education.

Therefore, the introduction of the rating as a component of the management system of law enforcement agencies will help to increase the overall efficiency of their activities. In this study, several methods were proposed, which will help to have a more objective idea of their effectiveness. The scientific basis of the rating evaluation will contribute to the development of healthy competition among law enforcement structural units, despite different levels of work and their importance, will stimulate professionalism and competence in difficult working conditions.

Conclusions

The ongoing military conflict on the territory of Ukraine and new challenges to fiscal stability around the world increase the requirements to the quality of law enforcement agencies, the level of relevant management decisions, development, and implementation of measures to prevent and combat crime, which in turn necessitates the search for creative approaches to identify the most effective areas of development of these agencies. One of the main such tools is scientifically based information and analytical support of law enforcement activities, in particular, such an important component as international rating assessment. This theoretical and methodological study examines several methodological approaches to the international rating assessment of law enforcement performance. The diagnostics from the standpoint of qualitative and quantitative characteristics of performance has shown the expediency of their generalization in the form of an integral indicator of international rating assessment, which reflects both the first and second features of the object of study.

It is established that to compare the performance of different units, types of law enforcement activities, regional structures, States, etc., it is advisable to distinguish such methodological aspects as external and internal comparison, which are given an appropriate methodological interpretation. The author proposes a number of the most accessible and constructive rating methods, with the identification of their strengths and weaknesses. This approach allows identifying the level of effective activity through comparison in time and space, and provides an opportunity to take a more thorough approach to the process of reforming and reconstruction of law enforcement agencies.

Regulation (management) of the international law enforcement system is a process related to substantiation of operational and strategic decisions, which requires the availability of relevant information, the production of which is a function of information and analytical support of law enforcement activities, starting from the level of primary law enforcement units and ending with regional, national and interstate ones. The purpose of such information and analytical support is to collect primary information, to classify and store it, to process and summarize it, and to distribute it appropriately between primary law enforcement agencies and international agencies, so that, on the basis of the collected initial data, secondary, processed information is obtained which is the basis for making effective law enforcement decisions. Based on the use of complex methods, the author proposes a model of international rating assessment of the effectiveness of law enforcement agencies of various structural units, in particular, at the regional, State and international levels. When constructing a generalizing indicator, it is important to consider the information diversity of some of them and to divide them into stimulants and discouragers, and to take them into account in the data standardization procedures. It is noted that the most accessible method of international rating assessment of the effectiveness of law enforcement agencies is the multidimensional average method, the algorithm for calculating which is presented in this paper. In this regard, a promising area for future research is to develop ways to apply the proposed methods to build an international law enforcement rating.

Acknowledgements

None.

Conflict of Interest

None.

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Методологічні засади побудови міжнародного рейтингу як складової інформаційно-аналітичного забезпечення правоохоронної діяльності

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Анотація
У зв'язку із фіскальними потребами сучасної держави дедалі більшої актуальності набуває проблема вибору методів оцінювання пріоритетних та ефективних напрямів розвитку правоохоронних структур. Метою статті є обґрунтування методологічного підходу, правил, сучасних прийомів і методів, за допомогою яких доцільно визначати рейтинговий рівень ефективності діяльності певної правоохоронної структури, підрозділу, системи загалом. Для дослідження використано загальнонаукові методи (узагальнення, абстрагування, аналогії, аналізу та синтезу), а також систему статистичних методів – масових спостережень, абсолютних, відносних і середніх порівняльних величин, табличний, кореляційно-регресійний та аналіз бальних оцінок, метод параметричного аналізу, моделювання тощо. З метою всебічної характеристики міжнародного рейтингового оцінювання запропоновано низку конструктивних підходів, які залежно від потреби запропоновано використовувати окремо, так і всі одночасно. Виокремлення наявних видів оцінювання з позицій якісної та кількісної характеристик дало змогу сформувати юридичну оцінку кожного з них, обґрунтувати доцільність використання універсального виду оцінки правоохоронної діяльності – міжнародної рейтингової оцінки, що ґрунтується на складанні універсального показника. Це надає можливість оцінити якісні та кількісні характеристики окремого об'єкта, правоохоронної системи, а також визначити рейтингове місце країни в загальному міжнародному рейтингу. Доведено, що порівняння результатів діяльності різних структурних підрозділів, видів правоохоронної діяльності, регіональних і міжнародних структур передбачає проведення як внутрішнього, так і зовнішнього рейтингування. За результатами дослідження рекомендовано забезпечувати інформаційну спрямованість показників з огляду на процедури їх стандартизації з поділом на стимулятори та дистимулятори. Як один зі спрощених і доступних методів оцінки міжнародного рейтингу запропоновано використовувати багатовимірну середню, алгоритм розрахунку якої описано в статті. Практична цінність цієї роботи полягає в тому, що запропоновані методики може бути використано під час прийняття та обґрунтування управлінських рішень

Ключові слова:
міжнародна рейтингова оцінка; ранжування; моделювання; інформаційно-аналітичне забезпечення; ефективність; моніторинг

UDC 343.847
DOI: 10.56215/naia-chasopis/4.2023.22

The problem of expanding the rights of those sentenced to life imprisonment

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Abstract
As of 2023, the issue of life imprisonment is the least regulated in Ukrainian criminal-executive law. Moreover, life imprisonment is the most controversial form of punishment, prompting research into its specific aspects. The purpose of the study is to explore problematic issues related to the rights of those sentenced to life imprisonment for short-term release from the institution serving the sentence. Various methods, including systemic-structural, analytical, comparative, and terminological, were used to achieve this purpose. An analysis of the legal status of those sentenced to life imprisonment in Ukraine concluded that these subjects of criminal-executive legal relations do not have the right to leave the prison, particularly in the presence of exceptional personal circumstances. It was also established that, according to current criminal-executive legislation in Ukraine, only specific categories of prisoners serving a sentence of imprisonment possess such a right, reflecting the essence of the punishment's purpose. The study demonstrates that it is through the regime of legal restrictions that the state has the opportunity to fulfil criminal-executive tasks, including preventing criminal offences by both convicts and other individuals. The legally established status of those sentenced to life imprisonment, especially in terms of legal restrictions, aims to deter not only recidivists but also individuals who may contemplate or prepare to commit such serious criminal offences. If, in 2002, the number of those sentenced to life imprisonment in Ukraine exceeded 100 individuals, by 2022, it had decreased to 23. It is emphasised that expanding the rights of individuals serving a life sentence may lead to social tension and

Article's History:
Received: 17.08.2023
Revised: 06.12.2023
Accepted: 29.12.2023

Suggest Citation:
Kolb, O., Vasylevych, V., & Levchenko, Yu. (2023). The problem of expanding the rights of those sentenced to life imprisonment. *Law Journal of the National Academy of Internal Affairs*, 13(4), 22-30. doi: 10.56215/naia-chasopis/4.2023.22.

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pose a threat to the national security of Ukraine. The results of the study can be used in further regulatory adjustments regarding problematic aspects of life imprisonment

Keywords:
criminal offence; criminal-executive legislation; serving a sentence; prevention of offences; interaction with convicts; recidivism

Introduction

An ambiguous question of the institution of life imprisonment in modern political, legal and public thought arises in connection with the humanisation of modern criminal systems in legal, democratic countries. The problems associated with deprivation of liberty as a form of punishment become more relevant as approaches to the penal system increasingly focus on the rehabilitation and resocialisation of convicts, creating contradictions between the existence of life imprisonment and humanistic approaches to punishment. The expansion of convicts' rights is the subject of public discussion and debate. The increased interest in this issue indicates the importance of discussing and finding a balance between protecting the rights of convicts and ensuring public safety. The latter only intensifies the relevance of the issue in countries where the problem of national security is articulated in connection with military events, particularly in Ukraine. Criticism is triggered, in particular, by the possibility of causing harm to society and citizens due to the short-term travel beyond the penitentiary institutions by individuals sentenced to life imprisonment (Possibility of short-term visits..., 2023). The contradiction between the process of humanising criminal legislation and ensuring national security is complicated by the fact that in Ukraine, the functioning of the institution of life imprisonment has received relatively little attention.

Life imprisonment became a preventive measure that replaced the death penalty. Analysis by T. Pavlov (2023) convincingly demonstrates that this form of punishment is relatively new and not fully regulated by Ukrainian legislation, leading to collisions in practical application. P.L. Fries (2018) notes that with the development of society, corresponding changes occur in legislation regarding individuals in places of deprivation of liberty, requiring institutions to adapt to new regulatory frameworks. N.M. Parasyuk (2022) emphasises the need for the state to rationally approach the humanisation of life imprisonment, adhering to proportionality and justice in establishing criminal-legal impact. N.V. Malyarchuk & M.V. Moroz (2018) underscore that life imprisonment in Ukraine is a relatively new and specific form of punishment. The introduction of this practice was driven by international requirements from the Council of Europe for democratic countries where forms of punishment like the death penalty are unacceptable.

The opinion of F.A. Stepanyuk *et al.* (2021) on the necessity of special state control over individuals sentenced to life imprisonment is valid, as such convicts are responsible for extremely serious crimes, and accountability for these should be clearly regulated at the legislative level without causing disputes or ambiguous interpretations. The Constitutional Court of Ukraine also adheres to this position (Possibility of short-term visits..., 2023), having analysed the constitutionality of specific provisions of Article 111 of the Criminal Executive Code of Ukraine[1], refusing to open cassation proceedings. These positions indicate the relevance of discussion and the need for further research into this problem in the context of finding a balance between protecting the rights of convicts and ensuring public safety in modern society.

In their paper, Yu.V. Kernyakevich-Tanasiychuk (2019) expresses support for a humane attitude toward prisoners, considering their rights in the context of international standards. In addition, the author considers the opposite viewpoint, focused on implementing various tools and mechanisms to ensure the necessary level of law and order in society, suggesting that each country should choose such tools according to its needs. A study conducted by M.V. Batluk (2021) aimed to identify inconsistencies in Ukrainian legislation with standards outlined in the Convention for the Protection of Human Rights and Fundamental Freedoms[2]. From this perspective, an important question arises regarding the possibility of allowing individuals sentenced to life imprisonment to make short-term visits outside institutions exclusively in specific cases. Researchers insist that this issue should be thoroughly and comprehensively investigated, considering its significant importance for society. Therefore, a detailed analysis of the issues arising in the context of the compliance of legislation with international standards and the possibility of granting short-term visits to those sentenced to life imprisonment is crucial for further discussions, especially in a significant societal context.

The purpose of the study is to clarify the risks associated with the expansion of the freedom of individuals

[1] Decision of the Third Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 3-72/2023(145/23) "On Opening of Constitutional Proceedings in the Case on the Constitutional Complaint of Anatolii Luzhynetskyi Regarding the Compliance with the Constitution of Ukraine (constitutionality) of Certain Provisions of Part One of Article 111 of the Criminal Executive Code of Ukraine". (2023, July). Retrieved from https://zakon.rada.gov.ua/laws/show/v103u710-23#Text.
[2] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

sentenced to life imprisonment, particularly regarding short-term visits outside penitentiary institutions.

Materials and Methods

During the study, a comprehensive analysis of papers addressing the issues was conducted. In the course of the investigation into the rights of individuals sentenced to life imprisonment, the authors analysed the most problematic aspects of the legal status of life prisoners who are not endowed with the legal right to short-term visits outside the correctional colony. General scientific and special legal research methods were employed. The dialectical method was used to analyse theoretical and legal recommendations regarding the regulation of state policy in Ukrainian criminal-executive legislation. Analysis and synthesis methods were employed to identify, based on the examination of current legislation in Ukraine, problems in improving life imprisonment and propose solutions. Comparison methods and description and classification methods helped systematise existing scientific opinions on the main problems of the rights of those sentenced to life imprisonment.

Among the special methods of research, the comparative legal method, systemic analysis method, dogmatic method, historical-legal method, and forecasting method were applied. The comparative legal method assisted in determining possible paths for the development and improvement of existing mechanisms in criminal-executive legislation, definitions of scientific categories, and approaches. The historical-legal method revealed the content of current criminal-executive legislation in Ukraine and specified the rights held by those sentenced to imprisonment. The modelling method provided an opportunity to outline prospects for improving criminal-executive legislation and regulating the mechanism of serving sentences in Ukrainian penitentiary institutions. The formal-logical method helped understand specific aspects of regulation in legislation. The dogmatic method of research was used to form scientific concepts and categories, including refining the rights of those sentenced to life imprisonment. In addition, the forecasting method was used to formulate proposals regarding granting the right to short-term visits outside the colony, even in exceptional cases, to individuals sentenced to life imprisonment.

The study is based on the analysis of the following legal framework regulating life imprisonment issues: the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Regarding the Implementation of Decisions of the European Court of Human Rights,"[1] the Convention for the Protection of Human Rights and Fundamental Freedoms[2], the Criminal Executive Code[3], the Law on the Constitutional Court of Ukraine[4], and the Constitution of Ukraine[5]. In addition, quantitative data on individuals sentenced to life imprisonment in Ukraine was utilised in the study (General characteristics of the State…, 2023; Supreme Court of Ukraine, 2022).

Results and Discussion

At the legislative[6] level, the legal status of individuals sentenced to life imprisonment is increasingly becoming the subject of further detailed regulation in Ukraine. Undoubtedly, individuals serving sentences in penitentiary institutions have the constitutional and legally guaranteed right to appeal to any state authority (Article 40 of the Constitution of Ukraine and Articles 8, 107, 113 of the Criminal Executive Code[7]), including the Constitutional Court of Ukraine (Article 56)[8]. However, considering existing potential and real threats to Ukraine's national security, a balanced approach is necessary at all levels to address urgent issues related to those sentenced to life imprisonment and the national interests of the state, dependent on a well-considered policy in this area. The state is responsible for ensuring the effective execution of sentences and achieving its goals to protect the interests of crime victims, society, and the state as a whole (Part 1, Article 1 of the Criminal Executive Code)[9]. To provide a qualified response to the questions examined in this study, it is necessary to comprehensively and systematically clarify the content of key provisions in Ukrainian criminal-executive legislation, such as the legal status of individuals, including those convicted, the purpose and objectives of criminal punishment, the legal restrictions imposed on certain categories of individuals serving sentences, and the regime of sentence execution.

[1] Law of Ukraine No. 2689-IX "On Amendments to Certain Legislative Amendments of Ukraine Concerning the Execution of Judgments of the European Court of Human Rights". (2022, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2689-20#Text.
[2] Law of Ukraine No. 475/97-BP "On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the First Protocol and Protocols No. 2, 4, 7 and 11 to the Convention". (2006, March). Retrieved from https://zakon.rada.gov.ua/laws/show/475/97-%D0%B2%D1%80#Text.
[3] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[4] Law of Ukraine No. 2136-VIII "On the Constitutional Court of Ukraine". (2017, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2136-19/ed20170713#Text.
[5] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[6] Law of Ukraine No. 2689-IX "On Amendments to Certain Legislative Amendments of Ukraine Concerning the Execution of Judgments of the European Court of Human Rights". (2022, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2689-20#Text.
[7] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[8] Law of Ukraine No. 2136-VIII "On the Constitutional Court of Ukraine". (2017, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2136-19/ed20170713#Text.
[9] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.

General principles of the legal status of the convicted, including those sentenced to life imprisonment, are defined in the Constitution of Ukraine (Articles 24, 27, 28, 63, and Part 1 of Article 92)[1] and the Criminal Executive Code (Articles 7-10)[2]. However, none of the legal norms address the rights of the convicted to short-term visits outside correctional and educational colonies. Such a right, according to the provisions of Article 111[3] of the Criminal Executive Code, is granted only to specific categories of individuals sentenced to imprisonment. Considering the requirements of the Basic Law of Ukraine and international legal sources ratified by the Verkhovna Rada (such as the Convention for the Protection of Human Rights and Fundamental Freedoms[4]), as of 2023, legal grounds for granting the right to individuals sentenced to life imprisonment for short-term visits outside the colony, even in exceptional cases, are not provided. These legal grounds are not specified in the relevant (local) legislative acts of Ukraine that establish such a right for those sentenced to imprisonment, including life imprisonment. This conclusion can be drawn by analysing the content of Part 2 of Article 151[5] of the Criminal Executive Code. The rights of individuals serving sentences in the form of life imprisonment, as stipulated in Article 107 of this legislative act, are extended to those sentenced to short-term imprisonment[6]. However, the law does not provide for the right to short-term visits outside the colonies for the former or the latter subjects of criminal-executive legal relations. Thus, the demands of individuals sentenced to life imprisonment for short-term visits outside penitentiary institutions today are unjustified.

According to the provisions of Part 1 of Article 111 of the Criminal Executive Code[7], the mentioned right is stipulated only for convicts held in correctional colonies with a minimum level of security and lenient conditions of detention (Part 2 of Article 18 of the Criminal Executive Code)[8], sectors of social rehabilitation, correctional colonies of minimum security with general conditions of detention (Article 98 of the Criminal Executive Code)[9], sectors of social rehabilitation in correctional colonies of medium security, and in educational colonies (Article 98 of the Criminal Executive Code)[10]. Thus, despite the requirements of the principle of equality of convicts before the law (Article 24 of the Constitution of Ukraine[11] and Article 5 of the Criminal Executive Code[12]), not all categories of these individuals have the right to short-term visits outside the colonies because their legal status is determined by the legal restrictions (punishment and regime of sentence execution) established for other security levels (Part 3 of Article 11, Articles 17, 19, 94, 96-98 of the Criminal Executive Code[13]), which, again, does not contradict either the norms of the Constitution of Ukraine or those international legal acts that have become part of national legislation (Article 9 of the Basic Law of Ukraine)[14]. Therefore, the legal limitations for convicts are based on the level of their social danger, and the process of execution-serving sentence is based on the regime ensuring and implementing certain legal restrictions. In this case, the regime forms the basis for such an element of the punishment goal as the penalty (Part 2 of Article 50 of the Criminal Code of Ukraine[15]), and the latter is an integral part and essence of the entire criminal responsibility.

The term "penalty" is understood as the application of such measures restricting the rights and freedoms of the convict that will be sufficient to achieve the main goals of punishment – rehabilitation of this person and the implementation of measures of both special (regarding the specific convicted person) and general (concerning other citizens who have not been subject to criminal responsibility) prevention (preventing the commission of new crimes or criminal offences) (Alexandrov *et al.,* 2005). In contrast, the term "criminal responsibility" is interpreted by researchers as the consequences of a personal, property, or organisational nature that a person who has committed a criminal offence undergoes based on the law and a court decision (Petryshyn *et al.,* 2015). In turn, the concept of "regime" is provided in Part 1 of Article 102 of the Criminal Executive Code[16], the essence of which boils down to the legislatively established order of execution-serving a particular criminal punishment (Article 51 of the Criminal Code)[17] assigned to the convict by the court

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[3] Ibidem, 2003.
[4] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.
[5] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[6] Ibidem, 2003.
[7] Ibidem, 2003.
[8] Ibidem, 2003.
[9] Ibidem, 2003.
[10] Ibidem, 2003.
[11] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[12] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[13] Ibidem, 2003.
[14] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[15] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[16] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[17] Ibidem, 2003.

(Dzhuzha *et al.,* 2010). In this context, one of the functions of the regime is punitive, aiming to restrain the person serving the sentence from committing new crimes not only through intimidation but also by encouraging their rehabilitation and obtaining certain benefits and lawful goods[1].

Thus, the essence, content, and scope of restrictions regarding convicts (in this case, those sentenced to life imprisonment) constitute a complex of legal, technical, individual, and other measures formulated based on general (in the form of the concepts of legal and criminal responsibility), special (by enshrining the punishment goal in law and criminal-executive legislation, Part 1 of Article 1 of the Criminal Executive Code[2]), and individual (restrictions of rights, legitimate interests, and freedoms of the guilty person) approaches at the legislative, law enforcement, and legal application levels. This is done in connection with the need to protect the interests of the individual, society, and the state while serving sentences. It can be concluded that even with the presence of exceptional personal circumstances defined by law (Article 111 of the Criminal Executive Code[3]), a person sentenced to life imprisonment does not have the right to short-term visits outside the colony. This is due to the severity of the committed criminal offence (Article 12 of the Criminal Code[4]), the nature and degree of social danger of this category of individuals subject to criminal responsibility (Alexandrov *et al.,* 2005), the regime of this type of punishment (Article 151 of the Criminal Executive Code[5]), legal facts, and other socio-legal consequences of the conviction of the guilty person (including the impossibility of leaving the colony in cases of exceptional personal circumstances). All these elements constitute the essence and content of restrictions necessary and sufficient to achieve the defined purpose of punishment (Part 2 of Article 50 of the Criminal Code[6]) and the purpose of Ukrainian criminal-executive legislation (Part 1 of Article 1 of the Criminal Executive Code[7]). These are the realities of implementing the tasks of criminal-executive policy both in Ukraine[8] and in other European countries (Puzyrov, 2018), considering that none of them legislatively provides for the right discussed in this article for convicts.

As indicated by the results of exploring judicial practice on the imposition of criminal penalties, the number of individuals sentenced to life imprisonment decreases annually since courts impose it only in exceptional cases, considering all the circumstances of the criminal proceedings and the guilty person[9]. This fact serves as an additional argument that the most stringent measures of the execution-serving regime of punishment in the form of life imprisonment, as defined by law (Articles 102, 107, 151 of the Criminal Executive Code[10]), are justified both from a legislative and a judicial standpoint in addressing this issue. Considering the aforementioned trend in the imposition of sentences by courts in the form of life imprisonment, as well as the amendments made to the current criminal-executive legislation of Ukraine aimed at humanising the process of its execution-serving, it should be acknowledged that even as of July 1, 2023, when there were 1545 individuals sentenced to this type of criminal punishment in the country (General characteristics of the State..., 2023), their number cannot serve as a legal basis for granting them the right to short-term visits outside the colony, as stipulated in Article 111 of the Criminal Executive Code[11]. It is essential to note that attempts to weaken ("improve") the execution-serving regime of punishment in the form of life imprisonment, including through the use of the possibilities of the European Court of Human Rights (ECtHR) in Ukraine, have been persistent both during the period of the Criminal Code of 1960 (General characteristics of the State..., 2023) and in the 21st century (Stepanyuk *et al.,* 2021).

In modern socio-economic, socio-political, and legal conditions, the state is objectively forced to take actions in so-called extreme necessity (Article 39 of the Criminal Code[12]) because the lawful interests of other persons, primarily the victims of the crime, society, and the state, are more valuable in criminal-executive activities (Part 1 of Article 1 of the Criminal Executive Code[13]) than the rights sought by individuals sentenced to life imprisonment. The latter are adequately governed by regulations such as the Convention for the Protection of Human Rights and Fundamental Freedoms[14]; the International Covenant

[1] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[2] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[3] Ibidem, 2003.
[4] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[5] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[6] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[7] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[8] Law of Ukraine No. 2136-VIII "On the Constitutional Court of Ukraine". (2017, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2136-19/ed20170713#Text.
[9] Resolution of the Plenum of the Supreme Court of Ukraine No. v0007700-03 "On the Practice of Imposing Criminal Punishment by Courts". (2003, November). Retrieved from https://zakon.rada.gov.ua/laws/show/v0007700-03#Text.
[10] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[11] Ibidem, 2003.
[12] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[13] Criminal Executive Code of Ukraine. (2003, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1129-15#Text.
[14] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

on Civil and Political Rights[1]; Recommendations of the Council of Europe of September 24, 1982, No. R(82)16[2]; annex to the Recommendation of the Council of Europe of October 9, 2003[3]; extracts from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment[4], and others.

An essential element of the legal status of individuals serving sentences in isolation from society is the legal restrictions and prohibitions on fundamental rights and freedoms. Among them is the right to short-term visits for individuals sentenced to life imprisonment. Such a legal approach does not contradict any current international legal act, which is part of Ukraine's national legislation regulating the process of executing and serving sentences. This is appealed to in their statements by individuals serving the mentioned punishment and their legal representatives. Thus, political and constitutional rights regarding convicted persons who have committed a criminal offence and are serving a sentence in the form of life imprisonment, with varying degrees of limitation specified in the Constitution, must be regulated in accordance with the criminal-executive system. This will improve its practical application in this area concerning individuals serving life imprisonment. In terms of legislative regulation, the foundations of the constitutional-legal status of convicts in Ukraine largely correspond to international standards, and therefore, the main task remains to implement them in practice.

According to observations by V. Korotayev (2020), questions about modifying those articles of the Criminal Code where the punishment of life imprisonment is mentioned are increasingly being raised. This valid point needs to be supplemented by noting that this punishment is currently applied in exceptional cases, so all attempts to change the practice of implementing it or its limitations require significant objective reasons. The existing mechanisms of punishment in the form of imprisonment aim not only to punish the criminal but also to have a positive impact on the personality of the convicted individual. As rightly indicated by S.V. Romantsova (2023) and B. Jarman (2020), legal restrictions, in conjunction with adaptation programs, increase the chances of effectively influencing the consciousness and behaviour of individuals serving sentences. Unjustified interference leading to a breach of the isolation regime of convicts can negatively affect the effectiveness of these measures.

Life imprisonment should be the most severe punishment (Mostepanyuk, 2005), applicable to individuals who have committed criminal actions posing a high societal risk. Yu.Yu. Ivchuk (2023), in their study, maintains the position that individuals sentenced to imprisonment have a special legal status and are significantly restricted in freedom of movement compared to individuals sentenced to other forms of punishment, placing them in a more vulnerable position. It is worth adding that individuals serving life imprisonment are in identical conditions. Since their punishment regime does not allow them to leave the places of detention, the issue of their evacuation from conflict zones is equally relevant. The punishment involves the indefinite isolation of the convicted individual from society by keeping them in penitentiary institutions, and Article 50 of the Criminal Code[5] of Ukraine (which defines what constitutes punishment) provides a comprehensive characterisation of life imprisonment as a form of punishment.

Life imprisonment is imposed on an individual as the most severe form of punishment for an especially serious crime established by a court verdict, involving the constant isolation of the guilty person by keeping them in institutions with a special regime, as reasonably noted by O. Humin & M. Koval (2020). Therewith, it is worth agreeing with researchers that new alternative forms of punishment and the implementation of pardon procedures for such convicts should be instruments of further humanisation of Ukraine's criminal legislation. Other attempts to restrict this punishment undermine its essence defined in the Criminal Code and contradict the entire penitentiary legislation. In particular, this includes the hypothetical permission for convicts to make short-term visits beyond the places where they are serving their sentence.

According to Yu.V. Lysenko (2020), many complaints about the mechanism and conditions of serving a sentence in life imprisonment come from the prisoners themselves. There is dissatisfaction with the fact that the conditions of detention do not meet European standards, and the order prescribed in regulations is not followed in institutions. It is essential to note the numerous problems associated with serving a sentence in the form of life imprisonment, which, as of 2023, remain unresolved, and those who have the desire to address them – the convicts – do not have the right to do so (Lysenko, 2020). In light of this, it is worth noting

[1] International Covenant on Civil and Political Rights. (1966, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_043/ed19661216#Text.
[2] Recommendation of the Council of Europe No. R(82)16 To Participating Countries Regarding the Granting of Short-term Leave to Prisoners. Short-term Leave of Absence for Prisoners. (1982, September). Retrieved from https://zakononline.com.ua/documents/show/159296159296.
[3] Recommendation of the Council of Europe of the Committee of Ministers of the Council of Europe No. Rec(2003)23 «On the Execution of Sentences of Life Imprisonment and Other Long Terms of Imprisonment by the Administrations of Places of Detention». Retrieved from https://zakononline.com.ua/documents/show/243688243753.
[4] European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (1987, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995068#Text.
[5] Criminal Code of Ukraine. (2001, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.

that the practical implementation of existing provisions regarding life imprisonment may have more practical benefits for convicts than granting them new rights, such as temporary release from prison. Although formally this may humanise the punishment of life imprisonment, as emphasised by A. Symkovych (2020), this right is controversial and uneven in different jurisdictions. Moreover, the impact on the mental well-being of convicts under such a hypothetical practice remains unstudied, which does not speak in its favour.

The position of S.D. van Zyl & C. Appleton (2019) requires special attention, as they argue that life imprisonment in the modern world increasingly fails to meet the demands of justice. Researchers assert that the number of individuals subject to this punishment is increasing disproportionately to the rise in crime. This may indicate a growing number of cases of unjustified application of this punishment, which was intended to replace the death penalty but has gained broader use in contemporary conditions. The spread of this type of punishment in the 21st century, particularly for young offenders, is also noted by B. Crewe *et al.* (2020). Both studies propose addressing this problem by abandoning this form of punishment. Another option is the possibility of replacing life imprisonment with other forms of punishment, as was made possible in Lithuania following the 2019 reform of life imprisonment (Namavicius, 2023). The Constitutional Court of Ukraine has also ruled that the impossibility of replacing life imprisonment with other punishments is unconstitutional[1], and a bill establishing such a practice was approved by the President of Ukraine in 2022[2].

When considering the issue of further humanisation of the criminal paradigm, it is essential to consider the specificity of each individual country and study how and to what extent this punishment is characteristic of specific regions. In Ukraine, in 2022, only 2% of individuals convicted of particularly serious crimes received this punishment (Supreme Court of Ukraine, 2022), indicating that Ukraine does not have a problem with unjustified sentences to life imprisonment. Thus, addressing the issue of the increasing application of this punishment should focus not on its humanisation but on stricter adherence to its provisions and more orderly court proceedings. Given that contemporary courts more often issue such sentences than originally envisaged, the humanisation or "softening" of this punishment may lead to the opposite result – an increase in the number of individuals sentenced to life imprisonment.

Conclusions

The analysis of regulations, including provisions of international law, judicial practice, and scientific sources, allows asserting that there are no social, psychological, moral, legal, or other grounds for expanding the rights of individuals sentenced to life imprisonment, including those related to short-term leave for these individuals beyond the colonies in the presence of exceptional personal circumstances. Any attempts at leave are not only scientifically unfounded but also dangerous in the context of existing potential and real threats to the national security of Ukraine. Furthermore, the legal status of individuals in places of deprivation of liberty is an important institution of the penitentiary system, the importance of which manifests in: firstly, criminal punishment, which is one of the forms of state coercion; secondly, the content of the sentence, which involves the actual penalty, including established legal restrictions on rights and freedoms; thirdly, the execution by individuals serving sentences, with duties imposed on them to properly implement their rights and legitimate interests to achieve the set results. The authors also emphasised that the implementation of the rights and legitimate interests of individuals serving sentences is based on international legal acts, which serve as the basis for the national legislation of Ukraine and regulate the mechanism for legality during the execution of sentences by individuals in penitentiary institutions. The recommendations established in international acts play a crucial role in ensuring the rights of convicts. However, it is essential to consider the realities of the criminal-executive system and the practice of sentence execution, especially regarding life imprisonment, where the state's legal position in ensuring compliance with international norms occupies a prominent place. The imposition of life imprisonment is a legal consequence that has a considerable impact and importance for the convicted individual, ensuring societal security.

Further research on the issue may be associated with the psychological component of life imprisonment and the mental well-being of an individual as a consequence of short-term leave beyond prison walls.

Acknowledgements

None.

Conflict of Interest

None.

[1] Decision of the Constitutional Court of Ukraine in the case No. 6-p(II)/2021 "On the Constitutional Complaints of Dmytro Volodymyrovych Krupko on the Constitutionality of Article 81, Paragraph 1, and Article 82, Paragraph 1, of the Criminal Code of Ukraine, Volodymyr Volodymyrovych Kostin, Oleksandr Stepanovych Melnychenko on the Constitutionality of Article 82, Paragraph 1, of the Criminal Code of Ukraine, and on the Constitutional Complaint of Viktor Ivanovych Hohin on the Constitutionality of Article 81, Paragraph 1, of the Criminal Code of Ukraine". (2021, September). Retrieved from https://ccu.gov.ua/sites/default/files/docs/6-p2-2021.pdf.

[2] Law of Ukraine No. 2689-IX "On Amendments to Certain Legislative Acts of Ukraine Concerning the Enforcement of Judgements of the European Court of Human Rights". (2022, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2689-IX.

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Проблема розширення прав засуджених до довічного позбавлення волі

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Анотація
Станом на 2023 рік проблема довічного позбавлення волі є найменш урегульованою в українському кримінально-виконавчому праві. Водночас довічне позбавлення волі є найбільш дискусійним видом покарання, що актуалізує дослідження його окремих аспектів. Метою статті є дослідження проблемних питань щодо права засуджених до довічного позбавлення волі на короткочасні виїзди за межі установи відбування покарань. Для її досягнення використано різноманітні методи, серед яких: системно-структурний, аналітичний, порівняльний і термінологічний. Здійснено аналіз правового статусу засуджених до довічного позбавлення волі в Україні, на підставі результатів якого зроблено висновок про те, що зазначені суб'єкти кримінально-виконавчих правовідносин не наділені правом виїзду за межі в'язниці, зокрема за наявності виняткових особистих обставин. Водночас встановлено, що згідно з чинним кримінально-виконавчим законодавством України таким правом володіють лише окремі категорії засуджених до позбавлення волі, у чому, власне, й виявляється сутність мети покарання. У дослідженні доведено, що саме через режим правообмежень держава має можливість виконувати завдання кримінально-виконавчого характеру, одним із яких є запобігання вчиненню кримінальних правопорушень як засудженими, так й іншими особами. Закріплений на законодавчому рівні правовий статус засуджених до довічного позбавлення волі, особливо в частині правообмежень, спрямований стримувати від вчинення особливо тяжких злочинів не тільки рецидивістів, але й осіб, які вперше задумали чи готуються вчиняти такі кримінальні правопорушення. Якщо 2002 року кількість засуджених до довічного позбавлення волі в Україні складала в абсолютних числах понад 100 осіб, то 2022 року – 23 особи. Констатовано, що розширення прав осіб, які відбувають покарання у вигляді довічного позбавлення волі, може спричинити суспільну напругу та посягання на національну безпеку України. Результати дослідження можуть бути використані під час подальшого нормативно-правового врегулювання проблемних аспектів довічного позбавлення волі

Ключові слова:
кримінальне правопорушення; кримінально-виконавче законодавство; відбування покарання; запобігання правопорушенням; поводження із засудженими; рецидив

UDC 343.131
DOI: 10.56215/naia-chasopis/4.2023.31

Judicial proceedings within a reasonable time: European experience and Ukrainian realities

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Abstract
The study addresses the increasing number of appeals against Ukraine to the European Court of Human Rights, most of which highlight violations of the right to a fair trial within a reasonable time. The purpose of the study is to clarify the content of procedural time limits for criminal proceedings and conduct a comparative analysis of legislative approaches in European countries to regulate the mentioned issues. The methodological basis of the study is the principle of consistency, within which the methods of comparative and system-structural analysis, synthesis, logical-legal, statistical and heuristic methods were used. The study explores the existing legislative shortcomings related to ensuring reasonable time frames for criminal justice and investigates problematic issues for its improvement. It is noted that the previous criminal procedural legislation did not declare the principle of reasonable time for criminal proceedings and lacked means for its enforcement. The necessity of ensuring judicial proceedings within a reasonable time is declared in Articles 21, 28, and 318 of the Criminal Procedure Code of Ukraine. Emphasis is placed on the interconnection between reasonable time and the continuous nature of judicial proceedings, considering the proceedings as a whole to ensure their prompt conclusion. The absence of procedural safeguards in Ukrainian legislation against unjustified delays in the trial of criminal proceedings in the first-instance court is highlighted. The study analyses the legal provisions of national criminal procedural legislation and the regulatory framework of European countries (Bulgaria, Estonia, Italy, Croatia). The necessity of strengthening guarantees for timely justice is substantiated. A set of measures to ensure the time parameters of the trial in the first-instance court is proposed, encompassing both organisational and procedural guarantees. The need for establishing a justified legislative procedure for expediting judicial proceedings in case of violations of the accused's and the victim's right to a reasonable time for conducting criminal proceedings is justified. The practical value of the study lies in the fact that its results and recommendations can be utilised for the reform of the judicial system

Keywords:
justice; judiciary; criminal proceedings; procedural time limits; judicial proceedings; procedural discipline

Article's History:
Received: 15.09.2023
Revised: 10.12.2023
Accepted: 29.12.2023

Suggest Citation:
Kubarieva, O. (2023). Judicial proceedings within a reasonable time: European experience and Ukrainian realities. *Law Journal of the National Academy of Internal Affairs*, 13(4), 31-39. doi: 10.56215/naia-chasopis/4.2023.31.

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Introduction

The declaration by the legislator of the principle of reasonable time frames for criminal proceedings as a whole and judicial proceedings in particular aims to ensure procedural discipline, continuity, consistency, systematicity, and efficiency in conducting the main stage of criminal proceedings – the judicial process. However, timely judicial proceedings are often not realised in practice and can sometimes have unpredictable consequences. Slow justice can actually be caused by objective factors, as criminal proceedings vary in complexity. Some cases are complex due to the large number of evidence that needs investigation, while others involve numerous defendants. Moreover, the complexity of individual cases is determined by the weight of factual and legal issues that need resolution during the judicial process. This complexity is often the sole reason for the excessive duration of the trial procedure. Therefore, among the common factors influencing the duration of the procedure are various obstacles, which sometimes can be justified. However, in some cases, delays in the judicial process are intentional actions aimed at prolonging the resolution of the substantive proceedings. Efforts by the defence party to extend criminal proceedings for as long as possible, possibly even until the expiration of the statute of limitations for criminal prosecution, are not uncommon.

Several researchers have dedicated their works to the issue of compliance with reasonable time frames during criminal proceedings. For instance, N. Pascucci (2020) investigates this principle as an objective and subjective guarantee, along with its correlation with other constitutional guarantees of fair trial, analysing the main difficulties of the current legislation in achieving swift and fair justice using official data on the quantity and duration of criminal proceedings. O.M. Skryabin (2020), based on the analysis of studies, proposed objective criteria for the reasonableness of time frames, including the recipient, method of determination, calculation method, stages of the process, and more. Scientific approaches to ensuring reasonable time frames during pre-trial proceedings were the subject of A. Pakhlevanzadeh's (2021) scientific reflection. Yu.Yu. Ivchuk (2022) examined reasonable time frames as a principle of criminal proceedings, focusing on the features and shortcomings of its implementation in pre-trial investigations, drawing on the practice of the European Court of Human Rights and the provisions of the current criminal procedural legislation. P.V. Zhovtan & A.A. Kapitsa (2021) examined the implementation of legislative requirements regarding compliance with reasonable time frames through the prism of the mechanism for exercising the right to challenge reasonable time frames in criminal proceedings during the pre-trial investigation stage. V. Kushnerov (2020), exploring the issue of conducting criminal proceedings within reasonable time frames, concluded that the least problems in this area arise during pre-trial proceedings due to the legislation establishing clearly defined deadlines for pre-trial investigation, prosecutorial supervision, and judicial control over compliance with deadlines, as well as the possibility of holding guilty parties accountable.

Considering that the reasonableness of procedural time frames is an interdisciplinary legal institution, it is noteworthy that it is the subject of research in other areas of procedural law. For example, S.V. Dyachenko & N.O. Zborovska (2019), examining the content of reasonable time frames in civil proceedings, defines it as an evaluative concept, a legal postulate that arose based on Article 6(1) of the Convention for the Protection of Human Rights[1] and decisions of the European Court of Human Rights regarding its interpretation, serving as a perfect example of justice administration. V.V. Boyko (2022b) confirms that the term for the reasonable resolution of any case by any court, as well as overall judicial proceedings, is determined from the beginning of the case's consideration by the court of first instance to its completion in the court of cassation. M.V. Dzhafarova (2020), examining the issue of procedural time frames in connection with the timely resolution of administrative cases, notes that the institution of procedural time frames in the procedural-legal context performs various functions, such as regulatory, protective, defensive, stimulating, stabilising, and preventive. This institution contributes to the timely conduct of the judicial process, influences the achievement of its tasks and goals, optimally determines the duration of its forms, stages, and individual procedural actions. As a result, priorities for further improvements in the temporal characteristics of this type of judicial activity can be identified.

In light of the above, it appears that the issue of promptness and timeliness of judicial review of criminal proceedings remains unresolved both at the legislative level and in legal practice. Therefore, the purpose of this study is the theoretical consideration of legislative regulation of procedural time frames for judicial review of criminal proceedings and conducting a comparative analysis of legislative approaches of European countries to regulate the announced issues.

Literature Review

The analysis of specialised sources on the announced issue illustrates the scholarly search for a balanced model of effective justice, which includes the realisation of both swift and objective judicial proceedings. A.V. Lapkin (2018) highlighted the role of the court in ensuring reasonable time frames for judicial proceedings, addressing the issue of compliance with these time frames during court hearings. On the other hand,

[1] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004.

O.G. Yanovska (2016) discussed issues related to compliance with reasonable time frames during the preparatory stage of judicial proceedings, considering reasons for violating temporal rules, such as sending the indictment back to the prosecutor, postponing the preparatory court hearing by the judge, and violating deadlines for scheduling court hearings. P.D. Guivan (2019), investigating the content and essence of the principle of reasonable time for case consideration by the court, concluded that new legislative changes did not contribute to improving the situation with unjustified delays in the judicial process. Using specific court cases as examples, he emphasised shortcomings in the national justice system in terms of the timeliness of initiating investigations, forming complete texts, and sending court decisions to participants in the judicial process.

Organisational issues of the efficiency of Italian courts in terms of the duration of court proceedings were examined by A. Peyrache & A. Zago (2016), who concluded that the average duration of court proceedings in Italy varies from region to region. In the poorest and less industrially developed southern regions, the average duration of court proceedings is twice as long as in wealthier and more industrially developed northern regions. G. Coretti (2022) analysed the Cartabia reform, which took place in 2021 and involved targeted measures by the Italian state aimed at reasonably speeding up justice. On the other hand, F. Falato (2021) focused on the implementation of the right of the victim to a timely court hearing. L.A.D.S. Gruginskie & G.L.R. Vaccaro (2018) dedicated their study to exploring the factors influencing the duration of court proceedings. According to their findings, the main criteria affecting temporal characteristics include the stage at which a final decision is made, the legal and factual complexity of the proceedings, the number of lawyers, experts, plaintiffs involved in the proceedings, and more.

B. Spaic & M. Dordevic's (2022) study is illustrative. The researchers, analysing the judicial systems of Serbia, Croatia, Slovenia, France, Austria, and Norway, concluded that the complexity of the court network, the number of judges, and other institutional elements of the judicial system do not directly relate to the effectiveness of judicial institutions. Therefore, simpler judicial systems with fewer judges and non-judicial personnel (Norway) achieve better results in the rule of law than systems with more judges and more complex and branched judicial systems (Serbia, Croatia). The issue of complying with procedural deadlines in extraordinary conditions, including during a state of war, was addressed by B.I. Andrusyshyn *et al.* (2023) and T. Loskutov (2022), noting the risk of reducing the efficiency of criminal proceedings in general and judicial proceedings in particular.

Materials and Methods

To achieve the purpose and ensure the scientific objectivity of the research results, a set of both general scientific and special methods of cognition was chosen, allowing for the formulation of the essence and significance of reasonable time frames during judicial proceedings. The use of the heuristic method of expert assessments allowed for the exploration of the conceptual apparatus of the issue by reproducing a rational debate among procedural scholars who examined the temporal characteristics of conducting criminal proceedings from different perspectives. The study utilises a systemic approach, contributing to identifying procedural gaps through the method of systemic analysis of legislation. This includes significant shortcomings in the implementation of the principle of reasonable time frames for both criminal proceedings in general and judicial proceedings in particular, as stipulated by Article 28 of the Criminal Procedure Code of Ukraine[1]. The comparative-legal method was used in two modes: Synchronous comparison, to analyse the procedural legislation of Ukraine with the legislation of other countries (Bulgaria[2], Estonia[3], Italy[4], Croatia[5]). Asynchronous comparison, to contrast modern legislation with regulations of past periods, in particular with the legal provisions of the Criminal Procedure Code of Ukraine of 1960[6]. The use of this method allowed for forming an opinion on the possibility of using procedural safeguards in national legislation to prevent unjustified delays in the consideration of criminal proceedings in the first-instance court and to ensure the full implementation of the principle of reasonable time frames in criminal proceedings. The logical-legal method was used to propose regulatory changes to ensure prompt and timely justice. The synthesis method was employed during the study to formulate conclusions and proposals to address identified gaps.

The normative basis of this study is the Criminal Procedure Legislation of Ukraine. Alongside this, empirical methods were used in the study, involving the analysis of legal positions of the Supreme Court[7],

[1] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.
[3] Criminal Procedure Code of Estonia. (2003, February). Retrieved from https://www.riigiteataja.ee/akt/543365.
[4] Criminal Procedure Code of Italy. (2023, December). Retrieved from https://www.brocardi.it/codice-di-procedura-penale/.
[5] Law of Croatia No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20 "On the Tainted Procedure". (2021, January). Retrieved from https://www.zakon.hr/z/3199/Zakon-o-kaznenom-postupku-2020-2022.
[6] Criminal Procedure Code of the Ukrainian SSR. (1960, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1001-05#Text.
[7] Generalisation of the Judicial Chamber on Criminal Cases of the Supreme Court of Ukraine No. n0220700-03 "Practice of Observance by Courts of the Terms of Proceedings in Criminal Cases Concerning Defendants in Custody". (2003, January). Retrieved from https://zakononline.com.ua/documents/show/234628234693.

concepts[1,2] approved by the decree of the President of Ukraine aimed at reforming Ukraine's criminal justice, and decisions of the European Court of Human Rights[3]. This allowed for creating the most general picture of defining the content of reasonable time frames during the judicial consideration of criminal proceedings and the prospects for improving the mechanism of their observance in the central stage of criminal proceedings. The complex of the above-mentioned methods was applied in mutual connection and interdependence, and their use created conditions for forming a substantive and comprehensive understanding of the research subject.

Results and Discussion

The exploration of the problem should begin with the regulation of procedural time frames for judicial consideration by the Criminal Procedure Code of 1960[4], analysing the provisions of which one can conclude that the duration of judicial consideration was not legislatively ensured. The previous criminal procedural legislation not only did not establish the maximum period for judicial consideration but also did not declare the principle of reasonable time frames for criminal proceedings and did not contain guarantees for its observance. As a result, according to the Practice of Compliance by Courts with Deadlines for Criminal Proceedings Regarding Defendants Detained, as of January 1, 2003, for the period of 2001, 4466 criminal cases were scheduled for consideration with a violation of deadlines, and investigations were completed beyond one month in 58320 criminal cases. In total, investigations were completed with a violation of deadlines in 29.8% of criminal cases. Thus, a fairly widespread "dragging" during judicial proceedings was noted, and particular concern was related to defendants held in custody[5].

The importance of establishing the objective duration of judicial consideration was also highlighted in the Concept of Improving the Judiciary to Establish a Fair Trial in Ukraine in Accordance with European Standards dated May 10, 2006[6]. In Section IV (Judicial Proceedings), it was defined that judiciary, as the most effective institution ensuring the rule of law, should be based, among other things, on the principle of reasonable time frames for case consideration, obliging the court to decide cases without unjustified delays or avoiding haste that harms fair judicial proceedings. Alongside this, in Section II of the Concept of Reforming Ukraine's Criminal Justice dated April 8, 2008, the tasks of reforming criminal procedure included legislatively defining specific procedural time frames during pre-trial and judicial proceedings[7].

It is clear that a more effective way to eliminate the practice of conducting judicial proceedings without undue delays would be to ensure reasonable time-limits for criminal proceedings in the provisions of the Criminal Procedure Law. Thus, with the adoption of the current Criminal Procedure Code of Ukraine, a tendency to improve the legislative approach regarding the reasonable duration of criminal proceedings is notable. Ultimately, unlike the Code of Criminal Procedure of 1960, the current Criminal Procedure Code[8], by establishing the basis of reasonable time limits in its provisions, defines certain guarantees for its provision, including during court proceedings. However, unfortunately, a radical improvement in the state of timely justice cannot be stated. This is evidenced by the statistics of the ECHR, according to which in 2022, among other things, 45 violations of the duration of proceedings in cases against Ukraine were recorded. For comparison with other countries of the European community in the same period, either no analysed violations were recorded at all (Bulgaria, Czech Republic, Germany, Estonia, Spain and even Turkey, etc.), or several times less were recorded (Hungary – 17; Poland – 7; Greece, Italy – 2; Romania, Slovenia, Malta, Croatia – 1) (Statistical data of the European Court..., 2022).

The need to conduct judicial proceedings within a reasonable time is declared in Articles 21, 28, 318 of the Criminal Procedure Code of Ukraine.[9] In this regard, guarantees for ensuring this principle can be considered legal provisions regarding the necessity of involving a reserve judge; the duty of the presiding judge to supervise the participants in the judicial proceedings in fulfilling their duties (especially concerning the duty to appear at the court's summons); the consequences of the non-appearance of participants in the proceedings

[1] Decree of the President of Ukraine No. 361/2006 "On the Concept of Improvement of the Judiciary for the Establishment of Fair Trials in Ukraine in Accordance with European Standards". (2006, April). Retrieved from http://zakon4.rada.gov.ua/laws/show/361/2006.
[2] Decree of the President of Ukraine No. 311/2008 "On the Decision of the National Security and Defence Council of Ukraine and Defence Council of Ukraine of 15 February 2008 "On the Progress of Reforming the System of Criminal Justice and Law Enforcement Agencies"". (2008, May). Retrieved from https://zakon.rada.gov.ua/laws/show/311/2008#Text.
[3] Judgment of the European Court of Human Rights in the case No. 30210/96 of "Kudla v. Poland". (2000, October). Retrieved from https://hudoc.echr.coe.int/fre#{%2 2itemid%22:[%22002-7174%22]}.
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[8] Criminal Procedure Code of the Ukrainian SSR. (1960, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1001-05#Text.
[9] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

at a court hearing. Alongside this, the legislator, in Part 6 of Article 28 of the Criminal Procedure Code of Ukraine[1], provides procedural possibility for the accused, victim to apply to the court with a motion stating circumstances justifying the need for conducting criminal proceedings (or individual procedural actions) within shorter time frames than those provided by this Code. However, the procedural mechanism for implementing such a right is not specified in the legal provisions of this Code. This is a significant omission in national legislation since, in the judgment in the case of "Kudła v. Poland"[2], the European Court of Human Rights found a violation of Article 13 of the Convention for the Protection of Human Rights[3] and Fundamental Freedoms, stating that the applicant had no national means of judicial protection to realise his right to a "trial within a reasonable time", as guaranteed by Article 6(1) of the Convention[4]. In particular, the decision notes the absence of a legal instrument through which the applicant could challenge the duration of the judicial proceedings. The lack of such means in Ukrainian legislation is evidenced by the ECtHR decision "Babkin and Others v. Ukraine"[5], in which the Court found a violation of Article 6(1) of the Convention due to the excessive duration of the criminal proceedings and the absence of effective legal procedures in Ukrainian procedural legislation for judicial protection regarding unjustified delays in conducting criminal proceedings.

In this context, it is worth considering the legislative experience of Estonia. Thus, Article 274-1 of the Criminal Procedure Code of Estonia[6] stipulates that if a criminal case has been under investigation for at least nine months and the court, without valid reasons, fails to take necessary procedural actions, including not scheduling a timely court hearing to ensure criminal proceedings within a reasonable time, or if it is evident that the planned time for considering the case does not allow for uninterrupted proceedings, the party to the legal proceedings may petition the court to take appropriate measures for the expeditious completion of the proceedings. If the court finds the motion justified, it must schedule the implementation of measures that are likely to facilitate the conclusion of the proceedings within a reasonable time within thirty days of receiving the motion.

Simultaneously, the reasonable duration of the trial in the first-instance court is interrelated with the continuity of the judicial process because the timeliness of the criminal proceedings is an objectively time-related category necessary for the thorough and comprehensive examination of all circumstances of the criminal offence by the court. This overarching provision allows considering the court case as a whole and ensuring its expeditious completion by rendering a final court decision.

The category of "continuity" of the judicial process implies a legal process that occurs continuously, without interruption, all the time, except for periods designated for rest and instances of adjournment of court hearings for reasons stipulated in Part 2 of Article 322 of the Criminal Procedure Code of Ukraine[7]. Alongside this, the requirement of continuity can be defined as an obligation for the investigation of evidence, court debates to proceed without interruption and persist through consecutive sessions until its completion, aiming to ensure a constant and consistent pace that guarantees not only timely judicial proceedings but also an objective judicial review (Kubarieva, 2023). In this context, the provision of Article 259 of the Criminal Procedure Code of Bulgaria[8] regarding the continuity of the court hearing is noteworthy, stipulating that after hearing the court arguments and the last words of the defendant, the court members cannot consider another case until delivering the verdict. Undoubtedly, this will contribute to the court's focus on the case details when issuing a final decision and, at the same time, serve as a means to ensure the efficiency of justice.

Contemplating the issue of timely judicial proceedings, researchers present various perspectives on the optimal resolution of this problem in their studies. C. Castelliano *et al.* (2023) substantiate the effectiveness of electronic case hearings in the Brazilian judiciary, arguing that the introduction of electronic courts increases productivity, reduces processing time, and enhances speed, thus unequivocally contributing to the efficiency of courts across different jurisdictions. A similar position was expressed by other scientists. For instance, W. Jasiński & A. Kowalczyk (2021) state that the digitisation of the judiciary will contribute to the reasonable duration of proceedings. According to M. Dymitruk (2019), concerning the duration of judicial proceedings (the most obvious element of the right to a fair trial from the perspective of process automation), artificial intelligence has undeniable advantages: it can process information on a scale inaccessible to any judge. Through machine learning and other artificial intelligence methods, the work of judges can be significantly improved.

In particular, V. Kushnerov (2020) suggests establishing time limits for the consideration of cases in the first-instance court, as well as the possibility of their extension with justified reasons. However,

[1] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Judgment of the European Court of Human Rights in the case No. 30210/96 of "Kudla v. Poland". (2000, October). Retrieved from https://hudoc.echr.coe.int/fre#{%2 2itemid%22:[%22002-7174%22]}.
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[4] Ibidem, 1950.
[5] Judgment of the European Court of Human Rights in the case No. 36496/21 of "Babkin and others v. Ukraine". (2023, November). Retrieved from https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-229164%22]}.
[6] Criminal Procedure Code of Estonia. (2003, February). Retrieved from https://www.riigiteataja.ee/akt/543365.
[7] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[8] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.

V.V. Boyko (2022a) argues that the concept of a "reasonable time" is evaluative and does not necessarily need to legislatively prescribe strict limits on conducting judicial proceedings or establish a clear schedule for a judge's procedural duties. O.A. Tymoshenko (2021) recommends enshrining alternative sanctions in the law, which can be applied to those participants who, through deliberate non-appearance, jeopardise the observance of the principle of reasonableness of time in criminal proceedings. These may include monetary penalties, forced appearance, and so on. This perspective is worth agreeing with, as the researcher notes that such a practice should be in place when participants purposefully avoid attending court sessions, especially when attending court is mandatory for a fair resolution of the case on its merits. According to P.D. Guivan (2019), introducing civil and administrative liability at the legislative level for those responsible for ensuring timely justice, including judges and other participants in the process in this field, will contribute to ensuring a reasonable duration of judicial proceedings.

O.Yu. Lyoshenko (2018), recognising the urgent need for an immediate solution to the highlighted problem and drawing on the legislative experience of Poland, deems it necessary to develop and adopt a separate law dedicated to protecting the individual's rights to conduct pre-trial investigations, judicial, and executive proceedings within a reasonable time. In the study, the researcher proposes the adoption of a law "On the Protection of the Right of Individuals to Conduct Pre-trial Investigations, Judicial Proceedings, and Enforcement Proceedings Within a Reasonable Time", which would establish procedures for the courts to handle cases related to the violation of the right to a legally defined reasonable time, especially during criminal investigations. The law would also provide for personal accountability of individuals responsible for violating the requirements of a "reasonable time".

In this context, it is worth emphasising the legislative practices of European countries in ensuring the timely adjudication of criminal proceedings. The Croatian legislator, in particular, places special emphasis on preventing such abuses, declaring in Article 11 the right of the suspect to an independent and impartial court that delivers a fair decision publicly and within a reasonable time according to the law. The procedure should be performed without delay, and the court and other state bodies are obliged to prevent any abuse of the rights of participants in the process.

According to Article 397 of the Croatian Code of Criminal Procedure[1], during proceedings, the court may fine a defender, lawyer, or legal representative, whether a victim as a plaintiff or private prosecutor, if their actions are clearly aimed at delaying criminal proceedings. In such cases, the court informs the Croatian Bar Association of the imposition of such measures. Moreover, if the prosecutor does not timely submit proposals to the court or considerably delays other actions in the process, leading to a delay in the proceedings, the court notifies the senior state prosecutor. According to the legislative practice of Bulgaria[2], in all cases of postponement of the trial, a reasonable time is set, but not later than three months. Therewith, when the trial is postponed due to the non-appearance of a party, witness, or expert without valid reasons, the court imposes a fine of up to one thousand levs.

The perspective of the Italian legislator is interesting, aiming to ensure speed and focus in judicial proceedings. Article 477, part 1, of the Italian Code of Criminal Procedure[3] provides for the judge's establishment of a hearing schedule. Such a hearing schedule serves as a tool to streamline the course of court sessions, avoiding unnecessary delays through planning. The schedule is drawn up by the judge based on the needs of the parties, specifying specific procedural measures to be taken for each session.

Similar provisions are found in the Criminal Procedure Code of Estonia. According to Article 268-1 of the Estonian Code of Criminal Procedure (Integrity of Consideration of a Criminal Case in General Procedure), the court establishes a schedule for the consideration of criminal cases in general procedure. The court also has the option to consider a criminal case in parallel concerning: a person accused of committing a crime while being a minor; an accused person for whom pre-trial detention has been applied. In case of an inevitable postponement of proceedings in a criminal case considered in general procedure, the court may proceed to consider another criminal case sent for trial in general procedure, as long as it does not harm the schedule of the previous case. At the same time, the court is not bound by the order of arrival of criminal cases to the court. However, to ensure the comprehensive consideration of a criminal case and the prompt issuance of a court decision, the court has the right to start considering a criminal case independently of the order of arrival, considering the volume of the criminal case accepted for consideration.

A.V. Lapkin (2018) proposes an optimal solution to the analysed issue. The scholar recommends legislatively establishing a system of guarantees for adhering to reasonable time frames for judicial proceedings, both organisational and procedural. Among the guarantees in the first group, the researcher includes measures to influence participants in legal proceedings whose actions or inaction lead to delays in court proceedings.

[1] Law of Croatia No. 152/08 "On the Tainted Procedure ". (2021, January). Retrieved from https://www.zakon.hr/z/3199/Zakon-o-kaznenom-postupku-2020-2022.
[2] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.
[3] Criminal Procedure Code of Italy. (2023, December). Retrieved from https://www.brocardi.it/codice-di-procedura-penale/.

Regarding guarantees on the procedural level, it should involve specific procedural consequences for the systematic non-appearance of the prosecution side, such as the court closing the criminal proceedings.

Based on the above and considering the differentiation of guarantees proposed by A.V. Lapkin (2018), the system of organisational guarantees for adhering to the temporal principles of fair justice should include: a legislatively defined obligation for the court to establish a schedule of court sessions in criminal proceedings, composed during a preparatory court session after receiving the indictment or other conclusive decision at the pre-trial investigation stage, considering the positions of the parties; strengthening procedural sanctions that can be applied to participants in the proceedings for non-appearance at court sessions. A procedural safeguard against unjustified delays during court proceedings should primarily be a legislatively provided mechanism for expediting justice in case of violation of the right of the accused, the victim to a reasonable time frame for conducting criminal proceedings.

Therefore, it is worth noting that with the adoption of the current procedural legislation, a fundamental improvement in the state of timely justice has not occurred. In light of this, it is necessary to strengthen the system of procedural guarantees for adhering to reasonable time frames during court proceedings. The set of means to ensure the temporal parameters of proceedings in the court of the first instance should include organisational guarantees, in particular: 1) obliging the court, in legal provisions, to form a schedule of court sessions in criminal proceedings at the stage of a preparatory court session after receiving the indictment or other conclusive decision at the pre-trial investigation stage, taking into account the positions of the parties; 2) strengthening the procedural responsibility of participants in legal proceedings for non-appearance at court sessions. The next group of guarantees is procedural, aimed at establishing a reasoned legislative procedure for expediting justice in case of violation of the right of the accused, the victim to a reasonable timeframe for conducting criminal proceedings.

Conclusions

Considering the analysis of the provisions of the national criminal procedural legislation and the experience of European countries (Bulgaria, Estonia, Italy, Croatia), as well as doctrinal and other assessments, it is worth aligning with the views presented in the study that the identified gaps require the swiftest filling or overcoming, as conducting judicial proceedings outside reasonable temporal principles leads to violations of the rights of victims and defendants to have their cases heard within a reasonable timeframe.

The previous criminal procedural legislation of Ukraine did not declare the principle of reasonable time frames for criminal proceedings and did not include means to ensure its compliance. With the adoption of the current Criminal Procedure Code of Ukraine, there is a trend towards improving the legislative approach to the reasonable duration of criminal proceedings, as the necessity of conducting judicial proceedings within reasonable time frames is declared in Articles 21, 28, and 318 of the Criminal Procedure Code of Ukraine. In this regard, guarantees for ensuring this principle can be considered legal provisions regarding the necessity of involving a reserve judge; the duty of the presiding judge to supervise the participants in the judicial proceedings in fulfilling their duties (especially concerning the duty to appear at the court's summons); the consequences of the non-appearance of participants in the proceedings at a court hearing.

During the study, unified scientific views on ensuring reasonable time frames for criminal proceedings were systematised, including: digitalisation of the judiciary; setting limits on the duration of proceedings in the first-instance court and the possibility of extension in the presence of justified grounds; enshrining in law alternative sanctions (monetary fines, forced appearance) that can be applied to participants who intentionally fail to appear, jeopardising the principle of reasonableness of time frames; introducing civil and administrative liability for those responsible for ensuring timely justice; adopting a separate law on protecting the individual's right to timely pre-trial investigation, judicial, and enforcement proceedings, etc. Based on the analysis of scientific approaches, a system of means to ensure timely justice was systematised, involving organisational guarantees (the court's obligation to schedule court sessions in criminal proceedings and strengthening procedural responsibility of participants in judicial proceedings in case of non-appearance) and procedural measures (establishing a mechanism for expediting judicial proceedings in case of violations of the rights of the accused, victim to a reasonable duration of criminal proceedings).

A promising area for further research is the possibility of strengthening procedural responsibility and sanctions that can be applied to participants in the judicial process who, through their actions, jeopardise the principle of reasonableness of time frames in criminal proceedings.

Acknowledgements

None.

Conflict of Interest

None.

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Судовий розгляд у розумні строки: європейський досвід та українські реалії

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Анотація
Дослідження проблематики актуалізується у зв'язку зі збільшенням кількості звернень проти України до Європейського суду з прав людини, у більшості з яких констатовано порушення права на справедливий судовий розгляд у розумні строки. Метою статті є з'ясування змісту процесуальних строків судового розгляду кримінального провадження та проведення порівняльного аналізу законодавчих підходів європейських країн до врегулювання анонсованої проблематики. Методологічну основу наукової статті становить принцип системності, у межах якого було використано методи порівняльного й системно-структурного аналізу, синтезу, логіко-юридичний, статистичний та евристичний методи. У статті на основі окреслення наявних у законодавстві недоліків, що стосуються забезпечення розумних строків кримінального судочинства, досліджено проблемні питання його вдосконалення. З'ясовано, що попереднє кримінальне процесуальне законодавство не декларувало принципу розумних строків кримінального провадження та не містило засобів його дотримання. Зауважено, що необхідність здійснення судового розгляду в розумні строки задекларовано в статтях 21, 28, 318 Кримінального процесуального кодексу України. Акцентовано на взаємозв'язку розумного строку судового розгляду з його безперервністю, що дає підстави розглядати провадження як одне ціле й тим самим забезпечувати якнайшвидше завершення його розгляду. Констатовано відсутність в українському законодавстві процесуальних запобіжників від невиправданої затримки розгляду кримінального провадження в суді першої інстанції. Проаналізовано правові приписи національного кримінального процесуального законодавства й досвід нормативно-правового забезпечення європейських країн (Болгарія, Естонія, Італія, Хорватія). Обґрунтовано необхідність посилення гарантій, що забезпечують своєчасне правосуддя. Запропоновано комплекс засобів забезпечення часових параметрів розгляду провадження в суді першої інстанції, який повинен передбачати гарантії як організаційного, так і процесуального характеру. Доведено необхідність встановлення обґрунтованої законодавчої процедури прискорення судочинства в разі порушення права обвинуваченого, потерпілого на розумний строк здійснення кримінального провадження. Практична цінність дослідження полягає в тому, що його результати й надані рекомендації можна буде використати для реформування системи судочинства

Ключові слова:
правосуддя; судочинство; кримінальне провадження; процесуальні строки; судове провадження; процесуальна дисципліна

UDC 159.944-057.36
DOI: 10.56215/naia-chasopis/4.2023.40

Features of overcoming burnout syndrome by police officers: World experience

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Abstract
The issue of preserving the psychophysical health and emotional well-being of police officers is relevant at all times, but it has become particularly significant in times of crisis, such as the COVID-19 pandemic and the state of emergency, which have significantly increased demands on the job and depleted work resources. The purpose of the study is to explore the best global practices and strategies for preventing emotional burnout in police officers, with subsequent implementation into the national system to prevent this phenomenon. The study used methods such as heuristic, descriptive, comparative, analytical, classification, and typology. The experience of Austria, the United Kingdom, Germany, the United States, and Japan was summarised. Based on the experience of these countries, which seems most suitable for Ukraine, the prevention of emotional burnout in the police sector was analysed. The conclusion was formulated that preventing the psychophysical exhaustion of police officers is one of the leading areas of the foreign countries' state policy. Prevention of emotional burnout is conducted at personal and organisational (management) levels. To maintain the professional well-being of police officers, in addition to preventive measures aimed at forming mechanisms to counter professional burnout, particular importance is attached to a deep conviction in the significance and value of health in general and professional health in particular. A fairly effective preventive measure in this context is regular physical activity, which facilitates psychological suspension from work and reduces the risk of prolonged stress reactions, such as professional burnout. This study draws attention to the task of strengthening the psychoemotional health in police structures and outlines possibilities for preventive measures that can improve the quality of life and professional activities of police officers, mitigating the negative impact of the emotional burnout phenomenon

Keywords:
syndrome; mental health; stress; exhaustion; fatigue; prevention; overcoming; physical activity

Article's History:
Received: 25.08.2023
Revised: 11.12.2023
Accepted: 29.12.2023

Suggest Citation:
Botnarenko, I. (2023). Features of overcoming burnout syndrome by police officers: World experience. *Law Journal of the National Academy of Internal Affairs*, 13(4), 40-49. doi: 10.56215/naia-chasopis/4.2023.40.

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Introduction

The complex modern conditions of life, associated with prolonged hostilities on the territory of Ukraine, significantly affect the sphere of law enforcement activities. With the onset of war, the list of powers of the National Police of Ukraine was significantly expanded. In particular, the most changes were made to Article 23 of the Law of Ukraine "On the National Police of Ukraine"[1]. The specificity of the service load, intensity, extremeness, danger, and, at the same time, increased responsibility for actions committed directly affect the psychoemotional well-being of police officers, causing states of emotional tension, physical and mental exhaustion, professional stress, loss of efficiency, and so on. The inability to engage in productive professional activity due to a state of exhaustion, within the framework of psychological science, has been termed "emotional burnout". The mentioned phenomenon, in addition to negative consequences for the health of police officers and the moral-psychological climate of the collective, also reduces the effectiveness of the entire law enforcement system, thereby causing economic losses for the state and society. In employees experiencing organism exhaustion, work motivation decreases, indifference and aversion to performing duties develop, and the quality and performance indicators at work decrease. Given that police officers daily interact with a large number of different individuals, it would not be an exaggeration to say that the syndrome of emotional burnout is perhaps one of the most dangerous pathological conditions in the professional activities of law enforcement officers.

Research on the problem of emotional burnout is being conducted by scientists worldwide. In particular, studies by O. Boe *et al*. (2020) and R.K. Lippert *et al*. (2019) focus not only on the specifics of this phenomenon but also on its impact on an individual's relationships with the environment. Researchers note that ethical leadership in public police activities interacts with risk management in this field, forming connections between various components, such as space, objects, and external stimuli, which are not mutually exclusive. Overcoming their negative impact is possible through group support or decision-making support.

In contemporary Ukrainian studies related to the syndrome of sensory exhaustion, attention is paid to revealing distinctive features of manifestation, factors, and prevention and correction of this phenomenon in various fields of activity. A.Yu. Melnychuk (2022) thoroughly examined emotional burnout among socio-economic professionals. The exhausting conditions of medical workers were examined by N.M. Shmygol (2022), who concluded that the orientation of employees at the emotional level affects the development of emotional burnout, and accordingly, the combination of different aspects of emotional burnout determines their reactions to difficult situations, where the desired form of behaviour is the successful solution of the assigned tasks. O. Hlavatska (2019) focused on countering the professional exhaustion of social workers. The researcher concluded that ways to prevent and overcome professional burnout syndrome in social workers are reflected in a set of measures that include monitoring the psychological state of employees, a clear explanation of job descriptions, conducting preventive conversations and maintaining internal motivation, establishing constructive communications, organising various trainings, and creating a positive moral and psychological climate in the team of the head of a social organisation.

Researchers have not overlooked the law enforcement sphere: the features of psychoprophylaxis of the syndrome of sensory exhaustion in cadets of higher education institutions of the Ministry of Internal Affairs of Ukraine were highlighted by L.V. Piankivska (2019). Similar problems, based on the research on the psycho-emotional state of cadets, were investigated by B. Lazorenko (2020). The characteristics and signs of professional deformation in investigators of the National Police of Ukraine were outlined by Z. Kisil & R.V. Kisil (2019) and P.V. Makarenko & L.M. Zaharenko (2022), who revealed measures to counter professional deformation of law enforcement officers under stressful conditions, proposed their own methodology for determining the emotional state of police officers, and noted that the study on psychological aspects of the personality of police officers, such as professional motivation, goals of professional activity, and professional prospects, is one of the ways to prevent professional deformation in the police force.

The purpose of the study is to analyse international experience in preventing and overcoming emotional burnout syndrome among police officers. The tasks involved reviewing measures and methodologies that could be effective in preventing the investigated phenomenon and exploring the possibilities of implementing foreign countries' experience in overcoming emotional burnout among Ukrainian police officers.

The methodological basis of the study relied on heuristic methods, which assisted in searching, selecting, and systematising scientific literature on the issue. A crucial method of the study was the comparative method. The use of this method allowed for isolating and examining researchers' opinions on various practices to combat police officers' emotional burnout. The descriptive method was employed to better highlight a wide range of different practical tools and theoretical constructs regarding the current state of the researched problem. Analysis, classification, and typology methods helped during the examination of existing strategies and means to overcome emotional burnout. To analyse

[1] Law of Ukraine No. 580-VIII "On the National Police of Ukraine". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.

contemporary research in this field, studies were chosen that revealed the experience of combating emotional burnout in countries where this phenomenon has long attracted the attention of researchers and practitioners, and where the most effective practices and substantial experience in this field have been accumulated.

Emotional burnout: The specifics of counteraction

The prevention and overcoming of emotional burnout among various categories of individuals in developed countries receive significant attention. Research is conducted, new methods are developed, and various changes to existing legislation, including labour laws, are aimed at addressing this problem. Japan was the first country to enact a law on comprehensive prevention of disorders caused by overwork (Yamauchi *et al.*, 2017). Legislative reflection, defining professional exhaustion as a professional illness with corresponding social insurance payments to the workforce, has already occurred in countries such as Latvia and Italy. For example, in the Italian Republic, the National Institute for Industrial Accidents Insurance (INAIL) interprets workplace burnout as a professional disease of the employee (Behun-Trachuk, 2020; Maran *et al*., 2020). According to Article 5 of Latvia's Law "On Mandatory Social Insurance for Accidents at Work and Occupational Diseases"[1], occupational diseases are diseases characteristic of certain categories of workers caused by the influence of physical, chemical, hygiene, biological, and psychological factors at work. Professional exhaustion is positioned as a professional ailment caused by the overload and overwork of certain organs and systems of an individual (Didyk, 2021).

In particular, in some European countries, large companies (corporations) have established relaxation rooms where employees can rest and recharge. In addition, through the organisation or institution, its employees may visit a psychologist (Boe *et al.*, 2020). It is essential to note that a distinctive feature of the activities of law enforcement agencies in most leading countries is the high social, legal protection, and corresponding financial security of their employees, significantly reducing the risk of exhaustion and tension.

Preventing emotional burnout syndrome is an essential part of the work of both the police officer and the managerial level of the law enforcement sphere. According to G. Roberts (1997), the prevention of professional burnout should begin with the employee's awareness of the possibility and likelihood of the occurrence and development of this phenomenon in a stressful environment. In the case of subjectively detecting signs or symptoms of professional burnout, the employee should take responsibility for their own stress and commit to self-directed changes. This responsibility is shared between the leadership and the employee, who is a personal participant in solving this problem.

Police burnout: United States of America

The American Institute of Stress has included police work in the list of the ten most stressful jobs in the United States. In their study, J.S. Dempsey *et al*. (2017) identified law enforcement work as the "most stressful in the world". In this regard, it is noteworthy that the styles of police activity play a significant role in the stress experienced by police officers. Officers who apply a liberal approach to performing professional duties face fewer stress factors (including public perception of their authority) than officers with a strict crime-fighting style (Terpstra & Schaap, 2013). Another essential factor in coping with stress is the educational level of the police officer. R.D. Morgan *et al.* (2002) found that officers with a higher level of education respond more flexibly to personal achievements. Based on these results, researchers suggest introducing stimulating measures for officers' continuing education. Hiring candidates with a high level of conscientiousness and emotional stability can prevent future suicides (Pienaar *et al.,* 2007). Employing officers with higher education who have undergone appropriate training and have been properly evaluated in higher education institutions can significantly reduce stress among them.

In the field of preventing negative stress states and supporting the health of U.S. police officers, an approach is employed that involves developing programmes to encourage a healthy lifestyle. This initiative is practically applied, particularly in the state of Arkansas, where officers can receive cash bonuses or discounts for obtaining health insurance (Bezpalko *et al*., 2022). In the U.S., the preventive measures system has undergone significant development: if in 1975 the number of implemented mental health care programmes was 200, by 1990, this figure had increased to over 5000. To date, this indicator has tripled. The results of implementing such programmes demonstrate their high effectiveness, including economic benefits, where every dollar spent yields eight dollars in economic return.

In 2018, the U.S. Congress passed a law on mental health and well-being of law enforcement agencies, providing funding for a range of measures related to improving mental health resources available to law enforcement personnel. These measures include mentoring programmes for young colleagues, resources for training mental health professionals in areas specific to the treatment of law enforcement personnel, conducting research on the effectiveness of psychiatric evaluations, and collaboration between the U.S. Department of Justice and the Department of Defense and Veterans

[1] Law of Latvia "On Mandatory Social Insurance in Respect of Accidents at Work and Occupational Diseases". (1997, January). Retrieved from https://likumi.lv/ta/en/en/id/37968-on-mandatory-social-insurance-in-respect-of-accidents-at-work-and-occupational-diseases.

Affairs to study the applicability of military treatment programs for law enforcement officers[1].

Officers who feel supported by their organisations are more likely to participate in services and programmes to reduce the negative impact of stress. Research has shown that officers who reported a sense of control over their work were more likely to seek treatment for depression. This administrative approach is based on procedural justice principles: providing platforms for expressing concerns, maintaining transparency in decision-making, fair and respectful treatment of everyone, and impartially resolving issues (Ergasova *et al.*, 2020).

Measures to combat professional burnout, including in the U.S. police system, combine three main levels of intervention, each focusing on specific stages and goals. The intervention levels are categorised as primary, secondary, and tertiary (Adamopoulos & Syrou, 2023). At the primary level of intervention, relevant strategies are developed, associated with preventive measures against this syndrome by reducing stressors. In this case, the employee gains the opportunity to control their work, ensuring that their professional duties align with their skills and ambitions. For this reason, strategies developed in this area include: redesigning (reviewing and modernising) the work and organisational environment; creating a sustainable work programme; encouraging professionals' participation in management and decision-making processes; analysing job roles; establishing "support groups" and "networks"; establishing fair labour policies (Awa *et al.*, 2010).

The secondary level of intervention is also focused on preventing burnout. At this stage, measures are concentrated on managing the burnout experienced by employees (Adamopoulos *et al.*, 2022). At the secondary level of prevention, the following strategies are typically applied (Adamopoulos & Syrou, 2023): providing counselling to employees, especially during periods of intense stress; offering opportunities to attend educational seminars and training programmes to enhance professional knowledge and stimulate feelings of competence and adequacy; using professional measurement tools for timely identification of the syndrome; conducting preventive training for employees on strategies to manage their emotions, work stress, and timely application of their knowledge.

The third level of overcoming burnout syndrome is Intervention programmes (Adamopoulos & Syrou, 2023). At this stage, support groups are created for employees facing the syndrome. These groups are small and usually consist of six or seven individuals. Group meetings typically take place weekly, with an approximate duration of six sessions. Intervention programmes focus on restoring, servicing, and counselling employees regarding reintegration and returning to work. Intervention programmes developed for treating burnout syndrome include: providing advisory support but not in the form of instructions, solely advice; encouraging the individual to express their perceptions and providing them with the opportunity to act; encouraging the person to express their feelings; developing methodologies to increase employees' confidence; fostering cooperation. The final stage of burnout is the distancing stage. To return to normal work, it is necessary to restore the employee's "involvement" in the collective work process.

Improving so-called "organisational justice" can be another way to reduce stress among police officers. Research conducted by American experts indicates that organisational injustice can be a source of stress and has a cause-and-effect relationship with officers' misconduct (Syed *et al.*, 2021). Specifically, officers who perceive their departments as "|organisationally fair" are less prone to misconduct. By enhancing the procedural justice of departments (e.g., fair and transparent decision-making, respectful treatment of subordinates), police administrations can, as indicated by H.O. Douglas & A. Gatens (2022), improve the mental well-being of officers and other staff.

Emotional burnout of police officers: The experience of the United Kingdom and the Federal Republic of Germany

In the police forces of countries such as Great Britain and the Federal Republic of Germany, the technology of socio-psychological training is widely used, the purpose of which is quite versatile: provision of support in countering crisis situations, stress, and emotional burnout; development of communication skills; provision of assistance to police officers in planning their personal and professional life, identification of personal potential and prospects for professional growth; identification of abilities and opportunities of employees and others. The main principles of these trainings are based on humanistic psychology, and the experience of their implementation in police schools, particularly in Bramshill (United Kingdom), shows significant interest from police officers and high effectiveness for professional activities. Separate trainings are dedicated to the special management education of police managers, their topics are as follows: "Preparation for proactive police management", "Building a team of a police unit", "Effective police leadership", "Anti-crisis police management", "Police management and observance of human rights", "Development of communication skills of police managers" etc. (Maddi *et al.*, 2002).

Another recognised strategy involves the application of cognitive-behavioural psychotherapy and group

[1] Law of USA No. 115-113 "On Enforcement Mental Health and Wellness Act of 2017". (2018, October). Retrieved from https://www.congress.gov/115/plaws/publ113/PLAW-115publ113.pdf.

therapy sessions using the Balint method. Sessions, conducted several times a month, involve psychologists or psychotherapists, lasting 1.5-2 hours over several years. The average group of participants consisted of 8-12 people. During the classes, various situations that may arise in professional activity, difficulties and failures were considered. Psychologists cover topics using role-playing games, elements of psychodrama, and various methods of nonverbal communication. This approach aims to uncover stereotypical problem-solving techniques and improve patient relationships (Bamburak, 2018).

In particular, in the United Kingdom, which led the world in police authority in 2015, among the most significant areas of the reform of the English police, one can include "substantial increase in police funding; minimisation of instances of police personnel engaging in overtime work" (Campion & Rousseaux, 2015). At the level of legislation, certain guarantees are established for women working in the police. It should be noted that since 1975, the country has had an employment protection law, which guarantees women the right to pay for six weeks before and after the birth of a child. In addition, the Trade Union Reform Act was passed in 1993, which prohibits the dismissal of pregnant women (Shvets, 2019). The work of UK police officers outside of school hours is paid twice as much. Moreover, after the coronavirus pandemic, when the burnout level among workers in many professions increased manyfold, the United Kingdom began actively implementing mechanisms that remind employees of the need to take breaks and disconnect from monitor screens (Kellogg *et al.*, 2020).

In the Federal Republic of Germany (FRG), the TOMESA medical centre, which developed the "How to overcome the signs of burnout" programme, is quite popular. The Central Union of Professional Associations offered the "Mental Stress" programme for enterprises where communication specialists work (Terenda *et al.*, 2021). It should be noted that in Germany, managers value and try to preserve the mental health of police subordinates. In particular, to reduce the potential negative impact of high workload on the mental health of police officers, the principle of encouraging seeking help if the employee needs it is in force in Germany (Santa Maria *et al.*, 2021). When a police leader communicates that he or she cares about the health of subordinates and signals that he or she should not be ashamed to experience stress and emotional strain from time to time, he or she is more likely to seek social support and take positive actions to manage his or her stress. Thus, a health-oriented attitude characterised by valuing the health of subordinate officers should also be encouraged during the development of police leadership. The chosen vector will serve as a preventive factor for officers delaying requests for help until they are subject to disciplinary measures due to work-related problems, and the acquisition of chronic mental health problems. German researcher R. Voigt (2012), to prevent professional burnout, advises police officers to maintain a work-life balance between the following categories: tension and relaxation; challenges and success; work and party; burden and pleasure; autonomy and social support; effort and flow; weekdays and holidays; "*ora et labora*" (pray and work).

Prevention of police burnout: The Japanese experience

Further, an approach to preventing professional burnout in Japan is considered. For example, in Japan, there are special rooms where an employee can release accumulated aggression from intense and constant interaction in the collective under strict subordination. In these rooms, employees are allowed to shout, hit punching bags, and break dishes. In some Japanese institutions, there are bars (boards) in work offices where employees can do pull-ups and stretch their backs, as well as desks and chairs with adjustable heights, allowing changes in body position to reduce fatigue. Moreover, in many Japanese organisations, any creativity is encouraged to stimulate the "creative" process. Monetary rewards are offered for developing inventions that may never be practically implemented. This way, the Japanese encourage their employees to take initiative in their work (Yudai *et al.,* 2020).

The key postulate of the Japanese system to counteract emotional burnout among workers is the proper promotion of employee preparedness through the organisational system, especially human resilience, in the form of collaboration between staff and effective leadership. Furthermore, the negative effects of stressors can be alleviated by regular physical exercises. Researchers also see a close connection between mitigating work stress (and consequently increasing work productivity) through regular active physical activities (Chikwem, 2017).

M. Kumar Pandey (2017) provides the following suggestions for stress control among police officers in their work and non-work environments. Participation in quality initiatives between work and personal life aimed at improving communication and increasing involvement in decision-making throughout the organisation. Addressing environmental issues in the workplace, including equipment quality, workspace, compensation packages, and related aspects. Development of stress awareness training programmes. The police should consider stress management as another skill to learn and master, similar to criminal law or police procedures. Creation of special stress programmes for the police. These programmes can be part of the work of departmental psychological services, or part of an organisational health care programme, or part of a general employee assistance programme; improvement of overall management skills, especially in people-oriented aspects of supervision and leadership. Include

stress management skills in supervisory practice; use counselling programmes addressing such issues among several individuals. Because like-minded individuals may have already experienced many similar problems, they are seen as invaluable sources of support for fellow officers (Zhao *et al*., 2019). Development of support groups, which can be achieved by leveraging existing informal and formal natural groups within the structure. Creation of physical fitness programmes that can strengthen individuals to withstand professional pressures. Such programmes should also consider nutrition issues; family involvement can be a crucial source of support for officers, as a partner familiar with the nature of police work and its stressors can effectively provide support to a police officer (Nurainun *et al.,* 2018; Kumar & Shazania, 2022).

The above recommendations emphasise the importance of a significant level of support and a positive attitude of leadership towards the preservation of the psychoemotional health of subordinates. The proposed measures can effectively reduce overall fatigue levels and enable employees to cope more successfully with daily stressors. It is important to note that increasing the level and control of stress impact on police officers through education and training can have a positive impact on the entire police organisation. This includes improving employee productivity and promoting their health while performing their duties. Measures aimed at reducing fatigue and stress can become a key element of human resources management strategy, contributing to improving working conditions and enhancing the quality of life for police officers. This also opens up opportunities for initiatives aimed at improving the psychosocial climate in the police organisation and promoting sustainable personnel development.

Emotional burnout of police officers in the Republic of Austria

Preventive measures for emotional burnout syndrome in the Republic of Austria begin with the establishment of qualitative criteria for selection into the police service. Measures such as supervision (currently a pilot project in Vienna, Tyrol, and Styria) and "peer support", which positively influences the mental well-being of police officers, have also been implemented. These projects are offered to law enforcement officers after performing particularly stressful tasks, such as using firearms. "But each employee also has a certain obligation – to make a personal contribution, that is, to "contribute to burnout prevention", emphasises psychologist Claus Polndorfer (Low "fire hazard". The risk of burning out…, 2011). In other words, burnout prevention should start from within.

In the prevention and overcoming of emotional burnout among police officers, the use of the BASICh model – a multidimensional stress and inner instability coping model developed by the director of the Israeli Stress Prevention Center, Professor Mooli Lahad, may prove quite effective (Podakin & Zaharenko, 2018). The key postulate of this model is to place the individual in an active position during a crisis event using the following unified components: Belief: life philosophy, faith, and moral values; Affect: feelings, emotions; Social: societal factor – belonging, family, friends; Imagination: creativity, imaginative play, intuition; Cognition: knowledge, logic, reality, thoughts; Physiology: physical activity, sensory modality, and action. The use of these elements helps to understand the problem, find positive motivation, and thereby alleviate the emergence of a stressful state.

O. Sereda (2021) highlights the effectiveness of sabbatical as a means to combat professional burnout, providing employees with an extended leave for "rebooting". The term "sabbatical" translates from English "sabbatical" as "to cease doing something". The etymology of the term is related to biblical writings, where the word "sabbath" means a "sacred day of rest". Sabbatical is, in fact, a paid or partially paid leave ranging from a few months to a year with the retention of the job. The practice of sabbatical originated from Harvard in the 19th century.

In modern conditions, the exhaustion and fatigue of police officers cause increasing concern. The demands on the qualifications and professional skills of police workers, as well as their productivity and performance, are extremely high. Therefore, it is crucial for a police organisation to manage stress and work on eliminating exhaustion among police officers, whose vocation is to serve society. Alongside this, a theoretical analysis of international practices in overcoming the emotional burnout syndrome of police workers allows the conclusion that combined measures for its prevention at both the personal and organisational (leadership) levels will be most effective.

Based on the above, it is advisable to propose prevention and overcoming directions for employees of the National Police of Ukraine related to the syndrome of emotional burnout arising during the performance of professional duties. These include: social support of the team to maintain the psychological resilience of law enforcement officers in stressful situations; raising the level of management culture; developing programmes to encourage a healthy lifestyle for police officers; psychological counselling for police personnel and their families; using various forms of self-control by managers; training in anti-stress programmes, workshops, regular psychological "unloadings"; collective physical activities (sports, competitions among police personnel); mentoring development with appropriate supplements.

Conclusions

The exploration of foreign experience in preventing the phenomenon of emotional burnout has allowed outlining its general concept and providing a deeper understanding of the international functional mechanisms to

counter it. The findings of this study and their interpretation further confirm that the prevention of emotional burnout among police officers should be designed to implement practical recommendations aimed at improving the socio-psychological climate, optimising workload, and organisational conditions in police activities concerning the performance of professional duties.

In the context of implementing prevention systems for the syndrome of professional exhaustion, it can be noted that the most effective for implementation in Ukraine appears to be the positive experience of developed countries such as Austria, the United States, and the United Kingdom. In Austria and the United States, pilot projects and various strategies to support the mental well-being of police officers have already been introduced. The United Kingdom successfully implements mechanisms reminding of the necessity of periodic rest. It is worth noting that in all the countries considered, the principle of "priority orientation towards health" is in operation, signifying the recognition of the importance of the health of subordinate officers. This principle is fundamental and should permeate all aspects of the activities of state authorities, including law enforcement agencies. Considering this experience, the need for the development and popularisation of corresponding strategies for the police in Ukraine is justified. These strategies should contribute to improving the physical and mental health of police officers, promoting the implementation of educational programs that inform about the benefits of regular physical activity and rest. Such a comprehensive approach can contribute to creating a healthier lifestyle among police officers and enhancing the overall efficiency of the law enforcement system in Ukraine.

The literature review allows concluding that there is a trend in the scientific discourse towards recognising the necessity of combining comprehensive measures to prevent emotional burnout, focusing on both individual employees and organisational management. The identification and analysis of various aspects of the health and emotional state of police officers enable an understanding of the depth of the problem and the identification of optimal solutions. Considering this, it becomes evident that effective prevention of emotional burnout syndrome requires the interaction of individual and collective strategies, as well as interventions at various levels, ranging from specific police officers to high organisational leadership. Thus, a systemic approach to the problem involves the development and implementation of integrated programmes that combine individual training and counselling for police officers with improvements to the organizational environment and leadership policies. Developing such comprehensive strategies can significantly reduce the risk of emotional burnout syndrome and contribute to improving the quality of life for police officers and enhancing the effectiveness of their professional activities.

Furthermore, there is a need for further research into the issues of emotional burnout syndrome, not only for individual police officers but also for police organisations as a whole, with the aim of developing and implementing the most effective methods for addressing preventive measures.

Acknowledgements

We express gratitude to the faculty and management of the National Academy of Internal Affairs for the opportunity to prepare and publish this study. A democratic atmosphere combined with a professional approach became the key to writing it. Sincere gratitude is expressed for the opportunity to synchronise their scientific views.

Conflict of Interest

None.

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Особливості подолання синдрому емоційного вигорання працівниками поліції: світовий досвід

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Анотація
Проблема збереження психофізичного здоров'я та емоційного благополуччя поліцейських є актуальною в будь-який час, проте особливо значущою стала в умовах кризових періодів, зокрема пандемії COVID-19 і режиму воєнного стану, які суттєво посилили вимоги до процесу службової діяльності та виснажили робочі ресурси. Мета статті – дослідити найкращі світові практики та стратегії профілактики емоційного виснаження в працівників поліції з їх подальшою імплементацією в національну систему запобігання виникненню цього феномену. Для дослідження було використано такі методи: евристичний, описовий, порівняння, аналізу, класифікації та типологізації. Узагальнено досвід країн Австрійської Республіки, Великої Британії, Федеративної Республіки Німеччини, Сполучених Штатів Америки та Японії. З огляду на досвід зазначених країн, що видається найприйнятнішим для України, проаналізовано профілактику емоційного вигорання у сфері поліцейської діяльності. Сформульовано висновок, що превенція психофізичного виснаження поліцейських є одним з провідних напрямів державної політики зарубіжних країн. Запобігання емоційному вигоранню здійснюють на персональному й організаційному (керівному) рівнях. Для збереження професійного добробуту поліцейських, окрім превентивних заходів, спрямованих на формування механізмів протидії фаховому вигоранню, вагоме значення відіграє глибоке переконання в значущості та цінності здоров'я загалом і професійного здоров'я зокрема. Доволі дієвим профілактичним заходом у цьому контексті визначено регулярну фізичну активність, що полегшує психологічне відсторонення від роботи та знижує ризик тривалих стресових реакцій, таких як професійне вигорання. Зазначене дослідження приверне увагу до завдання щодо зміцнення психоемоційного здоров'я в поліцейських структурах й окреслить можливості для превентивних заходів, які зможуть покращити якість життя та професійної діяльності поліцейських і послабити негативний вплив феномену емоційного вигорання

Ключові слова:
синдром; психічне здоров'я; стрес; виснаження; втома; профілактика; подолання; фізичні навантаження

UDC 343.98.068
DOI: 10.56215/naia-chasopis/4.2023.50

Illegal privatisation of critical infrastructure facilities: Problematic aspects and ways to solve them

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Abstract
The relevance of the subject of study is due to the practical importance of protecting critical infrastructure facilities in the context of increasing potential threats from criminal encroachments associated with the illegal privatisation of such facilities. The purpose of the study is to analyse the current state of criminal legal protection of critical infrastructure from illegal privatisation, develop separate recommendations on the specifics of organising an investigation into the illegal privatisation of critical infrastructure objects, and provide proposals for improving the national system for protecting critical infrastructure from illegal privatisation. The methodological approach to the study was based on using a diagnostic method, by which privatisation is considered both as a social and legal phenomenon. Methods of analysis, dogmatic, formal-legal, modelling, comparative-legal are also used. The study provided for a comprehensive review and examination of the current state of regulatory regulation of the protection of critical infrastructure facilities from illegal privatisation in the criminal legal dimension. It is established that in Ukraine, it is insufficient and needs to be improved. Proposals on criteria for assigning critical infrastructure objects to privatisation processes, creating legal mechanisms for their alienation into private ownership and ensuring proper state control over their further functioning are substantiated. The study focuses on the specifics of starting a pre-trial investigation of the illegal privatisation of critical infrastructure facilities and organising a pre-trial investigation, considering the forensic classification

Article's History:
Received: 07.09.2023
Revised: 15.12.2023
Accepted: 29.12.2023

Suggest Citation:
Yefimenko, I., Atamanchuk, V., & Svoboda, I. (2023). Illegal privatisation of critical infrastructure facilities: Problematic aspects and ways to solve them. *Law Journal of the National Academy of Internal Affairs*, 13(4), 50-61. doi: 10.56215/naia-chasopis/4.2023.50.

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of criminal offences committed during the privatisation process. It is proposed to supplement Article 233 of the Law of Ukraine on criminal liability with a separate qualification composition, which would establish criminal liability for the illegal privatisation of critical infrastructure facilities, providing for the commission of this socially dangerous act of punishment in the form of imprisonment. The results obtained are of practical importance in the development and substantiation of theoretical provisions, conclusions and recommendations for improving the national system for protecting critical infrastructure from criminal offences

Keywords:
illegal alienation; state and municipal property; vital objects; socially dangerous act; investigation of criminal offences; protection of national security

Introduction

With the transition from a command-and-plan economy to free market relations, Ukraine's law enforcement system faced a lot of socially dangerous acts related to illegal economic activities that were previously unknown to national security. This made it necessary to reform the criminal justice system and introduce a new section into the norms of criminal legislation that qualified criminal offences in the field of economic activity. As of 2023, Section VII of the Law of Ukraine on criminal liability[1] is not only one of the largest in the structure of the Special part but also one that has undergone dynamic transformations. For example, out of forty-seven amendments and additions, eighteen concerned the decriminalisation of previously existing criminal prohibitions. This circumstance led to legal discussions on the forensic classification of criminal offences, the generic object of which is economic activity, and caused certain difficulties in developing appropriate forensic recommendations for their investigation.

Illegal privatisation of critical infrastructure facilities should also be attributed to these criminal offences. In this regard, it should be noted that countries where individual initiative and less state intervention in economic processes have historically been supported at the national level do not have this problem. However, effective state control has been built there. For example, investigating the positive aspects of the privatisation of state-owned infrastructure facilities, S. Li *et al.* (2019) divide these processes into two groups, the first of which includes full privatisation when assets and services are fully transferred to the management of a private owner. The second group of scientists includes partial privatisation, when only a part of the assets is alienated to the ownership of a private company, which as a result, leads to the coexistence of the public and private sectors. According to N. Higton & S. Clark (2010), the use of the partial alienation model of state property is most effective when privatising large infrastructure projects, such as, for example, transport infrastructure. Because under these conditions, the state not only does not lose control over the functioning of critical infrastructure but also provides an opportunity for its further development by attracting public-private partnership (private investment).

However, the scientific literature also considers the negative factor of full privatisation. Thus, in particular, investigating the problematic aspects of the privatisation of objects of the penitentiary system, M. Yin (2022) draws attention to systematic human rights violations in private Australian migrant detention centres. Considering the forensic characterisation of the illegal privatisation of state and municipal property, Ye. Priakhin (2019) draws attention to the special public danger of this act since its objects are often engineering structures for civil protection of the population. T. Chumakova (2022) notes that in Ukraine, according to some expert estimates, approximately 90% of privatisation processes occur in violation of the current legislation, including historical and cultural heritage monuments, which threatens their preservation. Investigating legislative provisions and judicial practice on the issue, A. Krasnoshlyk (2020) notes inadequate control and insufficient operational support of privatisation procedures by authorised state authorities. Highlighting the problematic aspects of economic and legal support for privatisation, O. Reznik & O. Bondrenko (2021) rightly refer to the lack of proper interaction between law enforcement and regulatory structures, and the involvement of the judicial system as the last tool and lever of influence on the illegal privatisation process itself. Examining the mechanisms of illegal privatisation of state or municipal property, R. Komisarchuk (2017a) also draws attention to the misuse of funds received from privatisation. For this reason, as the researcher rightly notes, instead of investing privatisation revenues in the development of local or sectoral infrastructure that will help stimulate the economy, they are usually directed to cover the budget deficit, which violates the main goal of privatisation, which is the economic development of the country through attracting foreign and internal investment.

Thus, considering the above, the question arises regarding the development of certain provisions of forensic recommendations for detecting and stopping the illegal privatisation of critical infrastructure facilities,

[1] Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2001-05#Text.

which is the purpose of this study. The following tasks were set to achieve this goal: analyse the theoretical and legal aspects of organising an investigation into the illegal privatisation of critical infrastructure facilities; highlight the procedural features of the legality and validity of the decision of an authorised official to start a pre-trial investigation; provide proposals for improving the national system for protecting critical infrastructure in the privatisation sector of the economy.

Materials and Methods

A diagnostic method was used to achieve these tasks, by which the object under study was analysed as a complex socio-legal phenomenon. Along with general scientific methods of deduction, induction, analogy of synthesis and analysis, special methods of legal analysis were used, which became the basis for studying normative legal acts, analytical materials, and scientific concepts on issues that were included in the subject under study.

Therewith, both types of research methods were used – theoretical and empirical. For example, using this theoretical method, the analysis of the assessment of legal categories, clarification of definitions in the conceptual framework, and development of proposals for improving the current legislation within the framework of the chosen research subject were conducted. Methods of comparative legal and formal legal analysis were used to analyse regulatory legal acts related to the organisation of pre-trial investigation of illegal privatisation of critical infrastructure facilities. Using the modelling method, conclusions and proposals were formulated to improve the national system for protecting critical infrastructure. This was achieved by making appropriate changes and additions to the provisions of legislative and bylaws that regulate the protection of critical infrastructure facilities, etc.

The theoretical basis of the study was scientific papers that analysed certain aspects of the illegal privatisation of state and municipal property (Humin & Pryakhin, 2020; Chumakova, 2022), and criminal law protection of critical infrastructure objects in this area of activity (Komisarchuk, 2017b; Dontsov, 2020). Scientific concepts and conclusions of the authors formed the basis of the study, and some provisions were further developed.

The empirical basis of the study consists of analytical and statistical materials of the Ministry of Internal Affairs of Ukraine concerning the identification, disclosure, and investigation of illegal privatisation of critical infrastructure facilities (The Ministry of Internal Affairs revealed..., 2014). The legal basis of the study consists of laws and bylaws, the norms and provisions of which regulate certain issues related to ensuring the national system of protection of critical infrastructure and legal, economic, and organisational bases for activities in the field of privatisation of state or municipal property. In particular, the norms and provisions of the Constitution of Ukraine[1], Criminal Code of Ukraine[2]; Code of Civil Protection of Ukraine[3]; Land Code of Ukraine[4]; Housing code of Ukraine[5]; Law of Ukraine "On National Security of Ukraine"[6]; "On Critical Infrastructure"[7]; "On Privatisation of State and Municipal Property"[8]; "On the List of Cultural Heritage Monuments that are not Subject to Privatisation"[9]; relevant decisions of the Constitutional Court of Ukraine[10], Strategies for ensuring state security of Ukraine[11], concerning the subject under study.

Results

Among the most criminogenic relations in the economic field, along with financial, banking, foreign economic activity and energy, metallurgical, oil refining, and chemical industry, Ukrainian researchers also refer to privatisation processes in the public sector of the economy. First of all, this is due to the negative consequences of the privatisation of previous years (Romanenko & Shtokin, 2017), when against the background of rising inflation and imperfect regulatory support, there was an "ordered" alienation of state and municipal property at prices below its cost. Given the fact that under martial law, privatisation processes in Ukraine continue to gain momentum, this topic has not lost its relevance today. For example, according to official government sources, the French Republic has assets in 71 companies, which are covered by

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2001-05#Text.
[3] Code of Civil Protection of Ukraine. (2012, October). Retrieved from https://zakon.rada.gov.ua/laws/show/5403-17#Text.
[4] Land Code of Ukraine. (2001, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2768-14#Text.
[5] Housing Code of Ukraine. (1983, June). Retrieved from https://zakon.rada.gov.ua/laws/show/5464-10#Text.
[6] Law of Ukraine No. 2469-VIII "On the National Security of Ukraine". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/2469-19#Text.
[7] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[8] Law of Ukraine No. 2269-VIII "On the Privatisation of State and Communal Property". (2018, January). Retrieved from https://zakon.rada.gov.ua/laws/show/2269-19#Text.
[9] Law of Ukraine No. 574-VI "On the List of Monuments of Cultural Heritage that are Not Subject to Privatisation". (2008, September). Retrieved from https://zakon.rada.gov.ua/laws/show/574-17.
[10] Decree of the President of Ukraine No. 56/2022 "On the Decision of the National Security and Defence Council of Ukraine. Strategy for Ensuring State Security". (2022, February). Retrieved from https://www.president.gov.ua/documents/562022-41377.
[11] Ibidem, 2022.

four sectors of the economy (energy – 7; Industry – 19; services and finance – 15; transport – 30) (Ministry of Economy, Finance, Industry and Digital, n.d.). Poland has 11 active enterprises in public ownership (List of state-owned enterprises..., 2023). Therewith, according to the State Property Fund in Ukraine, only in 2022, more than a thousand state-owned objects were put up for sale, including one hundred and fifty state-owned enterprises, not accounting for the local privatisation procedures (State Property Fund of Ukraine, 2022). The above makes it clear why, among European countries with a continental legal system, illegal privatisation of state or municipal property, as a separate part of criminal offences, except for Ukraine (Article 233)[1], provided for only by the Criminal Legislation of Bulgaria (Article 253)[2] and Belarus (part 3 of Article 424)[3]. That is, countries where the communist system previously dominated, and a substantial share of assets was in state and/or collective ownership.

In this context, the legal and organisational basis for ensuring the security and sustainability of privatisation objects, which are critical for the functioning of the state and its population, becomes important. Analysing the international[4][5] (European Commission, 2005) and national legislation[6] from the subject under study, it is possible to distinguish five categories of the main threats to critical infrastructure, namely: natural, man-made, social, military, and combined. This classification is also followed by V. Fediuk (2022) and O. Yaremechuk & Y. Stakhnitskyi (2022). In turn, social hazards include, firstly, physical threats – potential dangers that cause crisis situations to arise at a critical infrastructure facility as a result of sabotage, terrorist acts, theft, deliberate destruction and/or damage to property necessary for their functioning, etc. (Melnyk & Leschuh, 2019; Franchuk *et al.*, 2021). Secondly, cyber threats – potential hazards that have disrupted the proper functioning of information and telecommunications systems of a critical infrastructure object, which, as a result, led to an emergency situation (Zhu *et al.*, 2021; Chowdhury, 2021). Thirdly, corruption threats –potential hazards that have disrupted the proper functioning of a critical infrastructure facility as a result of committing corruption (Fig. 1).

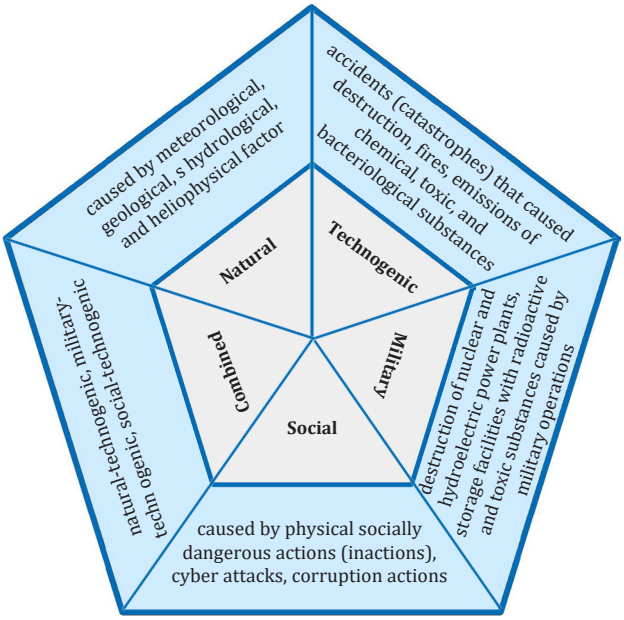

Figure 1. Classification of the main hazards that cause violations of the normal functioning of critical infrastructure facilities

Source: compiled by the author

Corruption risks in relation to critical infrastructure facilities should also include their illegal privatisation. In general terms, economic crime, along with corruption offences, remains one of the main threats to the national security of Ukraine. This is also emphasised in the national security strategy of Ukraine[7], the provisions of which state that inconsistency and incompleteness of reforms and corruption of public authorities are key factors that prevent the Ukrainian economy from being brought out of a depressive state, making it impossible for its sustainable and dynamic growth, increasing its vulnerability to external and internal threats, and creating and fueling a criminal environment in this field of activity. In turn, insufficient protection of property rights, slow development of market relations in key areas of economic activity, a substantial share and role of the public sector in the country's economy, and imperfection and fragmentation of the current legislation – restrain economic growth and repel potential or existing investors.

[1] Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2001-05#Text.
[2] Criminal Code of the Republic of Bulgaria. (1968, March). Retrieved from https://parliament.bg/bills/42/402-01-8.pdf.
[3] Criminal Code of the Republic of Belarus. (1999, July). Retrieved from https://kodeksy-bel.com/ugolovnyj_kodeks_rb.htm.
[4] Presidential Policy Directive No. PPD-21 "Critical Infrastructure Security and Resilience". (2013, February). Retrieved from https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil.
[5] Directive (EU) of the European Parliament and of the Council No. 2016/1148 "On Concerning Measures for a High Common Level of Security of Network and Information Systems Across the Union". (2016, July). Retrieved from https://eur-lex.europa.eu/eli/dir/2016/1148/oj.
[6] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[7] Decree of the President of Ukraine No. 392/2020 "On the Decision of the National Security and Defence Council of Ukraine of 14 September 2020 "On the National Security Strategy of Ukraine". (2020, September). Retrieved from https://www.president.gov.ua/documents/3922020-35037.

Systematic analysis of the laws of Ukraine "On privatisation of state and municipal property"[1] and "On critical infrastructure"[2] allows concluding that their norms do not regulate aspects of the privatisation of critical infrastructure facilities and control over its implementation. Article four of the Law on privatisation only emphasises that privatisation processes do not apply to state-owned enterprises and objects necessary to ensure the state's basic functions, its defence capability, objects that are the property of the Ukrainian people, and property that forms the material basis of Ukraine's sovereignty. Evidently, this provision is destructive since it is not clear, firstly, what the legislator means by the basic and secondary functions of the state. Secondly, what list defines the objects that are the property of the Ukrainian people, and thirdly, what property forms the material basis of the state sovereignty of Ukraine.

In addition, in the theory of state and law, the functions of the state, as the main areas of its activity that practically ensure its vital activity, are usually divided into internal (aimed at solving the internal problems of the country) and external (aimed at establishing and maintaining political and economic relations with other countries) (Gusareva & Tikhomirova, 2017). Together, they are closely interrelated, and therefore, the violation of the functioning of one of them, according to the principle of the "cascade effect", leads to catastrophic consequences for the other. As an example – the financial crisis of 2008, when the reckless strategy of providing mortgage loans in the United States created a collapse in the real estate stock market, which led to the bankruptcy of one of the world's largest investment banks, Lehman Brothers, and as a result, led to a global financial crisis, the consequences of which the Ukrainian economy is still experiencing (Kachur *et al.*, 2016; Kolinets, 2018).

Instead, the national legislation on critical infrastructure referred to "vital functions and/or services" as those areas of activity that are implemented not only by state or local authorities but also by individuals or legal entities of any form of ownership. This differentiation, branching and inconsistency of the normatively defined lists of objects that are not subject to privatisation with vital functions and/or services forces to apply a structural and functional approach with which to determine the main criteria for classifying critical infrastructure objects. Thus, infrastructure can be considered both from the standpoint of its form, internal structure and content and to cover its general purpose in society (Table 1).

Table 1. Classification of critical infrastructure based on a structural and functional approach

Classification criteria	Classification
By functional purpose	Agricultural and industrial; banking; construction; investment; innovation; institutional; information or telecommunications; defence and security; security and protection; industrial and industrial; socio-cultural; insurance; trade or market; financial, transport
By territorial coverage	International; national; regional; local (object)
By form of ownership	Public; private; mixed (corporate)
By intended purpose	Military; civil (social); economic
By industry division	Intersectoral (universal); intra-sectoral (special)
By the level of profitable and investment attractiveness	Profitable (commercial); sponsored (non-profit)
By organisation form	Real; virtual
By level of regulation	Regulatory; unregulated
By time of operation and/or provision of services	One-time (short-term); permanent (regular)
By degree of maturity	Developed (formed); undeveloped (unformed)
By importance category	National; regional, local; local
By management level	National; regional(industry); local; object

Source: compiled by the author

Considering the above classification, at least two ways to commit illegal privatisation of critical infrastructure facilities can be distinguished. Firstly, by abuse of power or official position during the privatisation procedure, and secondly, by committing official forgery or providing deliberately false information about the type of privatisation property, the assessment of it and/or the subject of privatisation. They can be committed both secretly and openly but in a veiled (hidden) form. It is essential to clarify the circumstances concerning the person responsible, the factors that influenced the implementation of criminal actions (purpose and motives), the factors that determined the choice of the method of committing a criminal offence, the presence of corrupt ties in state and local authorities, the nature of their relationship, and the relation

[1] Law of Ukraine No. 2269-VIII "On the Privatisation of State and Communal Property". (2018, January). Retrieved from https://zakon.rada.gov.ua/laws/show/2269-19#Text.
[2] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.

of the subject of a criminal offence to the subject of criminal encroachment, which influenced the choice of the method of committing this socially dangerous act. Considering this, information and/or data are subject to mandatory identification not only regarding the privatisation property and the person – subject of privatisation, but also the procedure for its implementation and the contractual price of alienation. Under these conditions, when investigating the illegal privatisation of critical infrastructure facilities, it is of great forensic importance to identify both material and ideal traces of criminal offences. A special place in this process is given to documentary sources of information (Komisarchuk, 2017a), which, considering the subject of research, can be conditionally grouped into three main groups, presented in Table 2.

Table 2. Classification of documentary sources of information on the illegal privatisation of critical infrastructure facilities

Current regulatory legal acts regulating the privatisation procedure	Documents that reflect illegal privatisation	Documents reflecting the privatisation procedure
These documents regulate the regulatory aspects of privatisation, assessment, and protection of critical infrastructure facilities. These include legislative laws and bylaws in force at the time of privatisation.	These are documents, the content of which can directly reflect the illegal privatisation of critical infrastructure objects (certificates of ownership, inventory lists, forged acts, purchase and sale agreements, fictitious declarations of the origin of funds, lease agreements, court decisions, etc.).	These are documents that reflect the procedure for transferring critical infrastructure objects to ownership (acts on the creation and registration of a commercial structure and its financial statements, origin and movement of funds, orders, inventory lists, acts of acceptance and transfer, extracts from registers, etc.).

Source: compiled by the author

In this regard, attention is drawn to the legality and validity of the decision of an authorised official to start a pre-trial investigation. The complexity of this issue lies in the fact that from the moment of receipt of primary information about criminal offences, the investigator and prosecutor are limited not only in the time of entering such information and/or data in the relevant state register of pre-trial investigations but also in the procedural means of verifying the information received before the start of the pre-trial investigation (Article 214 of the CPC of Ukraine).[1] Therefore, it is advisable to identify documentary information about the illegal privatisation of critical infrastructure facilities immediately after its receipt, where identification is understood as a certain procedure for checking the available (factual) information, to resolve the issue of the need to enter it in the relevant register.

In the classical sense, it is possible to distinguish at least three ways of collecting primary information about criminal offences, namely: observation, experiment, and survey. Observation provides an opportunity for the investigator or prosecutor to analyse the situation at the scene of an incident directly by examining and analysing it. An experiment that provides an opportunity to establish a causal relationship. To this end, to clarify the circumstances of a criminal offence, the legislator was given the opportunity to conduct additional verification actions that are not related to the inspection of the scene of the incident. In turn, the survey allows obtaining the necessary information and/or data about a criminal offence through social interaction. Therewith, it is not necessary to collect written explanations from the interviewees. The process of communication itself consists of verbal or nonverbal exchange of information, which allows perceiving and understanding the interlocutor. Therefore, when examining and evaluating primary information about the illegal privatisation of critical infrastructure objects, a documentary or audit survey is effective and, in some cases, the only way to identify objective signs of a criminal offence. When analysing the primary information about a criminal offence by an authorised official, a number of circumstances should be clarified, namely: whether the documents sent or handed over are a reason for the start of a pre-trial investigation; whether their content contains facts indicating signs of a criminal offence; on the basis of which specific data it is possible to conclude that the facts given could actually have taken place; under what article of the Special part of the Criminal Code of Ukraine a criminal offence can be qualified, which is referred to in documentary sources; whether the information given in the documents refers to information with restricted access; whether the applicant is a person-denunciator; whether there is a need to implement additional measures to ensure the security of the applicant person in the interests of justice; whether the authorised body and a specific official conduct a pre-trial investigation into the commission of a criminal offences given in documentary sources of information or available materials are subject to transfer under territorial or subject jurisdiction.

Considering the assigned tasks, employees of control and audit services, auditors, accountants, tax specialists, surveyors, appraisers, non-committed employees

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

of the State Property Fund of Ukraine, the State Service for the protection of critical infrastructure and ensuring of the national resilience system, the National Agency for the Prevention of Corruption can be invited as consultants, etc. Otherwise, the received information is processed according to the rules of general office management[1]. However, this does not discredit the person who is the bearer of information about a criminal offence, and, accordingly, does not deprive them of his functional importance in relation to the beginning of a pre-trial investigation. Considering the public response to the illegal privatisation of critical infrastructure facilities, the process of verifying applications (reports) of a criminal offence should be continued in accordance with departmental acts regulating the activities of authorised law enforcement agencies. This approach is also of practical importance, as it provides an opportunity for society to assess the state of law enforcement activities in the fight against economic crime, where success depends not only on the specific person who informed the law enforcement agencies about the committed act but also on the professional competence of authorised participants in criminal proceedings, in the course of their direct participation in the implementation of security measures in the economic sphere. The results of this activity should be documented by a report of authorised officials with mandatory indication of data obtained during the performance of their powers, which are registered in the state information system of criminal offences.

Investigating the forensic characteristics of a person guilty in criminal proceedings on illegal privatisation of state or municipal property, it should be noted that the subject of this criminal offence can be a sane person who has reached the age of sixteen and is directly involved in the privatisation process (Article 233 of the Criminal Code of Ukraine)[2]. This provision is primarily justified by the person's civil legal capacity in relation to the right to make transactions (Frintova & Frinta, 2022). When it comes to the illegal privatisation of critical infrastructure facilities, it is likely that there is a special entity in the composition under study. They can be both foreigners and citizens of Ukraine. In particular, persons to whom privatisation property is entrusted, heads of the object of privatisation, people's deputies, officials of state (local) executive authorities, participants in privatisation legal relations, non-residents, the activities of which are coordinated by special services of foreign states, etc. (Humin & Pryakhin, 2020; Chumakova, 2022). In this context, the activities of subjects of illegal privatisation of critical infrastructure are mostly organised in nature with established corrupt ties (relations) in state or local authorities. Therefore, this illegal activity can be characterised by separate features, which are as follows. Firstly, these illegal transactions involve officials authorised to conduct privatisation processes or related procedures. Secondly, the implementation of criminal intentions requires "intellectual properties", which refers to this category of criminal offences as acts the commission of which requires a certain set of systematised special knowledge. Thirdly, the socially dangerous consequences of these criminal offences reflect significant material losses for the state and its population at the state or municipal levels. Fourthly, the commission of these criminal acts is characterised by high latency. In particular, due to the fact that the subjects of privatisation legal relations themselves are interested in implementing criminal intentions, which, as a result, masks this illegal activity under the guise of completely legal civil operations.

Privatisation of state or municipal property can be legal only if the provisions of general (civil) and special legislation in this area of activity are not violated. To the latter, except for the legislation on privatisation,[3] researchers refer, firstly, the Land Code of Ukraine[4] regarding the privatisation of land plots (Krykh, 2008; Chumakova, 2022). Secondly, the Housing Code of Ukraine[5] on the privatisation of housing stock (Potip & Negodchenko, 2019). Third, the Law of Ukraine "On the List of Cultural Heritage Monuments that are not Subject to Privatisation"[6] regarding the privatisation of cultural heritage sites listed in the Register of Immovable Monuments of Ukraine (Arkhipova & Klevchuk, 2021). Fourthly, other regulatory acts of the Cabinet of Ministers of Ukraine and the State Property Fund that define the list of objects of small or large privatisation or objects that are not subject to alienation (Zabzaliuk & Besaha, 2023).

This is one of the key principles of privatisation, which consists of the well-known postulate: "only what is provided for by law is allowed". Given this, the institution of privatisation belongs to the basic institutions of civil law, but with certain features. This is also confirmed by the decision of the Constitutional Court of Ukraine No. 9-rp of July 1, 1998[7], the operative part of which "privatisation agreements" were assigned to special types of transactions under which the purchase and

[1] Law of Ukraine No. 393/96-BP "On the Appeal of Citizens". (1996, October). Retrieved from https://zakon.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80#Text.
[2] Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2001-05#Text.
[3] Law of Ukraine No. 2269-VIII "On the Privatisation of State and Communal Property". (2018, January). Retrieved from https://zakon.rada.gov.ua/laws/show/2269-19#Text.
[4] Land Code of Ukraine. (2001, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2768-14#Text..
[5] Housing Code of Ukraine. (1983, June). Retrieved from https://zakon.rada.gov.ua/laws/show/5464-10#Text.
[6] Law of Ukraine No. 574-VI "On the List of Monuments of Cultural Heritage that are not Subject to Privatisation". (2008, September). Retrieved from https://zakon.rada.gov.ua/laws/show/574-17.
[7] Decision Constitutional Court of Ukraine No. vn 12-rp/98 "In the Case of the Constitutional Appeal of the Kyiv City Council Trade Unions Regarding the Official Interpretation of the Part of the Third Article 21 of the Labour Code of Ukraine". (1998, July). Retrieved from https://zakon.rada.gov.ua/laws/show/v012p710-98#Text.

sale of state or municipal property to private ownership is conducted with a corresponding change in the form of this ownership right (Dontsov, 2020). In this regard, as rightly noted by O. Zadorozhnyi (2018), privatisation of state or municipal property is characterised, firstly, by a specific purpose and principles of its implementation, secondly, by a special subject and object of alienation, and thirdly, by a special procedure and content of privatisation legal relations.

This allows dividing critical infrastructure objects into two groups. The first group includes objects of critical infrastructure that are subject to privatisation but subject to compliance with the appropriate procedure for granting permission for their alienation and considering the qualification requirements (features and restrictions) for taking part in the sale of eligible buyers. In turn, the second category should include critical infrastructure objects that are of strategic importance for the state, which does not allow them to be alienated to private ownership.

Considering the banquet composition of criminal offences under Article 233 of the Criminal Code of Ukraine[1], the issue under study is complicated primarily by insufficient legal regulation of privatisation procedures regarding infrastructure facilities that are critical for the functioning of the state and its population, especially those that have a municipal form of ownership. This state of affairs, according to O. Reznik & O. Bondarenko (2021), not only creates certain difficulties in distinguishing socially dangerous acts from civil relations but also violates the constitutional rights of territorial communities to property. Since, as T. Davchenko (2020) rightly notes, enterprises that are not always important for the municipality are alienated to private ownership at the market price and transferred to an effective owner who can ensure their further proper functioning. However, privatisation enterprises are deliberately brought to bankruptcy, and their production areas are turned into shopping, entertainment, warehouse, and office premises. As an example of such a privatisation transaction, the illegal transfer of real estate by individual officials of the Kyiv city administration at a reduced price and without holding an appropriate auction can be noted, which caused damage to the municipality in the amount of more than UAH 150 million (The State Bureau of Investigation..., 2021). Another example is the alienation of the First Kyiv Machine-Building Plant to private ownership. On this occasion, according to the State Bureau of Investigation, during the assessment process, the value of privatised property was reduced by more than UAH 1 billion (The State Bureau of Investigation..., 2022).

Illegal alienation of civil protection structures to private ownership is also reviewed. Thus, according to the Ministry of Internal Affairs of Ukraine, only in 2014 in the Dnipropetrovsk region, contrary to Part 12 of Article 32 of the Civil Protection Code of Ukraine,[2] 38 facts of illegal actions to remove bomb shelters from communal ownership to private ownership were exposed. In each of the above cases of illegal privatisation, their "buyers" had certificates of ownership of the real estate, which were issued by the relevant local government regulatory authorities, confirming the legal ownership of these assets by the individuals (The Ministry of Internal Affairs revealed..., 2014).

Continuing this subject, it should be noted that along with positive factors, digitalisation processes in society have contributed to the emergence of new ways of committing criminal offences, including the illegal privatisation of infrastructure facilities. For example, in early 2023, the Security Service of Ukraine exposed a criminal scheme to legalise illegal buildings through hacking and changing the unified state electronic system in the construction sector. In this case, this refers not to the usual cybercrimes but to offences that could legalise hundreds of buildings built in violation of building codes, which as a result could lead to man-made emergencies (This year, the Security…, 2023).

Considering the importance of critical infrastructure facilities for ensuring the proper functioning of the main activities of the state during their privatisation, one of the critical places is occupied by the circle of subjects of privatisation relations and their legal status. Under the subjects of privatisation O. Dudorov & K. Dudorova (2011) refer to individuals or legal entities with legislative powers to alienate or acquire ownership of privatisation property or their ability to otherwise influence privatisation processes. Regarding this, R. Komisarchuk (2017b) proposes to regulate issues related to the non-admission to privatisation processes of persons registered in offshore zones and countries that are not participants in international legal relations in the field of countering the legalisation (laundering) of proceeds from crime. These persons should also include residents of countries that are not participants in international legal relations on preventing and countering cybercrime, including states that sponsor terrorism and violators of other international legal relations, in particular, those related to war crimes, crimes against humanity, genocide, ecocide, etc.

Therefore, during the privatisation of critical infrastructure facilities, the state should ensure effective public and parliamentary-government control. In this regard, supporting the opinion of M.M. Potip (2019) on the formation of a separate, independent, controlling institution for the privatisation of state or municipal property, attention is drawn to the activities of the National Agency for the Prevention of Corruption and the State Service for the protection of critical infrastructure and ensuring of the national resilience system of Ukraine. Service for the protection of critical infrastructure and ensuring the national resilience system

[1] Criminal Code of Ukraine. (2001, May). Retrieved from https://zakon.rada.gov.ua/laws/show/2001-05#Text.
[2] Code of Civil Protection of Ukraine. (2012, October). Retrieved from https://zakon.rada.gov.ua/laws/show/5403-17#Text.

is a newly formed central executive authority, the main task of which is to form and implement state policy in the field of critical infrastructure protection[1]. Considering the above, it is proposed to include ensuring state control over the privatisation processes of critical infrastructure facilities and determining priority areas for their interaction with authorised law enforcement agencies to prevent illegal privatisation of critical infrastructure facilities in the powers of Service for the protection of critical infrastructure and ensuring the national resilience system. In turn, this will provide additional regulatory guarantees for the protection of critical infrastructure from illegal privatisation and, as a result, strengthen the national system of sustainability of Ukraine in this area of legal relations.

Conclusions

Thus, in Ukraine, at the present stage of the development of legal science, issues related to the investigation of criminal offences related to the illegal privatisation of state or municipal property remain relevant. Critical infrastructure facilities occupy a special place among this composition of socially dangerous acts. This is primarily due to their functional importance, aimed at providing vital functions and/or services for the state and its population. In other words, it means that critical infrastructure ensures the life of the main activities of the state.

Solving these problems requires a comprehensive approach, where the state should step up not only the activities of authorised law enforcement agencies to counteract violations of national legislation in the privatisation sector of the economy but also ensure proper conditions for regulating the legal mechanism for protecting critical infrastructure objects from illegal privatisation. Despite the urgency of this issue, the level of state protection of critical infrastructure facilities is insufficient. For the most part, the reason for this situation is the lack of legally defined criteria for the privatisation of critical infrastructure and the implementation of independent control over the privatisation processes in relation to its facilities. Together with corruption in state and local government bodies, in the absence of an independent press, increasing inflation, insufficient legal framework, etc., the activities of law enforcement agencies in the fight against illegal privatisation are fruitless. This is explained by the fact that, under such conditions, it is easy to hide the traces of this criminal offence, and it is difficult to determine the motives for its commission.

The situation in the privatisation sector of the economy is also aggravated by the lack of regulatory criteria for classifying critical infrastructure objects as privatisation, the creation of legal mechanisms for their alienation into private ownership, and ensuring proper state and public control over their further safe functioning. Negative factors also include insufficient communication of relevant law enforcement agencies with authorised entities of the national critical infrastructure protection system. In this regard, it is proposed, at the regulatory level, to include the functions of forming a register of critical infrastructure objects that are subject to full or partial privatisation and monitoring the legality of their alienation into private ownership, including in terms of verifying the accuracy of information on the assessment of privatisation property and information about potential buyers in the powers of Service for the protection of critical infrastructure and ensuring the national resilience system. Therewith, the system of protection of critical infrastructure forces the legislator to supplement Article 233 of the Criminal Code of Ukraine with separate provisions that would provide for the qualification signs of illegal privatisation of critical infrastructure objects while simultaneously increasing the penalty to imprisonment. These changes will further provide additional guarantees for the protection of national security not only in the privatisation sector of the economy but also in the national system for protecting critical infrastructure.

Promising areas of further research on this subject are the security of the national system for protecting critical infrastructure from cyber attacks, including military ones. In this direction, it is proposed to analyse the principles of conducting investigations using electronic digital data provided by the Berkeley Protocols.

Acknowledgements

None.

Conflict of Interest

None.

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[1] Resolution of the Cabinet of Ministers of Ukraine No. 787 "On the Formation of the State Service for the Protection of Critical Infrastructure and Ensuring the National System of Ukraine's Stability". (2022, November). Retrieved from https://zakon.rada.gov.ua/laws/show/787-2022-%D0%BF#Text.

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Незаконна приватизація об'єктів критичної інфраструктури: проблемні аспекти та шляхи їх вирішення

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Анотація
Актуальність предмета дослідження зумовлена практичною важливістю захисту об'єктів критичної інфраструктури за умов підвищення потенційних загроз від злочинних посягань, пов'язаних з незаконною приватизацією таких об'єктів. Мета статті полягає в аналізі сучасного стану кримінально-правової охорони критичної інфраструктури від незаконної приватизації, розробленні окремих рекомендацій щодо особливостей організації розслідування незаконної приватизації об'єктів критичної інфраструктури й наданні пропозицій з удосконалення національної системи захисту критичної інфраструктури від незаконної приватизації. Методологічний підхід до наукового дослідження ґрунтувався на використанні діагностичного методу, за допомогою якого приватизацію розглянуто і як соціальне, і як правове явище. Також використано методи аналізу, догматичний, формально-юридичний, моделювання, порівняльно-правовий. Дослідження передбачало комплексний огляд і вивчення поточного стану нормативно-правового регулювання захисту об'єктів критичної інфраструктури від незаконної приватизації в кримінально-правовому вимірі. Встановлено, що нині він є недостатнім і потребує вдосконалення. Обґрунтовано пропозиції щодо критеріїв віднесення об'єктів критичної інфраструктури до приватизаційних процесів, створення правових механізмів їх відчуження в приватну власність і забезпечення належного державного контролю щодо їх подальшого функціонування. Акцентовано на особливостях початку досудового розслідування незаконної приватизації об'єктів критичної інфраструктури й організації досудового розслідування з огляду на криміналістичну класифікацію кримінальних правопорушень, які вчиняють у процесі приватизації. Запропоновано доповнити ст. 233 закону України про кримінальну відповідальність окремим кваліфікаційним складом, який встановлював би кримінальну відповідальність за незаконну приватизацію об'єктів критичної інфраструктури, передбачивши за вчинення цього суспільно небезпечного діяння покарання у виді позбавлення волі. Отримані результати мають практичне значення в розробленні й обґрунтуванні теоретичних положень, висновків і рекомендацій з удосконалення національної системи захисту критичної інфраструктури від кримінальних правопорушень

Ключові слова:
незаконне відчуження; державне та комунальне майно; життєво важливі об'єкти; суспільно небезпечне діяння; розслідування кримінальних правопорушень; захист національної безпеки

UDC 341.456:351.74:341.232
DOI: 10.56215/naia-chasopis/4.2023.62

Current state and prospects of interaction of joint investigation teams with international police organizations

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Abstract
In contemporary conditions, crime acquires new characteristics, including transnational cooperation of criminal groups and adaptation to new techniques of investigating criminal offences. This specificity emphasises the necessity of finding an optimal organizational and tactical form of interaction between joint investigation teams and international police organizations. The purpose of the study is to analyse the organizational and tactical aspects of the interaction of joint investigation teams with international police organizations. The methodological toolkit includes general methods of scientific cognition, such as analysis and synthesis, induction and deduction, abstraction, and scientific forecasting. The study substantiates the need for collaboration between joint investigation teams and international police organizations. It explores the tasks of international organizations in the process of investigating criminal offences. It is recommended to focus on the importance of interaction between international police organizations and joint investigation teams by developing guidelines for organising their collaboration during the investigation of criminal offences. It is argued that ensuring international cooperation in the investigation of transnational criminal offences directly depends on the activities of joint investigation teams. In turn, a special form of international cooperation in the process of investigating criminal offences involves interaction with a wide range of participants in the criminal justice system. International organizations, as external factors capable of influencing the fulfilment of joint tasks by law enforcement and other authorities at the national and international levels, hold a prominent place in this partnership. The application of innovative tactical techniques and their complexes by joint investigation teams during procedural actions is associated with the algorithm of using shared methodologies that impact the effectiveness of investigating criminal offences at all levels of interaction. The results of the study will serve as a guide for the law enforcement system in implementing international cooperation

Keywords:
international cooperation; organization of the investigation; tactical operation; database; criminal proceedings

Article's History:
Received: 22.09.2023
Revised: 09.12.2023
Accepted: 29.12.2023

Suggest Citation:
Vasiuta, Yu. (2023). Current state and prospects of interaction of joint investigation teams with international police organizations. *Law Journal of the National Academy of Internal Affairs*, 13(4), 62-72. doi: 10.56215/naia-chasopis/4.2023.62.

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Introduction

In the current period of global transformative changes, crime has acquired a worldwide scale. This necessitates international cooperation in the investigation of criminal offences, particularly the creation of joint investigation teams. Concurrently, Eurointegration processes contribute to the improvement of the regulatory framework regulating the activities of this legal institution and its practical application. Within the scope of the study, it is worthwhile to focus on the organizational and tactical principles of the interaction of joint investigative groups with international police organizations during the investigation of criminal offences. This approach requires defining an algorithm of interaction that will ensure quality collaboration among participants in the criminal justice process, facilitating thorough, prompt, and unbiased investigations while addressing the challenges at the global level.

Currently, researchers are paying attention to several aspects of the problem. An important research direction involves the use of innovative approaches during the investigation of criminal offences by joint investigation teams. O. Samoilenko (2020) emphasises the necessity of collaboration between investigators and owners of telecommunication systems, information owners in systems, and other entities in the telecommunications service market, and operational units that are an integral part of the process of investigating criminal offences in cyberspace. The leading role in organizing collaboration belongs to the investigator who coordinates the activities.

In K. Chaplinskyi's (2022) study on the forms of collaboration during the investigation of serious crimes, joint activity stands out. This includes participation in the investigation-operational teams, mutual exchange of operational information between the investigator and operational unit personnel, joint planning of the initial stage of the investigation, and the use of operational and forensic tools. The researcher underscores the need for implementing forms of collaboration based on clear planning, high professionalism of investigators, operational unit personnel, and forensic services, establishing correct service relationships, and creating an atmosphere of trust. In this context, internal collaboration among investigators, operational personnel, and specialists is no less crucial.

Within the definition of the conceptual framework of interaction, A. Danylyak (2018) notes in the dissertation research that interaction manifests through the joint activity of subjects, exchange of experience, skills, and abilities. The author examines various forms of implementing international cooperation in the investigation of economic crimes committed by organized groups. Among these forms, joint crime investigations are distinguished, performed by the pre-trial investigation authorities of Ukraine in collaboration with law enforcement agencies of other countries (including through the creation of joint investigation teams), interaction with Interpol, providing international legal assistance, taking over criminal proceedings, extradition, and temporary transfer of a person to the law enforcement authorities of another country.

M. Tsutskiridze (2020) draws attention to the crucial element of pre-trial investigation organisation – the cognitive activity of the investigator and their interaction with other subjects of the prosecution in investigating the circumstances of criminal proceedings. Individual aspects of interaction are examined by M. Luchtman (2020). The scientist focuses on the need for confidence-building in transnational cooperation aimed at protecting the rights of victims and, in general, in criminal proceedings. P. Eprintsev (2022) proposes his understanding of interaction in the field of investigating international crime as a coordinated, purposeful, timely, and location-regulated joint activity, independent units combining capabilities, forces, methods, and means for the successful implementation of complementary measures and actions to search for and record factual data on the activities of organized groups and criminal organizations, committing criminal offences of both national and international nature.

B. Sari (2020) underscores the positive role of Interpol as an international organization with international legal personality, tasked with facilitating cooperation among criminal police, preventing and combating criminal offences that lack political, military, religious, or racial character even beyond national borders. However, G. Calcara (2020) emphasises that such cooperation over many years has encountered certain legal problems, including significant branching of state sovereignty in matters of police activity.

In the context of the interaction process, V. Sevruk (2021) identifies the following stages: 1) preparatory; 2) main; 3) final. The preparatory stage involves conducting working meetings, developing joint plans, and ensuring their implementation by authorised individuals. The main stage contributes to the execution of joint operational and investigative measures, control over the implementation of procedural actions, and direct management. The final stage involves summarising results, evaluating activities, analysing action execution, preparing and submitting information based on the results of joint actions, and making decisions.

In light of the aforementioned perspectives of researchers regarding the organization of interaction among participants in criminal proceedings, the prosecution side deserves attention at every delineated aspect, starting from interaction within the investigation-operational teams and ending with collaboration with international organizations. Undoubtedly, the joint investigation teams should be highlighted as a form of international cooperation with multi-vector interactions within the teams and externally (particularly with international law enforcement organizations).

Therewith, a problematic and prospective aspect is establishing the interaction of the joint investigation teams with international law enforcement organizations during criminal proceedings. There is a need to establish interrelationships among various subjects of law enforcement orientation during international cooperation. Attention should be focused on the organizational and tactical features of the interaction of the joint investigation teams with international law enforcement organizations. Thus, the purpose of the study is to establish and analyse the features of organizational and tactical aspects of the interaction of joint investigation teams with international law enforcement organizations during the investigation of criminal offences.

Materials and Methods

Modern knowledge and practice convincingly demonstrate that not every method ensures the successful resolution of theoretical and practical problems. Methodological issues cannot be confined solely to philosophical or intra-scientific boundaries but must be considered in a broad socio-cultural context. To investigate the aspects of interaction between joint investigation teams and international law enforcement organizations during the investigation of criminal offences, specific methods of scientific cognition were used, including analysis and synthesis, induction and deduction, abstraction, and scientific forecasting. The analysis utilised report information on the implementation of the Association Agreement between Ukraine and the European Union (Report, 2022), Europol's report on the analysis of financial and economic crimes in the European Union (European Union Agency for Law Enforcement Cooperation, 2023), the strategic plan of the Office of the Prosecutor General for 2023-2025 (Strategic plan for the implementation…, 2023), the report information from the National Central Bureau of Interpol in Ukraine (2023), and Interpol's activity report for the year 2022 (Interpol, 2023). In addition, the analysis of report information from international law enforcement organizations was based on empirical methods of cognition. With the methods of induction and deduction, examples of practical investigative situations that arose both in Ukraine and abroad and required the involvement of international law enforcement organizations in the investigation of criminal offences were provided. These aspects of practical situations are highlighted in official sources of Europol's functioning (Joint investigation team… , 2022) and Eurojust (Eurojust, 2021).

The method of abstraction helped identify the process of interaction of the joint investigation teams with international law enforcement organizations as a specific form of international cooperation during the investigation of criminal offences through formal and informal investigative actions. In turn, the method of scientific forecasting served to create recommendations for improving the interaction of joint investigation teams with international law enforcement organizations by providing legal certainty, applying special methodologies, and innovative forensic support during the investigation of criminal offences with the involvement of international partners.

In the course of the study, the Regulation of the European Parliament and of the Council of the European Union of May 11, 2016[1], and the order of the Ministry of Internal Affairs of Ukraine, the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the State Bureau of Investigations, the Ministry of Finance of Ukraine, and the Ministry of Justice of Ukraine "On Approval of the Instruction on the Procedure for the Use by Law Enforcement Agencies of Ukraine of the Information System of the International Criminal Police Organization – Interpol" dated August 17, 2020, № 613/380/93/228/414/510/2801/5[2] were processed. The analysis of these documents allowed examining the features of the modern work of international law enforcement organizations and their cooperation with joint investigation teams.

Results and Discussion

Joint investigation teams (hereinafter – JITs) during the investigation of criminal offences interact with international partners. There are several international organizations that play a significant role in countering transnational crime, including the European Judicial Cooperation Office, the UN Office on Drugs and Crime, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, the European Union Mission for Security and Defense Policy, the European Monitoring Centre for Drugs and Drug Addiction, the European Central Bank, the European Commission, the European Management Board for the Prevention of Misuse of Substances and Fraud, the Joint Situation Centre of the European Union, and others. In this context, a prominent place belongs to international law enforcement

[1] Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA". (2016, May). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/celex_32016r0794_en_txt.pdf.

[2] Decree of the Ministry of Internal Affairs of Ukraine, Office of the General Prosecutor, National Anti-Corruption Bureau, Security Service of Ukraine, State Bureau of Investigation, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine No. 613/380/93/228/414/510/2801/5 "On the Approval of the Instructions on the Procedure for the Use by Law Enforcement Agencies of Ukraine of the Information System of the International Criminal Police Organization – Interpol". (2020, August). Retrieved from https://zakon.rada.gov.ua/laws/show/z0849-20#Text.

organizations, in particular, the European Union Agency for Law Enforcement Cooperation (Europol) and the International Criminal Police Organization (Interpol). These organizations are similar in terms of crime prevention, reducing crime rates, upholding human rights, and fostering international cooperation. However, they have distinct characteristics in terms of territorial jurisdiction and the nature of their activities. According to the report on the implementation of the association agreement between Ukraine and the European Union (Report on the implementation of the association..., 2022), it is known that during March-June 2022, the Office of the Prosecutor General signed 10 departmental agreements with competent authorities of EU countries (Lithuania, Latvia, Poland, Slovakia, Spain, Romania, Bulgaria, Estonia, Austria, France) regarding joint actions during the investigation of international crimes.

In contemporary conditions, Europol operates in accordance with the provisions of the Regulation of the European Parliament and the Council of the EU from 2016[1]. As criminal offences assume significant proportions that extend beyond national borders, Europol is tasked with enhancing cooperation between two or more member states during joint procedural actions aimed at achieving specific goals for effective criminal investigation. Therefore, Europol's main goal is to combat organized crime due to its scale, complex structure, and impact, requiring coordinated efforts from all member states of the Council of Europe. The number of Europol employees is growing exponentially. For instance, while the workforce was 323 people in 2001, it increased to 1,323 people in 2020 (quadruple), indicating the organization's branching functions and overall activity. Notably, the highest number of employees is represented by the Netherlands – 104 individuals, Spain – 103 individuals, and Luxembourg – 1 individual (Leghan, 2021a).

Based on the results of Europol's activity regarding the analysis of financial and economic crimes in the European Union (European Union Agency for Law Enforcement Cooperation, 2023), in July 2023, during the operation conducted by the National Police of Spain with the support of Europol, 17 individuals were detained on suspicion of manipulating the results of football matches using corrupt schemes. In 2022, with Europol's support, a criminal network trading psychotropic drugs was exposed in France. The criminal network operated in several countries: Austria, Germany, and North Africa. An international operation was also conducted with the collaboration of prosecutors and investigators, supported by Europol and Eurojust, to combat the criminal group "Kompania Bello", which directed its activities towards cocaine trafficking in Europe. At the initiative of the Italian National Police in 2015, under the guidance of the Florence prosecutor's office, a JIT was created with the participation of Italy and the Netherlands, collaborating for five years. International partners developed a joint strategy and organized an intensive exchange of information and evidence necessary for preparing the final stage of the investigation. The international operation was the culmination of months of thorough planning between law enforcement and judicial authorities in preparation for the investigation process. A joint operational command room was established at Europol's headquarters for coordinating actions. Furthermore, a Europol expert was dispatched to Florence to provide operational support to the Italian authorities, ensuring swift analysis of new data. Judicial coordination was performed by Eurojust's coordination centre, involving prosecutors and investigative judges in real-time to execute and adapt requests for mutual legal assistance necessary for conducting transnational actions (Joint investigation team..., 2022). The involvement of Europol and Interpol in joint procedural actions with JITs ensures meticulous planning of investigation stages, rapid exchange of evidentiary information, and data of operational significance.

To achieve these goals, Europol performs several tasks, including quick communication with member states (through national units) regarding links to criminal offences of interest for investigation; collecting, storing, analysing, and exchanging information using operational data on the state of criminality; coordinating, organizing, and participating in investigative actions to support proper cooperation with competent authorities of member states, often initiating the creation of JITs and actively participating in them; providing assistance and support to member states of JITs during transnational information exchange through operational, technical, and financial aid; offering analytical support during international operations investigating criminal offences; preparing reports on the state of affairs, strategically and operationally analysing and assessing the level of threats; using specialised knowledge and forensic methods during criminal investigations; providing recommendations to member states collaborating during investigations; ensuring specialised training and assistance in organising training and skill enhancement, collaborating with the European Union Agency for Law Enforcement Training (CEPOL), and other international organizations (Perepiolkin, 2021).

In 2023, Europol established the OSINT operational working group to support investigations of war crimes in Ukraine, significantly aiding investigators in verifying and documenting cases of war crimes (Europol established OSINT..., 2023). To enhance the effectiveness of law enforcement response to cybercrime and

[1] Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA". (2016, May). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/celex_32016r0794_en_txt.pdf.

violations of the rights of European citizens and businesses in the European Union, the European Cybercrime Centre was formed as part of Europol (European Union Agency for Law Enforcement Cooperation, 2023). Thus, Europol provides qualified assistance to JITs, utilising databases of information systems and subsystems capable of analysing the threats and risks of organised crime.

Furthermore, more than 20 countries, including 14 EU member states, have initiated investigations into international crimes possibly committed in Ukraine. Eurojust facilitates the coordination of these national investigative efforts and organizes meetings among all countries involved in the investigation process. It is noteworthy that since the spring of 2022, Eurojust has been providing strong support to JITs. At the initiative of the Attorney General of Lithuania, the Attorney General and Minister of Justice of Poland, and the Attorney General of Ukraine, an agreement was signed on March 25, 2022, for the creation of a JIT in Ukraine, with Eurojust as its developer. Estonia, Slovakia, Romania, and Latvia joined the JIT. The main goal of establishing this group is to ensure proper information exchange and support the investigation of international crimes, primarily war crimes, aggression, and genocide, committed on the territory of Ukraine (Reznikova, 2023). The positive aspect of this collaboration between JITs with the support of Eurojust contributes to international cooperation during the investigation of criminal offences. An algorithm of actions should be developed according to specific situations when international assistance is needed. An example of this could be the introduction of the Instruction on organizing the interaction of joint investigation teams during the investigation of criminal offences. The document should specify the role of international organizations during the investigation of specific transnational criminal offences.

In contemporary conditions, Eurojust promotes cohesion among investigators by organizing meetings between countries conducting joint investigations. Other states that are not members of JITs may open individual cases within Eurojust, and some of them may join this process later on. The European agency houses the Secretariat of the JIT network, which supports and stimulates the activities of this form of international cooperation. Since 2005, the agency has been supporting national authorities in creating and managing JITs, and since 2009, it has provided funding and played a crucial role in the functioning and awareness-building of JITs (Eurojust, 2022).

In the process of international cooperation during the investigation of criminal offences, Eurojust collaborates with JITs to ensure the smooth conduct of joint investigations, providing legal and practical support. In particular, Eurojust can provide support to JITs in the following areas: firstly, assist in coordinating investigation and prosecution strategies among representatives of competent authorities of states; secondly, help identify and resolve issues (modify JIT agreements, establish rules of admissibility) related to ensuring the collection of evidence and the conditions for the involvement of deployed members; thirdly, provide advice on jurisdiction regulation and the transfer of criminal proceedings, as well as on the funding of JIT activities. Financial support provided by Eurojust is a significant advantage for national authorities, thereby reducing the impact on national budget expenditures related to the investigation of criminal offences at the international level. Eurojust also cooperates with Europol. They provide assistance to government authorities aimed at addressing the need for transnational access to electronic evidence (Spiezia, 2022; Movchan, 2022).

In addition, Eurojust can support the conduct of joint tactical operations by organizing meetings and establishing coordination centres. The latter acts as a central information hub where Eurojust constantly monitors and coordinates joint operations, and the involved parties, in turn, are in direct interaction. The participation of all key parties allows Eurojust to provide legal and practical advice promptly, ensuring that the actions taken lead to successful judicial prosecution (Eurojust, 2021). In accordance with its powers, Europol provides analytical and forensic support to JITs. Moreover, Europol assists in collecting and analysing data obtained by lawful methods from open sources, such as media, television, and radio broadcasts, conducting open-source intelligence (OSINT) (Office of the Prosecutor General, 2023). To support JITs and provide methodological assistance, the Eurojust Secretariat of the JIT Experts Network operates. Involving these experts contributes not only to practical and financial support but also involves record-keeping, legislative analysis, and provides recommendations for further criminal prosecution of individuals (Krasnoborova, 2020).

A notable example of the involvement of the aforementioned European agency in international cooperation is the support (legal, financial, and material-technical) in the establishment of JITs between the Netherlands, Belgium, Ukraine, Australia, and Malaysia investigating the downing of flight MH17 (July 17, 2014) (Eurojust support to joint investigation..., 2022). Given the above, the coordination of international investigations involving Eurojust is a crucial aspect to avoid duplication of investigative actions, excessive documentation, and repeated discomfort for victims and witnesses due to the need to testify in multiple law enforcement agencies.

By collecting, analysing, and preserving evidentiary information during the investigation of crimes against humanity, war crimes, and genocide, considering data protection rules, Eurojust can support the progress of cases in national and international investigations. This includes providing assistance to competent national authorities and international institutions. This approach

is particularly valuable for verifying the credibility of witness testimonies or establishing circumstances relevant to criminal proceedings.

The results of investigations into criminal offences covering thousands of episodes, numerous pieces of evidence recorded in different languages, and testimonies from a large number of victims and witnesses require consolidation and analytical processing without restricting access for participants in the criminal process (courts, ICC, law enforcement, non-governmental organizations, etc.).

The importance of collaboration with international organizations, foreign partners, and civil society during the criminal prosecution for international crimes is highlighted in the Prosecutor General's Office's strategic plan for 2023-2025 (Strategic plan for the implementation..., 2023). According to its provisions, one positive aspect in this context is the interaction with Eurojust and Europol. Through cooperation between the prosecutor's office, pre-trial investigation bodies, national and international partners, the Prosecutor General's Office will ensure the high-quality fixation of evidentiary information collected during investigative and other procedural actions. This will expand the boundaries of access to justice for victims and witnesses at national and international levels, increase the number of completed court proceedings and individuals held accountable for international crimes related to the armed conflict in Ukraine, and enhance the level of trust from the public, national, and international partners in the prosecutor's office and pre-trial investigation.

Interpol serves as a global centre for developing joint police strategies and tactics to combat international criminality. It facilitates international cooperation among law enforcement agencies for public safety, counterterrorism, drug trafficking, economic crimes, human trafficking, and other forms of organized crime. This unique international organization acts as a mechanism and intermediary in practical cooperation among different states during the investigation of criminal offences. One of Interpol's priority goals is to identify criminals and missing persons wanted internationally.

In its activities, Interpol uses the formula "dans la limite des lois", meaning "within the limits of the law" (Calcara, 2020). In the structure of the police service of each Interpol member state, National Central Bureaus (NCBs) were established. They act as centres for international cooperation and "hubs" for countering and preventing crime locally. According to the report of Interpol's National Central Bureau in Ukraine (National Central Bureau of Interpol in Ukraine, 2023), the following activities were conducted in 2022: ensuring Ukraine's commitments in Interpol, forming and implementing state policy to enhance cooperation between the National Police of Ukraine and law enforcement agencies of foreign states, international organizations, and institutions, participation in the development of Ukraine's international treaties to combat crime, coordination and cooperation of authorities and units of states in the fight against transnational crime using Interpol, etc. During the reporting year, the NCB of Interpol in Ukraine processed 48,991 requests, including 26,186 from Ukrainian law enforcement agencies and 22,805 from foreign law enforcement agencies. The most intensive cooperation, in terms of the number of processed documents, occurred with law enforcement agencies in Poland (2,331), Moldova (1,736), Hungary (1,087), the Czech Republic (1,895), and Germany (1,842).

Interpol is endowed with a broad spectrum of powers in various areas of work, namely: criminal registration (it formulates a special methodology in collaboration with the General Secretariat for identifying criminals, aimed at establishing demographic data, external characteristics of the object, the method of committing criminal offences, and unique features of individuals); international search for criminals suspected of committing international crimes (conducts intelligence-search actions beyond the territory of the state where the criminal offence was committed). Interpol not only coordinates the actions of the police of several countries but also helps in providing information from its files); international search for missing persons (performed in cases where the national search has not yielded results, and the wanted person has left the borders of the state that initiated the search).

According to Interpol's report for 2022 (Interpol, 2023), in Latin America, an intensive cooperation week among investigators from 12 countries resulted in the arrest of individuals who were subjects of international search. In a joint operation named "INFRA ATLAS" between Interpol and the USA, fugitives wanted by countries in Central and North America were also apprehended. Interpol and Afripol collaborated in countering cybercrime. Thus, law enforcement officers from 27 Interpol countries have joined forces in "Africa Cyber Surge" to combat cybercrime across the continent. Police arrested 11 individuals and took action against over 200,000 units of harmful cyber infrastructure. Moreover, due to an international operation, Nigeria's cybercrime unit, supported by Interpol, apprehended a cybercriminal. Therefore, Interpol conducted a number of activities aimed at increasing the level of knowledge and acquiring skills and abilities of representatives of law enforcement agencies. In addition, a conference on the use of drones was held. This measure allowed law enforcement agencies to share their experience and best practices in countering unmanned aerial vehicles.

In April 2022, a four-month operation called "Africa Cyber Surge II" was launched, focusing on identifying cybercriminals and compromised infrastructure. It was coordinated by the Interpol Cybercrime Directorate under the auspices of the Interpol Africa Cybercrime Operations Division and the Interpol African Union Support Program for Afripol. The operation aimed to facilitate

communication, analysis, and intelligence sharing between countries, optimising cooperation between African law enforcement agencies to prevent, deter, investigate, and stop cyber extortion, phishing, business email compromise, and online fraud. Using practical insights from the private sector, it was highlighted that cyber security is most effective when international law enforcement, national authorities, and private sector partners work together to share best practices and proactively combat cybercrime. Ambassador Jalel Chelba noted that public and private entities must work hand in hand to prevent the misuse of digital systems, information and communication technologies, and artificial intelligence by cybercriminals. Coordinated operations, such as "Cyber Surge", are essential to dismantle criminal networks and establish individual, organisational, and societal levels of protection (European Cybercrime Centre, 2023). Moreover, the counter-terrorism operation "Tripartite Spider", supported by Interpol and Afripol, was organized to enhance the capabilities of the national investigation teams in Central and East Africa during terrorism investigations (14 terror suspects, 2023).

In modern conditions, during the investigation of criminal offences with international connections, the verification of DNA profiles of individuals suspected of committing criminal offences becomes relevant[1]. The creation of Interpol and the regionalisation of police cooperation form a multi-level system of relationships not only between international law enforcement organizations but also between organizations and states that can simultaneously be members of several international police institutions. Coordinated actions of participants in international law within the police sphere contribute to strengthening regional police cooperation, avoiding the execution of identical functions.

Interpol processes a large amount of personal data regarding criminal individuals (such as names, fingerprints, photographs, etc.). The system of the international organization compares visual facial indicators with images stored in Interpol's forensic databases. The Commission for the Control of Interpol's Files is responsible for processing this data. Interpol's databases help track criminals through collection prints and photographs, lists of wanted persons, DNA samples, and documents. Through the encrypted global communication network on the Internet, Interpol agents and member states exchange information and have 24/7 access to databases. To combat international disasters, terrorist attacks, and murders, Interpol typically forms incident response teams. This group is represented by experts with specialised knowledge and the ability to access databases. Thus, it is possible to identify victims and suspects, and disseminate information to law enforcement agencies of other states. The information received about the committed criminal offence requires analysis. Together with collecting data for the identification of suspects, conducting cross-checks of reports and investigative versions, Interpol manages files analysing criminal offences and intelligence data, consolidating information from databases and various sources to understand the criminal environment (Temitope & Tunde, 2020). In the mentioned aspects, incident response teams of a criminal nature operating under Interpol can also assist JITs in collecting evidence during criminal investigations.

It is worth emphasising that the primary place for identifying individuals in the Interpol system belongs to forensic data, which can be used to establish connections between a series of transnational crimes, and fingerprints can be quickly checked if a suspect crosses borders. Similarly, facial recognition remains a biometric vector that is rapidly advancing. In addition to data management, conducting forensic examinations is extremely important. For example, fingerprints and DNA can confirm a person's identity and establish their presence at the scene of a criminal offence. It is recommended to develop instructions for organizing the interaction of JITs during the investigation of criminal offences, specifying aspects of cooperation between JITs and international law enforcement organizations in the process of investigating transnational criminal offences.

In this part of the study, it is necessary to separately highlight the aspects of Europol's activities, the importance of which is emphasised by other researchers. It is worthwhile to agree with the opinion of I.M. Leghan (2021b) that Europol provides quality support for the law enforcement processes of member states. This is made possible through information exchange between the agency and Europol liaison officers, conducting operational analysis of operations in EU member states, providing technical support for investigations, harmonising methods of investigation in member states, organizing information events for international cooperation of EU law enforcement agencies to increase their awareness and provide qualified assistance during the investigation of transnational crimes (Leghan, 2021a). As indicated by B. Rostami & A. Jooj (2021), Europol helps exchange data, analyse information, compile expert reports, and conduct training. The international organization, together with law enforcement agencies of member states, fights against transnational crime (human trafficking, terrorism, money laundering, illegal immigration, financial crimes, cybercrime). The above overview and analysis

[1] Decree of the Ministry of Internal Affairs of Ukraine, Office of the General Prosecutor, National Anti-Corruption Bureau, Security Service of Ukraine, State Bureau of Investigation, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine No. 613/380/93/228/414/510/2801/5 "On the Approval of the Instructions on the Procedure for the Use by Law Enforcement Agencies of Ukraine of the Information System of the International Criminal Police Organization – Interpol". (2020, August). Retrieved from https://zakon.rada.gov.ua/laws/show/z0849-20#Text.

of successful organization actions confirm positive evaluations of its activities. Considering this, the development of international law enforcement organizations at the regional level, as noted by M.V. Zhuravel (2022), becomes a global trend, as the deepening of various areas of regional cooperation requires the creation of similar organizations in other territories.

A promising area for the interaction of JITs with Europol, as indicated by A.V. Movchan & T.I. Sozanskyi (2023), is the application of the SOCTA methodology. Since JITs include representatives of the National Police, the development of specialised software – the information subsystem SOCTA by experts of the Department of Information and Analytical Support, is a powerful vector for assessing key threats and risks of organized crime and serious crimes. This approach allows optimising the process of summarising expert responses regarding organized groups and criminal organizations and helps analyse risks and mechanisms to combat international crime. It is worth adding that during the application of the information subsystem, the following steps can be implemented: firstly, identify all current threats of organized crime and serious crimes (e.g., geographical objects or infrastructure); secondly, identify "weak spots"; thirdly, forecast threats that may arise in the future, considering the cause-and-effect relationship. Europol collects internal and external data for SOCTA in the following areas: organized crime and serious crimes, organized criminal groups and criminal organizations, the environment (European Union Agency for Law Enforcement Cooperation, 2021).

F. Spiezia (2022) notes the prospective aspect of involving Europol and the European agency collaborating with judicial and police authorities of EU member countries (Eurojust) in investigating cybercrime. It should be emphasised that in this sense, the use of JITs is a tool of cooperation par excellence, as it is particularly effective in combating various phases and articulations through which this form of criminality develops. The activity of Eurojust can benefit from the new protocol to the Budapest Convention, especially regarding relations with third countries. The coordination and assistance of Eurojust to member states have led to a dialogue between various parties that play a crucial role in ensuring the rule of law in cyberspace and achieving results in investigations. International extradition, as correctly noted by S.V. Bondar (2020), should be considered as a separate institute of international cooperation between states during the investigation of criminal offences, which is an integral part of it and exists in an inseparable connection with other forms of such cooperation; international search for stolen valuables (Interpol collaborates not only with member states of the organization but also with the International Council of Museums and UNESCO, conducting meetings on combating looting and trafficking of works of art).

In the context of reviewing the activities of Eurojust, it is necessary to mention the opinion of A. Reznikova (2023), who states that this organization provides extensive assistance to JITs at legal, operational, analytical, and financial levels. Eurojust ensures interaction between national investigative and prosecutorial authorities investigating criminal proceedings. Eurojust provides analytical assistance by structuring relevant information that is significant for investigating criminal offences and can serve as evidence; financially supports, primarily reimbursing expenses for travel, accommodation, oral and written translation of documents, transfer of items (e.g., cross-border transportation of evidence and/or confiscated items), specialised expertise (e.g., traceological, ballistic, and other types of forensic expertise); provides logistical and technical support (technical equipment, such as laptops, phones, printers, scanners, etc.) for the effective work of the team.

The opinion of Professor M. Caianiello (2022) from the University of Bologna regarding the positive aspects is reasonable. Firstly, the creation of JITs with the participation of EU countries, including countries not belonging to the EU and international institutions, and secondly, the key role of Eurojust in collecting and exchanging information during the investigation of international crimes (primarily war crimes). On the one hand, Eurojust is a privileged mediator of international cooperation, and on the other hand, the involvement of Eurojust is necessary due to the large amount of evidentiary information that can be collected at the scene. In this context, it should be noted that an integral part of ensuring the investigation of international crimes is databases. An example of one of such databases is the Core International Crimes Evidence Database, specially developed by Eurojust for storing and analysing evidentiary information. This database can store digital evidence and data related to committed criminal offences, such as photos, video and audio recordings, satellite and drone imagery, testimonies of witnesses and victims, results of medical, forensic, and military investigations, information about specific material evidence, and more. Eurojust ensures the secure storage of these materials in accordance with personal data protection standards applicable within the European Union. In addition, it is worth noting that the analysis of this data will contribute to improving the coordination of national and international investigations, addressing issues with parallel investigations, standardising processes for searching and processing specific evidence (information) related to a particular criminal offence or crime scene and identifying shortcomings in the evidence base.

Conclusions

Cooperation of JIT with international law enforcement organizations is one of the most promising areas in the foreign policy activities of states. International

cooperation in law enforcement develops between equal subjects of international law and is based on adherence to certain legal norms and principles. This process is characterised by internal differentiation concerning territorial location, the number of participants, objects of interaction, etc. Further improvement of collaboration and maximisation of results in the interaction of law enforcement agencies with international organizations, such as Interpol and Europol, require the implementation of comprehensive measures to establish a protocol for involving international partners in the investigation of criminal offences. Cooperation of JIT with international law enforcement organizations primarily involves the exchange of intelligence, technical, and strategic information necessary for procedural actions within criminal proceedings, special knowledge, results of strategic analysis, and reporting activities. Databases of international organizations are used for tracking and extraditing individuals, creating conditions for the implementation of a special form of international cooperation among countries within multilateral interaction.

Through the collaboration of JIT with international law enforcement organizations during the investigation of criminal offences, the protection of human rights and freedoms in criminal proceedings is ensured, evidence is collected beyond national borders, and a comprehensive and unbiased investigation of criminal offences is facilitated. In particular, using forensic knowledge, international police organizations promote tactical combinations and operations, in particular through the use of forensic databases. The special value of JIT's interaction with international law enforcement organizations lies in facilitating the exchange of information, thanks to the practice of parallel investigations into identical or related criminal facts. This interaction is aimed at avoiding the execution of dual tasks by authorised individuals of competent authorities of states, which, in turn, is a positive aspect in optimising and rationalising the execution of tasks in criminal proceedings. Enhancing the results of this interaction requires the improvement of the normative-legal base, the development of methodology, and forensic support during the investigation of criminal offences in accordance with the best global practices.

A promising area for examining the aspect of the interaction of JITs with international law enforcement organizations can be a comprehensive examination of the activities of JITs, combining national and international experiences.

Acknowledgements

None.

Conflict of Interest

None.

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Сучасний стан і перспективи взаємодії спільних слідчих груп з міжнародними поліцейськими організаціями

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Анотація
У сучасних умовах злочинність набуває нових характеристик, з-поміж яких – транснаціональна взаємодія злочинних угруповань та адаптація до нових прийомів розслідування кримінальних правопорушень. Ця специфіка актуалізує необхідність пошуку оптимальної організаційно-тактичної форми взаємодії спільних слідчих груп із міжнародними поліцейськими організаціями. Метою статті є аналіз організаційно-тактичних аспектів взаємодії спільних слідчих груп з міжнародними поліцейськими організаціями. Методологічним інструментарієм слугували загальні методи наукового пізнання, а саме: аналізу й синтезу, індукції та дедукції, абстрагування та наукового прогнозування. У дослідженні обґрунтовано необхідність взаємодії спільних слідчих груп з міжнародними поліцейськими організаціями. Досліджено завдання міжнародних організацій у процесі розслідування кримінальних правопорушень. Рекомендовано зосередити увагу на значущості взаємодії міжнародних поліцейських організацій зі спільними слідчими групами, уклавши Інструкцію з організації взаємодії спільних слідчих груп під час розслідування кримінальних правопорушень. Доведено, що забезпечення міжнародного співробітництва у сфері розслідування кримінальних правопорушень транснаціонального характеру безпосередньо залежить від діяльності спільної слідчої групи. У свою чергу, особлива форма міжнародної співпраці в процесі розслідування кримінальних правопорушень передбачає взаємодію із широким колом учасників кримінального процесу. Чільне місце в колі партнерства належить міжнародним організаціям, які є зовнішнім чинником, здатним вплинути на виконання спільних завдань із правоохоронними й іншими органами на національному та міжнародному рівнях. Застосування спільною слідчою групою інноваційних тактичних прийомів та їх комплексів під час проведення процесуальних дій пов'язано з алгоритмом використання спільних методик, які впливають на результативність розслідування кримінальних правопорушень на всіх рівнях взаємодії. Результати дослідження стануть орієнтиром для правоохоронної системи під час реалізації міжнародного співробітництва

Ключові слова:
міжнародне співробітництво; організація розслідування; тактична операція; база даних; кримінальне провадження

UDC 343.1
DOI: 10.56215/naia-chasopis/4.2023.73

Aspects of implementing the principle of proportionality in the execution of a decision on a search permit for a person's home or other property

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Abstract
Trust in the state is an urgent problem for the countries of Central-Eastern and Eastern Europe. Since building partnerships between the state and society is possible only if the principle of procedural fairness is observed, restriction of a person's right to inviolability of housing or other property in criminal proceedings is one of the most pressing problems of modern Ukrainian legislation. The purpose of the study is to highlight certain legislative and enforcement aspects of the procedure for executing a decision on permission to search a person's home or other property that do not comply with the requirements of the principle of proportionality and create problems for ensuring a reasonable balance of private and public interests. Empirical, general, heuristic, and special legal methods of scientific knowledge were used to achieve this goal. It is established that the insufficiently regulated by the legislator issues concerning the determination of subjects authorised to comply with the decision on permission to search a person's home or other property, the seizure of property, the impossibility of prompt appeal against such a court decision, create an imbalance between private and public interests in criminal proceedings. It is generalised that the restriction of rights in the execution of a decision on permission to search a person's home or other property cannot be conducted if the means of restriction are not commensurate with the goal that the investigator or prosecutor seeks to achieve. A procedural situation in which the principle of proportionality can be violated in favour of not only the public interest but also the private one was modelled, which allowed outlining opportunities for potential abuse by a person, the rights of which were restricted. The study analyses the specific features of implementing such a resolution under martial law and highlights the criteria compliance with which will contribute to the implementation of the principle of proportionality. Recommendations for solving the problems outlined above are proposed. The results of the study will be useful not only for improving the relevant provisions of the Criminal Procedure Code of Ukraine and investigative practice but also for the possibility of developing additional guarantees of legitimate restriction of a number of other rights guaranteed by the Constitution of Ukraine during the implementation of the decision on permission to search a person's home or other property in criminal proceedings

Keywords:
balance of interests; Inquirer; pre-trial investigation; individual rights; law enforcement; prosecutor; investigator

Article's History:
Received: 27.08.2023
Revised: 15.12.2023
Accepted: 29.12.2023

Suggest Citation:
Zaitsev, D. (2023). Aspects of implementing the principle of proportionality in the execution of a decision on a search permit for a person's home or other property. *Law Journal of the National Academy of Internal Affairs*, 13(4), 73-82. doi: 10.56215/naia-chasopis/4.2023.73.

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Introduction

Along with the rapid democratisation of all spheres of public life, the highest social value is defined as a person, their natural and positive rights. However, ensuring that human rights in Ukraine is not exclusively a political and legal slogan that does not correspond to actual trends that determine the construction of various types of public relations, the mechanism of the state must properly perform the tasks assigned to it. In the context of the development of modern criminal procedural relations, one of the essential tasks of the state is to ensure the human rights guaranteed by the Constitution of Ukraine, one of which is the right to inviolability of housing. Despite the detailed regulation of the implementation of the decision on a permit to search a home or other possession of a person in the Criminal Procedure Code (CPC) of Ukraine, this legal activity in the context of maintaining a reasonable balance of interests is accompanied by a number of problems. When forming the prescriptions of this norm, the legislator did not consider all the needs of modern criminal procedure practice, there is a violation of the principle of legal certainty, which hinders sustainable law enforcement in this area. Violating a reasonable balance of private and public interests in implementing these activities by authorised entities will lead to public distrust of law enforcement agencies and the lack of partnership between the individual and the state, creating problems for ensuring legal order in other areas. That is why achieving procedural justice is impossible without examining and solving problems related to the implementation of a decision on permission to search a person's home or other property and at the same time ensuring a balance between private and public interests in the future in criminal procedure legislation and law enforcement.

The rule of law, as a fundamental value of any modern democratic state, is ensured through a number of legal principles. One of these principles is the principle of proportionality, which indicates the need to ensure a reasonable balance between private and public interests in society, and therefore, its implementation in the implementation of procedural measures automatically indicates compliance with the rule of law. The examination of certain aspects of the implementation of the principle of proportionality in the direct execution of a decision on permission to search a home or other property will allow the investigator, prosecutor to prevent unjustified restriction of the rights of participants in criminal proceedings despite the legislative uncertainty of this legal procedure. It will allow forming a more thorough knowledge of the problem under study and choosing the method of procedural restrictions that will be necessary and sufficient to fulfil the tasks of criminal proceedings. Scientific analysis will serve as a doctrinal basis for improving the criminal procedure legislation.

The analysis and examination of problems related to the implementation of certain aspects of the rule of law, the principle of proportionality, and a reasonable balance of interests in criminal proceedings attracted the attention of many scientists. Thus, researchers from Kutztown University of Pennsylvania, P.C. Bolger & G.D. Walters (2019) substantiated the importance of fair restriction of human rights by law enforcement officers in the implementation of procedural measures and has proved that this approach encourages society to cooperate with them and, as a result, increases the effectiveness of their activities in general. Other American researchers C.N. Braaten & M.S. Vaughn (2023) conducted an analysis of judicial practice in the United States of America regarding the appeal of illegal and unauthorised actions of authorised entities during the housing search. The conclusions proposed by researchers can serve as a guide for solving problems related to the lack of the possibility of prompt appeal against the implementation of the above definition in the criminal process of Ukraine. Researchers M.T. Rossler & M.J. Suttmoeller (2022) proved that the ambiguous nature of the formation by a legislator of the authorising norms of the US procedural legislation leads to a misunderstanding of their powers by law enforcement officers and causes confusion. The researcher U. Moeller (2020) quite rightly investigated and identified the principle of proportionality with the principle of expediency in German criminal proceedings.

Among Ukrainian researchers, O. Kaplina & S. Fomin (2020) conducted thorough research on the place and role of the principle of proportionality in the legal system of Ukraine and its importance in ensuring the constitutional rights of a person in criminal proceedings. A substantial contribution to the coverage and resolution of doctrinal and legislative problems related to the observance of European human rights standards when searching for a person's home or other property was made by M. Komarova (2018), which highlighted accurate recommendations for the legitimate seizure of property as a method of countering procedural abuse. V. Voloshyna & D. Shylin (2021) considers a search as a measure that can only be conducted in the event of a substantial procedural need since it substantially restricts a person's rights.

Thus, the purpose of the study is to improve Ukraine's criminal procedure legislation and form recommendations for investigative practice on the proper implementation of the principle of proportionality in the execution of the decision of the investigating judge to authorise a search. This can be achieved by highlighting and analysing the specifics of the problems of regulating this procedure, determining by the legislator the range of subjects authorised to carry out this investigative (search) action, whether they have opportunities for procedural abuse and, taking into account the achievements of national and foreign legal science, the realities of modern investigative practice in Ukraine, offering reasonable recommendations for their solution.

Materials and Methods

A number of empirical, general, heuristic, and special legal methods were used in the study. Among the empirical methods of legal research to analyse the implementation of the decision on permission to search a person's home or other property as a type of legal activity, the method of observation was used, which allowed perceiving this investigative (search) action as a complex systemic procedural activity, authorised entities, regulated by the CPC of Ukraine. With the help of the comparative legal method, legislative shortcomings were identified regarding the definition of subjects authorised to comply with the decision on permission to search for housing or other property and the possibility of receiving foreign experience in the field of criminal procedure in Ukrainian legislation and criminal procedural law enforcement was determined. Among the general scientific methods in the study, the most widely presented method of analysis, the use of which allowed eliminating the components of the procedure for executing a decision on permission to search a person's home or other property and identify those that create problems for the implementation of the principle of proportionality and disrupt the balance of private and public interests. The method of induction in the study allowed determining how a single problem hinders the implementation of the principle of proportionality when executing a decision on permission to search a person's home or other property in general. A number of analogies were used to identify the procedure for performing such a procedure with other criminal procedural measures, the application of which provides for the restriction of individual rights and justifies ambiguous approaches of the legislator regarding the mutual coordination of various institutions of criminal procedural law among themselves, which also affected the problem under study. The modelling method was used to create a model of a procedural situation where the principle of proportionality can be violated in favour of the public interest and the private one. This allowed identifying opportunities for potential abuse by a person whose rights to the inviolability of a housing or other property were restricted.

The heuristic method of collective stimulation is used to determine the expert assessments of Ukrainian and foreign researchers, which were useful for promoting the doctrinal basis for improving the Ukrainian criminal procedure legislation and implementing the principle of proportionality. The formal legal method allowed determining the specifics of the legislative formation of Article 236 of the Criminal Procedure Code of Ukraine[1], the shortcomings made in it regarding the implementation of the principle of proportionality as an integral legal structure drawn up from a number of separate regulations (norms), and analyse the provisions of the Constitution of Ukraine, decisions of the Constitutional Court of Ukraine (hereinafter referred to as the CCU), the Supreme Court, and the European Court of Human Rights (hereinafter referred to as the ECHR) of 2004, 2019, 2020, and 2021 concerning the principle of proportionality and legitimate restriction of a person's right to inviolability of housing or other property.

Results

After Ukraine gained state independence, all types of legal relations, including criminal procedural ones, were rethought and democratised. The first documents of sovereign Ukraine immediately recognised the rule of individual rights and freedoms over class and public interests, which became the basis for forming modern criminal procedure legislation (Shybiko, 2021). Article 8 of the Constitution of Ukraine enshrined the principle of the rule of law, and Section II of the Basic Law defined the list of fundamental rights and freedoms of a person, the obligation to guarantee which was assumed by the state[2]. S. Kelbia *et al.* (2021) indicate that "the rule of law functions as a special mechanism of social regulation that ensures the correct interaction of the principles, organisation, and functioning of a modern democratic society".

This means that each type of public relations must comply with fundamental principles and be conducted in a manner and manner that makes it impossible to restrict individual rights and freedoms illegitimately. Most of the restrictions on human rights and freedoms are applied in criminal proceedings, which indicates the need to focus the attention of the legislator on the development of additional tools to guarantee constant consideration of new realities in criminal procedural legal relations.

Article 30 of the Constitution of Ukraine has established a rule according to which a search of a home can be conducted solely on the basis of a court decision[2]. From the content of this constitutional norm, it is clear that its legal content is a prerequisite for the formation of certain aspects of conducting criminal procedural measures in a person's home, and the basis for the legitimacy of such activities is defined.

Indeed, the provisions of the Criminal Procedure Code of Ukraine accept constitutional norms on the principle of the rule of law and the right of a person to inviolability of the housing as separate bases of criminal proceedings. According to the content of Article 8 of the Criminal Procedure Code of Ukraine, one of the fundamental principles of criminal proceedings is the rule of law, and in the provisions of Article 13 of the

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/card/254%D0%BA/96-%D0%B2%D1%80.

Criminal Procedure Code of Ukraine, the legislator, as a separate basis of criminal proceedings, also fixed the constitutional rule on the impossibility of searching for housing without a court decision[1]. It is quite obvious that compliance with these principles when conducting procedural actions in a person's home will indicate their legitimate nature.

An important feature of the principles of criminal proceedings is that they are interrelated, they continue to maintain their own value and do not interfere with the implementation of others (Pochtovyi, 2020). Without the application of a developed system of legal principles in the implementation of the regulation of public relations, it is impossible to ensure the functioning of a state governed by the rule of law in which the rights of the individual are adequately respected (Tsyhanii & Kuzmichova-Kyslenko, 2022).

Considering in more detail the basis of the rule of law, in the context of legal regulation, it is not stable. Considering its widespread use in the legislation and law enforcement of all developed democratic countries, it includes a number of legal principles that have emerged with the development of national and foreign legal theory and practice. In modern conditions, such principles remain its integral parts, they require separate compliance and implementation both in the legislative regulation of a certain type of legal relationship and in practical law enforcement. Among the elements of the rule of law principles, the principle of proportionality is defined. Constitutional Court Decision No. 3-RP/2012 of January 25, 2012, states that "one of the elements of the rule of law is the principle of proportionality"[2]. Identifying the principle of proportionality with the phenomenon of social justice, another decision of the Constitutional Court No. 15-RP/2004 of November 02, 2004, states that restrictions on a person's constitutional rights should be conducted considering the requirements of the principle of proportionality, which provides for the legitimacy of applying restrictions only when it is necessary to achieve a socially justified goal[3].

In the modern doctrine of criminal procedure law of Ukraine, proportionality is proposed to be understood as a legal means that provides for the application of restrictions useful to society to a person that adequately considers the degree of influence necessary and sufficient to achieve the desired public interest by state (Kaplina & Fomin, 2020). Justifying the need to maintain a reasonable balance of private and public interests, some representatives of the legal doctrine emphasise that it is necessary to differentiate cases of achieving a social goal into legal and non-legal ones. In this regard, it should be understood that when referring to a democratic state, evidence obtained in violation of the procedural procedure defined by law cannot be used in making decisions (Blikhar *et al*., 2021).

The same legal properties of the principle of proportionality are also distinguished in the Federal Republic of Germany and other countries of the European Union. Thus, in the German science of criminal procedure, the principle of proportionality is called the principle of expediency, proportionality, and adequacy of the state's application of restrictions on individual rights. Considering criminal procedural activity as a type of state-power activity, proportionality is defined not only as a criterion for a reasonable balance between private and public interests but also the need for the state to save its resources, the use of such a volume of measures and means that is justified by a potential socially useful result (Moeller, 2020). A similar nature of the implementation of the principle of proportionality in the legal relations of the European Union countries is evidenced by a number of decisions of the ECHR, in particular in the cases "Ramazyan v. Armenia" of February 14, 2019[4], "Kaminskas v. Lithuania" of August 4, 2020[5], etc. Considering the primacy of international law over private law, all decisions of the ECHR concerning the interpretation and compliance with the principle of proportionality are binding on Ukrainian national law enforcement (Barabash *et al*., 2022). In this way, and considering the requirements of part 2 of Article 8 of the Criminal Procedure Code of Ukraine[6], the specifics of the principle of proportionality defined in the decisions of the ECHR are implemented in Ukraine's criminal process.

Considering this, compliance with the principle of proportionality in criminal proceedings will mean compliance with the rule of law and fair application of procedural restrictions to a person. From a practical point of view, this will not only improve the level of legal order in the state but also improve the effectiveness of pre-trial investigation bodies, prosecutor's offices, and operational units. Fair use by law enforcement agencies of the means of procedural restrictions available to them is one of the key factors that motivates society to cooperate with them and, therefore, increases their effectiveness (Bolger & Walters, 2019).

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Decision of the Constitutional Court of Ukraine No. 3-RP/2012. (2012, January). Retrieved from https://zakon.rada.gov.ua/laws/show/v003p710-12#Text.
[3] Decision of the Constitutional Court of Ukraine No. 15-RP/2004. (2004, November). Retrieved from https://zakon.rada.gov.ua/laws/show/v015p710-04.
[4] Joudgment of the European Court of Human Rights in the case No. 54769/10 "Ramazyan v. Armenia". (2019, February). Retrieved from https://hudoc.echr.coe.int/rus#{%22fulltext%22:[%22Case%20of%20Ramazyan%20v.%20Armenia%22]}.
[5] Joudgment of the European Court of Human Rights in the case No. 44817/18 "Kaminskas v. Lithuania". (2020, August). Retrieved from https://hudoc.echr.coe.int/rus#{%22fulltext%22:[%22Case%20of%20Kaminskas%20v.%20Lithuania%22]}.
[6] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

As mentioned above, the inviolability of the housing as a fundamental constitutional right of a person can be restricted only on the basis of a court decision or in urgent cases. In the context of criminal proceedings, such a court decision is a decision on permission to search a person's home or other property. The requirements that a decision on a permit to search a person's home or other property must meet are defined in Article 235 of the Criminal Procedure Code of Ukraine[1]. Consequently, the execution of a decision on a permit to search a person's home or other property is an investigative (search) action in which authorised entities restrict a person's right to inviolability of housing. If the process of making such a decision by an investigating judge consists in investigating the grounds for applying restrictions, then conducting a search is a direct process of implementing criminal procedural influence on the habitual life of a person.

In the science of criminal procedure of Ukraine, a search is considered a restriction of human rights, which should be justified and be in the plane of law and common sense, and its conduct should be appropriate in each individual case since the expected result of the search should exceed the scope of restrictions on the rights of the person whose property it concerns, and one without which the set goals of criminal proceedings cannot be achieved by other means (Voloshyna & Shylin, 2021). V. Tishchenko *et al.* (2022) consider a search to be an investigative (search) action aimed at verifying and investigating information obtained by pre-trial investigation bodies or the prosecutor's office during preliminary investigative (search) actions. That is, according to the researchers, the execution of a search permit order cannot be conducted solely for the purpose of obtaining information about the commission of criminal proceedings or obtaining information for further planning of a pre-trial investigation and the scope of procedural coercion characteristic of a search can be implemented exclusively in connection with an urgent procedural need justified by the evidence already collected. An essential feature of the search is that its conduct, in comparison with other investigative (search) actions, is complicated not only by the legislative procedure and the need to apply more forensic recommendations to fulfil the goal set by the investigator, prosecutor but also by their compliance with the rights of participants in criminal proceedings since there are more risks for their illegitimate restriction (Pavlova, 2021)

Considering the above, it is reasonable to assume that procedural restrictions in the implementation of the definition under study cannot be regarded as legitimate without observing the principle of proportionality. The requirements of the principle of proportionality must necessarily be considered by the subject conducting this investigative (search) action in its individual procedural aspects.

Criminal procedural regulation of the execution of a decision on permission to search a person's home or other property is provided for in Article 236 of the Criminal Procedure Code of Ukraine. Part 1 of Article 236 of the Criminal Procedure Code of Ukraine stipulates that "a decision on permission to search a person's home or other property may be executed by an investigator or prosecutor"[2]. However, this provision of the Criminal Procedure Code of Ukraine is inconsistent with the content of other institutions of modern Criminal Procedure Law of Ukraine, particularly the Institute of the inquirer as a subject of pre-trial investigation in criminal proceedings. This makes it difficult to exercise public interest in law enforcement. At first glance, it may seem that in a situation in which there is a procedural need to search by an Inquirer, the requirements of Part 1 of Article 40-1 of the Criminal Procedure Code of Ukraine should be followed, according to which, "the inquirer is given the powers of an investigator when conducting an inquiry",[3] however, judicial practice indicates that this understanding is incorrect. In resolving the issue of subjects authorised to execute a warrant to search a person's home or other property, the Supreme Court adheres to the principle of literal interpretation of Article 236(1) of the CPC of Ukraine[4] and states that "a warrant to search a person's home or other property may be executed by an investigator or prosecutor, no exceptions are provided for operational units" [5]. This approach of the court practice implies that part 2 of Article 41 of the CPC of Ukraine[6], which allows operational units to use the powers of an investigator, detective, or prosecutor on the basis of an order of an investigator, does not apply to the situation with the execution of a warrant to search a person's home or other property.

Requirements of Part 1 of Article 40-1 of the CPC of Ukraine[7] in terms of legal properties are identical to Part 2 of Article 41 of the Criminal Procedure Code of Ukraine[8]. In the context of providing operational units and the inquirer as subjects of criminal proceedings with the opportunity to comply with the decision on permission to search housing or other property, problems for law enforcement are formed. Ultimately, it may be unreasonably used by a person whose right to inviolability of home or other property has been restricted.

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Ibidem, 2012.
[3] Ibidem, 2012.
[4] Ibidem, 2012.
[5] Resolution of the Joint Chamber of the Criminal Court of Cassation as Part of the Supreme Court No. 663/820/15-K, proceedings No. 51-2075km20. (2021, December). Retrieved from https://reyestr.court.gov.ua/Review/101829915.
[6] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[7] Ibidem, 2012.
[8] Ibidem, 2012.

Due to gaps in legislative technology, such a person has the opportunity for abuse since implementing this resolution is an integral part of conducting pre-trial investigations of a number of committed criminal offences in the order of inquiry.

It is impossible to avoid the situation of conducting a search in the context of the Russian-Ukrainian war since such procedural activities are conducted in conditions that are dangerous to the life and health of its participants. Notably, when introducing the legal regime of martial law, the Constitution of Ukraine provides for the restriction of many individual rights, including the right to inviolability of housing[1]. This is an objectively justified approach because in some places, it is impossible to ensure a general procedural procedure during a search. This also applies to the implementation of the principle of proportionality.

There is no need to consider all the innovations in the CPC of Ukraine that regulate the conduct of this investigative (search) action under the legal regime of martial law, and it is only necessary to analyse the general approach, compliance with which will ensure a reasonable balance of interests. It is quite logical that, given the different intensity of hostilities in certain regions of Ukraine, the analysis of the legality of this procedural activity should also be approached individually. Thus, for example, the legislator simplified the procedure for conducting a search of a person's home or other property under martial law, in particular, allowing the implementation of this investigative (search) action without witnesses if there is a threat to their life and health, which is fixed in paragraph 1 of part 1 of Article 615 of the CPC of Ukraine[2]. The application of this norm of the Criminal Procedure Code of Ukraine will be proportional only to conditions of military operations, and other real threats to people's lives and health.

The legal regime of martial law declared throughout Ukraine is not a reason for simplifying the procedure for executing a decision on permission to search a person's home or other property. If the above provision is applied, the actions of the investigator or prosecutor should be subject to a legal assessment during further examination of evidence collected in criminal proceedings. The impossibility of executing a search permit order in a general manner may also be justified by the need to document war crimes promptly (Tataryn *et al.*, 2021). However, it should be remembered that the possibility of restricting a person's right to inviolability of housing or other property under martial law does not mean legitimising criminal procedural arbitrariness since human rights are subject to protection and protection regardless of the operation of special legal regimes (Chasnyk, 2022).

In general, one of the most important characteristics of restricting a person's right to inviolability of housing or other property when conducting a search on the basis of a court decision is that at the stage of pre-trial investigation, such procedural activities of an investigator or prosecutor are not subject to appeal. A person whose rights are restricted due to this criminal procedural measure does not have an appropriate range of legal guarantees that will reduce the negative consequences for them in connection with possible abuses on the part of these entities. Considering this, it is appropriate to provide for the possibility of prompt appeal against a decision on a permit to search a person's home or other property after its execution and the results of this investigative (search) action in the CPC of Ukraine. The problem is that a person whose right to inviolability of housing or other property has been restricted can get acquainted with the arguments of a search request only after the pre-trial investigation is completed. In case of falsification of such materials of criminal proceedings, the CPC of Ukraine does not provide for any possibility to restore one's rights and ensure an appropriate balance of interests. The existence of such a mechanism in the criminal procedure legislation will in no way contribute to abuse and obstruction of pre-trial investigation by a person whose right has been restricted because until the fact that an investigator or prosecutor has committed procedural violations or falsifications by an investigating judge is established, their actions will be considered legitimate (Braaten & Vaughn, 2023).

Violating a reasonable balance of private and public interests in implementing these activities by authorised entities will lead to public distrust of law enforcement agencies and the lack of partnership between the individual and the state, creating problems for ensuring legal order in other areas. That is why it is clear that achieving procedural justice is impossible without examining and solving problems related to the implementation of the decision on permission to search a person's home or other property and simultaneously ensuring a balance between private and public interests in criminal procedure legislation and law enforcement.

Discussion

Similar problems of legislative powers of law enforcement officials occur in the law enforcement activities of the United States, which are proposed to be solved by legislative improvements in procedural legislation. This applies, in particular, to various areas of criminal procedure in the United States, when the legislator did not clearly define specific officials for the implementation of a particular procedural action, and therefore, it can be mistakenly performed by an unauthorised person, which leads to unjustified restriction of individual rights (Rossler & Suttmoeller, 2022).

This approach is now relevant to the criminal process in Ukraine. However, for example, V. Mohyla (2021)

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/card/254%D0%BA/96-%D0%B2%D1%80.
[2] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

proposes to solve this problem not by unifying the criminal procedural legislation of Ukraine but in such a way that the investigating judge identifies a specific subject authorised to implement it when making a decision. I. Basysta (2021) also believes that an investigating judge can solve this problem when deciding on permission to search a person's home or other property, considering the specifics of a particular criminal proceeding and procedural needs. Other Ukrainian procedural scholars, in particular S. Davydenko & D. Mavdryk (2021). All of the above confirms the imbalance of procedural guarantees between private and public interests in this aspect of the execution of a warrant to search a person's home or other property, and therefore, of course, requires legislative improvements.

Restriction of private interest in the implementation of the resolution under study also occurs in the case of seizure of property. N. Akhtyrska (2018) & M. Komarova (2018) express the opinion that the provisions of the CPC of Ukraine regulating the grounds and procedure for the seizure of property in the execution of a decision on the search of a person's home or other property clearly require the specification of things, documents, or persons for the pursuit of which it is planned to conduct a search. Therewith, the considered feature of the seizure of property in executing such a resolution is that the legislator, providing for the procedural possibility of seizure, uses the term "things that are relevant for criminal proceedings"[1]. This definition creates an opportunity for procedural abuse because other provisions of the Criminal Procedure Code of Ukraine do not give a clear understanding of what should be attributed to such things. Cases when investigators temporarily seize property when executing a decision are systematic, although, in the future, the investigating judge refuses to seize it since it does not establish its importance for criminal proceedings. Investigators in such a situation are guided solely by their subjectivism, which violates the balance of interests that the legislator should guarantee in this case. It will be more appropriate to use[2] the term "things relevant for establishing circumstances to be proved in criminal proceedings" part 7 of Article 236 of the CPC of Ukraine, and its direct connection with the meaning of Article 91 of the CPC of Ukraine[3], it will make it impossible to take a subjective approach to the issue of temporary seizure of property in such cases.

Ye. Povzyk (2021) determines the proper recording of its individual features not only when obtaining permission from the investigating judge to conduct a search but also when directly conducting this investigative (search) action as another essential component of the implementation of the principle of proportionality in the seizure of property, in particular in the relevant protocol. I. Osypenko & K. Myshasta (2021) draw attention to the fact that it is the investigator, the prosecutor who executes the decision that should examine the evidentiary value of the property that is planned to be seized and check the ownership of the actions of the persons involved in conducting this investigative (search) activity since they, not having information about the pre-trial investigation as a whole, can allow procedural abuses in the context of property seizure.

The need to record not only individual signs of the found objects during the search but also their exact location is indicated by P. Antoniuk & N. Kononenko (2022). If, after the execution of the decision on permission to search a person's home or other property and seize property, it is not recognised as material evidence in criminal proceedings, it is subject to an immediate return to the person from whom it was seized. This also applies to cases when the seizure of property occurred in violation of the requirements of the CPC of Ukraine (Zhmudinsky, 2020). This study can agree with these comments and add that the legislator's wording of the content of Part 7 of Article 236 of the CPC of Ukraine regarding the division of property into "seized" and "temporarily seized" is also ambiguous. In practice, investigators and prosecutors mistakenly believe that if the property is specified in the decision of the investigating judge on permission to search a person's home or other property, then it is seized, and not temporarily seized, and therefore it should not be arrested. This approach creates procedural problems, the consequence of which is an unjustified restriction of a person's rights to the inviolability of housing or other property. For the unification of criminal procedural legislation in this aspect, part 7 of Article 236 of the CPC of Ukraine[4], it is more appropriate to highlight in such a way that all property, except that which is seized from circulation by law, is considered temporarily seized.

Conclusions

The implementation of the principle of proportionality in the execution of a decision on permission to search a person's home or other property is insufficiently ensured from the point of view of legislative regulation, which makes it difficult to ensure the legitimacy of such a procedure on the part of an investigator or prosecutor. All possibilities of abuse of procedural powers by these entities can be resolved by making appropriate amendments to Article 236 of the CPC of Ukraine. This concerns the insufficient settlement of issues related to the seizure of property and the possibility of prompt appeal against the decision on the search permit and

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Ibidem, 2012.
[3] Ibidem, 2012.
[4] Ibidem, 2012.

its execution at the stage of pre-trial investigation by a person whose rights were restricted. However, imperfect legislative regulation of the procedure violates the balance of interests not only in connection with the existing opportunities for abuse by the investigator, prosecutor but also on the part of a person, the right to inviolability of housing or other property was restricted in this way, in particular due to the lack of procedural powers to conduct this investigative (search) action by the Inquirer or operational units on the basis of the investigator's order. This violates the mutual coordination of the inquirer's institutions, operational units, and investigative (search) actions when executing a decision on permission to search a person's home or other property and, therefore, requires a legislative decision. In the context of the Russian-Ukrainian war, the implementation of the principle of proportionality should be conducted by the subjects of the implementation of the resolution. If the legal regulation of this investigative (search) action under the conditions of the legal regime of martial law does not raise additional questions, then cases of procedural abuses may depend on an individual investigator or prosecutor, and, therefore, such actions necessarily require further legal assessment in criminal proceedings. Improvement of legislation and criminal procedural law enforcement regarding the implementation of the principle of proportionality in the implementation of a decision on permission to search a person's home or other property should be conducted considering the needs of modern practice and national and foreign legal doctrine.

Therewith, additional attention should be paid to issues related to the implementation of the principle of proportionality when restricting a person's right to inviolability of housing or other property in connection with the conduct of secret investigative (search) actions, which includes the procedure for granting permission for their implementation by the relevant investigating judge, and the direct implementation of such measures in criminal proceedings. Despite the fact that the restriction of a person's right to inviolability of housing or other property during secret investigative (search) actions is the most substantial measure of restrictions in its content, the study examination of problems of legislative regulation and modern law enforcement of this issue continues to be quite relevant.

Acknowledgements

Special thanks to the Armed Forces of Ukraine for the opportunity to develop the national criminal procedure doctrine in the context of Russian military aggression.

Conflict of Interest

None.

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Аспекти реалізації принципу пропорційності під час виконання ухвали про дозвіл на обшук житла чи іншого володіння особи

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Анотація
Довіра до держави є нагальною проблемою країн Центрально-Східної та Східної Європи. Позаяк побудова між державою і суспільством партнерських стосунків можлива лише за умови дотримання принципу процесуальної справедливості, обмеження права особи на недоторканність житла чи іншого володіння в кримінальному провадженні є однією з нагальних проблем сучасного українського законодавства. Метою роботи є висвітлення окремих законодавчих і правозастосовних аспектів процедури виконання ухвали про дозвіл на обшук житла чи іншого володіння особи, що не узгоджуються з вимогами принципу пропорційності та створюють проблеми для забезпечення розумного балансу приватних і публічних інтересів. Для досягнення мети дослідження використано емпіричні, загальнологічні, евристичні та спеціально-юридичні методи наукового пізнання. Встановлено, що недостатньо врегульовані законодавцем питання, які стосуються визначення суб'єктів, уповноважених на виконання ухвали про дозвіл на обшук житла чи іншого володіння особи, вилучення майна, неможливості оперативного оскарження такого судового рішення, створюють дисбаланс між приватними та публічними інтересами в кримінальному процесі. Узагальнено, що обмеження прав під час виконання ухвали про дозвіл на обшук житла чи іншого володіння особи не може бути здійснено у випадку, якщо засоби обмеження не є співмірними з метою, яку слідчий, прокурор прагне досягти. Змодельовано процесуальну ситуацію, у якій принцип пропорційності може бути порушено на користь не тільки публічного інтересу, а й приватного, що дало змогу окреслити можливості для потенційних зловживань особою, право якої обмежили. Проаналізовано особливості виконання такої ухвали в умовах воєнного стану та висвітлено критерії, дотримання яких сприятиме реалізації принципу пропорційності. Запропоновано рекомендації щодо розв'язання окреслених вище проблем. Результати дослідження стануть у нагоді не тільки для вдосконалення відповідних положень КПК України та слідчої практики, вони засвідчили можливість розроблення додаткових гарантій легітимного обмеження низки інших, гарантованих Конституцією України прав під час виконання ухвали про дозвіл на обшук житла чи іншого володіння особи в кримінальному провадженні

Ключові слова:
баланс інтересів; дізнавач; досудове розслідування; права особи; правозастосування; прокурор; слідчий

ЮРИДИЧНИЙ ЧАСОПИС
НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ

Науковий журнал

Том 13, № 4, 2023

Заснований 2011 року. Виходить чотири рази на рік

Оригінал-макет видання виготовлено у відділі підготовки навчально-наукових видань
Національної академії внутрішніх справ

Відповідальний редактор:
О. Короткий

Редагування англомовних текстів:
К. Касьянов, Є. Заворотько

Комп'ютерна верстка:
О. Глінченко

Підписано до друку 29 грудня 2023 р. Формат 60*84/8
Умов. друк. арк. 9,8
Наклад 50 прим.

Адреса видавництва:
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LAW JOURNAL
OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS

Scientific Journal

Volume 13, No. 4, 2023

Founded in 2011. Published four times per year

The original layout of the publication is made in the Department of Preparation of Educational and Scientific Publications of National Academy of Internal Affairs

Managing Editor:
O. Korotkyi

Editing English-language texts:
K. Kasianov, Ye. Zavorotko

Desktop publishing:
O. Glinchenko

Signed for print of December 29, 2023. Format 60*84/8
Conventional printed pages 9.8
Circulation 50 copies

Editors office address:
National Academy of Internal Affairs
03035, 1 Solomianska Sq., Kyiv, Ukraine
Tel.: +38 (044) 520-08-47
E-mail: info@lawjournal.com.ua
www: https://lawjournal.com.ua/en