

ppi 201502ZU4645

Publicación científica en formato digital

ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185

Depósito legal pp 197402ZU34

# CUESTIONES POLÍTICAS

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



Vol.40

N° 74

2022

# Considerations on the reform of Ukraine's wartime criminal justice system

DOI: <https://doi.org/10.46398/cuestpol.4074.43>

*Valentyna Drozd* \*  
*Maksym Tsutskiridze* \*\*  
*Vladyslav Burlaka* \*\*\*  
*Maksym Romanov* \*\*\*\*  
*Mykola Pohoretskyi* \*\*\*\*\*

## Abstract

The purpose of the article was to consider the main development trends in certain elements of the criminal justice system, which were integrated due to Russia's large-scale attack on the sovereign territories of Ukraine. The subject of the article is the institution of the reform of the Ukrainian criminal justice system. The legal bases ensuring the functioning of criminal justice institutions (in particular, the investigative bodies) are examined and the corresponding conceptual and categorical apparatus is analyzed. A review of selected elements of the criminal justice system during the war is conducted. The influence and significance of Ukraine's acquisition of EU candidate membership status on the functioning of certain elements of the criminal justice system is clarified. Finally, the content and essence of the main requirements of the EU to Ukraine, which can be the basis for conducting negotiations on the issue of Ukraine's final accession to the organization, are characterized. In the conclusions, directions and methods of reforming certain elements of the criminal justice system in the conditions of large-scale invasion are described.

**Keywords:** criminal justice; European integration; criminal punishment; martial law; justice in wartime conditions.

\* Doctor of Law, Professor, Honored lawyer of Ukraine, Head of the 3<sup>rd</sup> Research Department of Research laboratory of legal and organizational problems ensuring the activities of the Ministry State Research Institute of the Ministry of Internal Affairs of Ukraine (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0000-0002-7687-7138>

\*\* Doctor of Law, Assistant Professor, Honored Lawyer of Ukraine, Police general of the 3<sup>rd</sup> rank, Deputy Chief of the National Police of Ukraine – Chief of the Main pre-trial proceedings Department (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0000-0002-5880-8542>

\*\*\* Ph.D in Law, Police colonel, Head of unit The Main pre-trial proceedings Department of the National police of Ukraine (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0000-0003-1824-4380>

\*\*\*\* Police major, Research officer of the research laboratory on problems of prevention of criminal offenses of Faculty № 3 of the Donetsk State University of Internal Affairs (Kropyvnytskyi, Ukraine). ORCID ID: <https://orcid.org/0000-0003-2443-7744>

\*\*\*\*\* PhD in Law, Senior Researcher of the Scientific Institute of Public Law (Kyiv, Ukraine). ORCID ID: <https://orcid.org/0000-0003-2888-0911>

## Consideraciones sobre la reforma del sistema de justicia penal de Ucrania en tiempos de guerra

### Resumen

El propósito del artículo fue considerar las principales tendencias de desarrollo en ciertos elementos del sistema de justicia penal, que se integraron debido al ataque a gran escala de Rusia contra los territorios soberanos de Ucrania. El tema del artículo es la institución de la reforma del sistema de justicia penal de Ucrania. Se examinan las bases jurídicas que aseguran el funcionamiento de las instituciones de justicia penal (en particular, los órganos de instrucción) y se analiza el aparato conceptual y categorial correspondiente. Se realiza una revisión de elementos seleccionados del sistema de justicia penal durante la guerra. Se aclara la influencia y la importancia de la adquisición por parte de Ucrania del estatus de candidato a miembro de la UE en el funcionamiento de ciertos elementos del sistema de justicia penal. Finalmente, se caracterizan el contenido y la esencia de los principales requisitos de la UE a Ucrania, que pueden ser la base para llevar a cabo negociaciones sobre el tema de la adhesión definitiva de Ucrania a la organización. En las conclusiones, se describen las direcciones y métodos para reformar ciertos elementos del sistema de justicia penal en las condiciones de la invasión a gran escala.

**Palabras clave:** justicia penal; integración europea; sanción penal; ley marcial, justicia en condiciones de guerra.

### Introduction

The institutional capacity to protect the rights and freedoms of a person and a citizen is one of the most important directions in State development in general, and acts as an essential organizational and structural vector in the criminal justice system, in particular. The active phase of Russia's full-scale invasion and military aggression against Ukraine, which began as a result of an insidious attack by enemy troops in February 2022, had a significant negative impact on the functioning of all State institutions, threatening the lives and health of people, the stable functioning of economic mechanisms, and the social existence of society (Kharytonov *et al.*, 2021) and somewhere stopped the law operation altogether, and to this day leads to blatant and systematic violations of human rights, in particular in the temporarily occupied territories. Accordingly, in wartime conditions, the activities of law enforcement agencies must also change. First of all, it concerns their powers and effectiveness of activities in such conditions.

The National Police of Ukraine is at the forefront of the fight against the occupying forces and, within the limits of its competence, systematically participates not only in ensuring the criminal and administrative liability of persons guilty of offenses, but also performs other functions related to humanitarian areas, protection and security of both civil and service infrastructure or individuals. Among others, in our opinion, one of the most important and complex tasks is performed by the pre-trial investigation bodies of the National Police of Ukraine – inquiry and investigative units, the activities of which are a fragment of the criminal justice system and are correlated with national interests.

For example, during 5 months (the end of February – June 2022), investigators of the National Police of Ukraine investigated almost 982,000 criminal proceedings, of which almost 128,000 were directly initiated during the specified period. The materials in almost 15,000 criminal proceedings were sent to the court during the specified period, which is almost 12,000 less than last year, in this period (27,000). This is logically justified by the full-scale invasion of Russian troops into the territory of Ukraine, as a result of which the territories of the Donetsk, Luhansk, Kherson, Zaporizhzhia, and Kharkiv regions were partially occupied (in the first months of the war, separate administrative and territorial units of the Kyiv, Chernihiv, and Sumy regions were also partially occupied).

All this fundamentally negatively affected the functioning of the pre-trial investigation bodies of the National Police of Ukraine, taking into account the fact that the relevant investigative and inquiry units continued to perform their duties and exercise procedural rights and powers even in conditions of semi-encirclement of territorial units, as well as in cities, which were (and still are) filled with internally displaced persons.

Under appropriate conditions, the legislative base was also promptly and systematically improved. So, for example, articles 185 (Theft), 186 (Robbery), 187 (Brigandism), and 189 (Extortion) were supplemented with new special qualifying features “whether under conditions of war or emergency”, which automatically penalized (increased criminal liability) for their commission in wartime conditions. It should also be emphasized that in five months, starting from February 24, 2022, a pre-trial investigation of more than 15,000 criminal proceedings was initiated: thefts – slightly more than 12,000, robberies – more than 500, brigandism – more than 200.

We focus on other already introduced changes, their nature and the need for further improvement based on the first results of law enforcement in one of the paragraphs of the corresponding study. While, in our opinion, it is impossible to ignore the effect of the criminal justice system in the conditions of war, through the prism of a new status for Ukraine – a candidate for membership of the European Union. This fundamentally changes the legal status of some institutions, the operation of certain

legal norms, and also, according to the recommendations provided by the European Parliament, necessitates complex changes in the legislation of Ukraine, which influences law enforcement agencies and the functioning of the pre-trial investigation system, in particular, in terms of prosecution of persons guilty of war crimes.

That is why this issue needs a deeper study through the prism of the Europeanization of national legislation in the light of obtaining the status of a candidate for membership of the European Union and the correlation of the relevant requirements with the realities of martial law and the possibilities of Ukrainian democracy.

The article aims to analyze the scientific views of researchers and scientists, legislative acts of Ukraine and the European Union, as well as international legislation in general, regarding the functioning of the criminal justice system according to the European model and ways to optimize it in conditions of active hostilities. This aim requires solving several research tasks, among which, in particular: to carry out a general overview of the functioning of the criminal justice system in wartime conditions, to determine the main tendencies of pre-trial investigation, as well as to establish risks and dangers in the relevant process; to characterize the influence and significance of the fact that Ukraine has acquired the status of a candidate for membership of the European Union on the functioning of the pre-trial investigation system as an element of the criminal justice system; to make an attempt to outline directions and ways of reforming the criminal justice system in general and pre-trial investigation in particular, in the conditions of the large-scale invasion of Russia and the operation of the legal regime of martial law.

## **1. Methodology**

During the research, such general scientific and special scientific methods were used: formal logic – for the detailed implementation of the assigned tasks to establish ways of reforming the elements of the criminal justice system of Ukraine in the conditions of martial law and in connection with the acquisition of the status of the candidate for membership of the European Union, description – for the determination of general theoretical and purely legal categories characterizing the criminal justice institution in general, as well as pre-trial investigation as its fragment, as well as categories related in the context of the research subject and within its object, comparative legal method – during the analysis of administrative and international legal, as well as criminal procedural norms and scientific provisions relating to the researched issues; dogmatic method – for the interpretation of the main legal categories and clarification of the conceptual and categorical research apparatus.

The object of this study is public relations in the field of criminal justice in Ukraine. The subject of the study is the system of pre-trial investigation as an element of criminal justice through the prism of the Europeanization of legislation in wartime conditions.

## 2. Literature Review

Taking into account the multidisciplinary nature of the subject of research, it should be noted that the issue of pre-trial investigation in the conditions of the legal regime of martial law was highlighted in the works by Hloviuk *et al.*, (2022) and other co-authors of the scientific and practical commentary on Section IX-1 of the Criminal Procedure Code of Ukraine «Special regime of pre-trial investigation, trial in conditions of martial law». Besides, one of the co-authors Teteriatnyk (2021) considered the relevant issue within the scope of her own doctoral dissertation research on the topic «Criminal proceedings in conditions of emergency legal regimes: theoretical and methodological and praxeological foundations».

It should be noted that the personal contribution of Lazareva (2018) regarding the definition of the general structure of the mechanism of detention by an authorized official in the criminal process of Ukraine (monographic level), which provided a substantial theoretical basis for deepening the relevant aspect of the outlined topic, as well as the work by Udalova (2005), which is directly related to the main fundamental problems of science and the field of criminal procedure.

International researchers also did not ignore the relevant topic in general and the difficulties in the work of the mechanisms of bringing to criminal responsibility the persons guilty of committing the relevant offenses, the work by Devi and Fryer (2020) regarding the organizational and procedural aspects of bringing to criminal responsibility Brazilian criminal organizations as transnational actors of violence, including in the context of armed conflicts, and Borch (2001) concerning the characteristics and level of functioning of the institute for the protection of the rights and freedoms of persons taking or participating in hostilities, in particular the examples of Vietnam, Haiti and others.

In general, these works fragmentarily and in general characterize the relevance of the outlined scientific publication, however, taking into account the full-scale war started by Russia on the sovereign territory of Ukraine, there are current and fundamental problems in law enforcement that require scientific study.

### **3. Results and Discussion**

#### **3.1. An overview of pretrial investigation mechanism as part of the criminal justice system in war**

It should be stressed that Russia's invasion of Ukraine has made the functioning of the entire criminal justice system extremely difficult, whose major aim is to set up a process to prosecute those who had committed criminal acts. This process is always accompanied by a symbiote mechanism to protect rights and freedoms of suspects or persons who have allegedly committed an offence. This further requires the engagement of both judicial institutions and defense lawyers, and the activities of other non-institutional units.

Temporary occupation of certain territories of Ukraine had significantly and adversely impacted police responses to committed criminal offenses, made judicial control over the activities of certain subjects of the criminal process impossible, and posed serious threat to the human and citizen rights and freedoms.

Herewith, the Constitution of Ukraine determines that the individual, his or her life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value, human rights and freedoms and their guarantees shape the essence and orientation of the State's activities. The state is responsible to the people for its activities. Affirming and ensuring human rights and freedoms is the fundamental obligation of the State (Constitution of Ukraine, 1996), and when there is significant and massive violation of the rights and freedoms of Ukrainian citizens, in particular in the temporarily occupied territories, the basic fundamental processes to enhance human and citizen rights and freedoms need to be updated.

One of such processes, the most effective as we believe, is criminal prosecution for committed criminal offenses, which provides a punishment proportional to the committed crime and a relevant social effect when it is exercised.

The Criminal Procedure Code of Ukraine contains a number of provisions that regulate pre-trial investigation and court proceedings and follow clear and transparent 'rules', which are solid and the only for all its participants. Herewith, Article 615 of the Code sets a special routine for criminal proceedings during war, which makes some procedures and processes in the pre-trial investigation much easier and as efficient as possible, taking into account that the rights and freedoms of humans and citizens (who are participants in criminal proceedings) may be greatly reduced (Criminal Procedure Code of Ukraine, 2012).

In our opinion, the introduction into the national legislation of mechanisms to facilitate pre-trial investigation in certain cases, in particular related to the conduct of investigative (search) activities, respond to committed criminal offenses etc., is needed due to the long-term nature of activity prescribed by a certain procedure and the inability to carry out certain actions (make a relevant decision) later.

Hloviuk, Teteriatnyk, Rohalska, Zavtur emphasize that the background driver for the criminal proceedings during emergency legal status is the specifics of the regulatory control of this process. Together with the regulations that are commonly used to regulate legal relations during normal life, the regulatory component of legal regulation shall also include emergency laws. They shall provide both specific means and mechanisms for the legal regulation and be of special nature in terms of territorial extent, time and scope of persons (Hloviuk *et al.*, 2022).

We believe, such circumstances primarily include a number of factors, where the most significant are as follows: increase of certain types of crime; weakened capacity of the police to respond to committed criminal offenses (in particular, in the occupied territories); failure to actually exercise judicial, public control and prosecutorial supervision over the activities of the prosecuting party (investigator, prosecutor) due to active hostilities or occupation.

Due to blatant aggression of russia, a number of new offenses were added to the Criminal Code of Ukraine, which are enforceable only during wartime, in particular article 201-2 (Illegal use of humanitarian aid, charitable donations or free aid for profit) (Criminal Code of Ukraine, 2001), which sets liability for the large-scale selling of goods (items) of humanitarian aid or the use of charitable donations for the purpose of profit.

The Criminal Code of Ukraine has also been supplemented with some new offenses to timely and effectively response to all 'fascist'-related activity by the rf, in particular articles 111-1 (Collaborative activity), 111-2 (Assistance to the aggressor state), 114-2 (Unauthorized publicity about the movement of weapons, armaments and military supplies to Ukraine, the movement, transfer or placement of the Armed Forces of Ukraine or other army units formed as per Ukrainian law, committed in state of war or emergency) (Criminal Code of Ukraine, 2001).

These changes and few others were initiated by the Committee on Law Enforcement of the Verkhovna Rada of Ukraine from the suggestions of the Main Investigative Department of the National Police of Ukraine, since effective addressing unlawful actions and anti-State activities by individuals, including support for the aggressor, in particular, through unauthorized publication of information about the location of the Ukrainian army and its units, is one of the most important and fundamental factors for Ukraine's victory.



Having statistics about the performance of the pre-trial investigation agency of the National Police of Ukraine in wartime and comparing it with the pre-war figures for the same period last year is an unbiased approach to measure the performance of the relevant units, their coherent and coordinated work. This is also supported by domestic researchers who emphasize that the police should utilize procedures and mechanisms that do not allow manipulations with the performance indicators of its staff and units in general (Molchanov, 2014).

So far, investigators of the National Police of Ukraine have registered over fourteen thousand nine hundred criminal proceedings on war crimes and other serious crimes against Ukrainians and Ukraine committed by Russian troops on the territory of the State during the five months of wartime announced according to the law. When we have a more extensive look at how the national police ranks war crimes committed by it, it should be emphasized that the vast majority of criminal proceedings were initiated under Article 438 (Violation of the laws and customs of war) of the Criminal Code of Ukraine and Article 110 (Encroachment on Ukraine's territorial integrity and inviolability), which is 95% of all registered war crimes (total – 14,970, of which 10,612 cases fall under Article 438 of the Criminal Code of Ukraine; 3,678 – under Article 110 of the Criminal Code of Ukraine).

We believe, amid the flurry of introduced changes, we should draw particular attention, for example, to the Law of Ukraine dated April 14, 2022 No. 2201-IX that has conceptually changed Article 615 of the Criminal Code of Ukraine on how to conduct pre-trial investigation during martial law. The main provisions of this Law of Ukraine include, in particular:

- It is now impossible to declare evidence inadmissible, which was gained in accordance with Article 615 of the Criminal Procedure Code of Ukraine (amendments to Article 87 (Inadmissibility of evidence obtained as a result of a significant violation of human rights and freedoms)).
- It is stated that the statements collected during a pre-trial investigation in a court session in accordance with Article 225 (Interrogation of a witness, a victim during a pre-trial investigation in a court session) of the Criminal Procedure Code of Ukraine must be acknowledged by the court when making a decision (Article 95 (Statements)).
- It shall be possible to revive a missed deadline in criminal proceedings taking into account specifics defined by Article 615 of the Criminal Procedure Code of Ukraine, not later than 60 days from the date of termination or cancellation of the status of war or emergency (Article 117 (Revival of the procedural deadline)).

- It is now impossible to manipulate the deadlines governing the conduct of pre-trial investigation by not allowing the investigating judge in criminal proceedings to cancel the decision on their termination in accordance with Article 615 of the Criminal Procedure Code of Ukraine (amendments to Article 219 (Deadlines of the pre-trial investigation)).
- Provisions of the Criminal Procedural Code of Ukraine regarding the suspension of criminal proceedings have been legally fixed and a new ground for suspension has been added, which is availability of objective factors that do not allow to continue pre-trial investigation in the status of war or emergency (Article 280 (Grounds and procedure to terminate pre-trial investigation when the suspicion have already been reported to an individual)).
- Accordingly, a new ground was added which allows to resume pre-trial investigation when the status war or emergency was terminated or cancelled, or it became possible to continue pre-trial investigation during such status (Article 282 (Resumption of the pre-trial investigation)).
- It became possible to suspend court proceedings if an individual was drafted for military service during mobilization (Article 335 (Suspension of Court Proceedings)).

A new version of Article 615 of the Criminal Procedure Code of Ukraine authorizes, in exceptional cases, to choose detention as a preventive measure, for a period of up to 30 days, for individuals suspected of committing grave or particularly grave offences. It is carried out by the head of the relevant prosecutor's office at the request of the prosecutor or at the request of the investigator, finalized by the prosecutor.

If there are well-grounded circumstances that suggest that an individual suspected of committing a crime may escape to avoid criminal liability, an authorized official may detain such individual without a judgement of an investigating judge or a court, or a judgement of the head of the prosecutor's office.

Herewith, this Law of Ukraine, as well as other statutory instruments poorly regulate a number of issues related to the legal framework of certain aspects of pre-trial investigation, which may further lead to that the collected evidence will be recognized as inadmissible, or that the actions of the pretrial investigation staff will be more likely recognized as illegal. Therefore, we believe these issues of concern require strong academic research and further improvement of regulatory and legal acts both at local and national levels.

### **3.2. On the jurisdiction of war crimes made in war and ensuring prompt, exhaustive and unbiased pre-trial investigation**

When investigators conduct relevant activities, the main concern for them is to timely forward the materials of criminal proceedings to the pre-trial investigation agency, which, according to part two of Article 216 (Prosecution) of the Criminal Procedure Code of Ukraine, is authorized to carry out pre-trial investigation of relevant criminal offenses, and is the Security Service of Ukraine.

Knowing that the collection of evidence, documenting of circumstances of the war crimes and identification of the guilty persons needs to be done immediately and within the jurisdiction of the relevant units of the Security Service of Ukraine, as well as that it is impossible for systemic reasons to make a repeated visit to the scene of the incident, repeatedly or additionally interrogate individuals, victims and suspects, as well as witnesses and other objective circumstances that require a number of 'urgent' investigative (search) actions by the National Police of Ukraine, it is necessary to immediately apply to the prosecutor to change the jurisdiction and forward available materials of the criminal proceedings, since the case law shows there is a high risk that the evidence collected in criminal proceedings by improper subjects will be recognized incompetent.

At that, the Criminal Court of Cassation as part of the Supreme Court in its decision, cases dated 28.04.2021 No. 759/833/18 (Resolution of the Supreme Court, 2021) and dated 24.05.2021 No. 640/5023/19 (Resolution of the Supreme Court, 2021) wrote that evidence will be recognized inadmissible if it was obtained by an unauthorized body and in case of violation of the jurisdiction rules.

Under the marital law and an objective need, involvement of an investigative-operational group of the National Police of Ukraine and an investigator as the subject of the pre-trial investigation into the documenting of relevant criminal offenses was regulated and optimized by making changes to Article 39 (Head of the pre-trial investigation unit) of the Criminal Procedure Code, by expanding the authorities of the head of the pre-trial investigation unit with the right to form interdepartmental investigative groups and to appoint a senior investigator within such groups.

At the same time, attention should also be paid to the criminal offenses that were committed by rf's servicemen or mercenaries in civilian (unidentified) clothes, that makes the evidencing processes and the procedure for primary ranking of relevant illegal actions more complicated and requires certain investigative (search) actions to identify the offender, and when the offender's affiliation to rf armed units was established, amend the charges and transfer it to the Security Service of Ukraine in accordance with the procedure established by Ukrainian law.

Here we should note that the National Police of Ukraine has started a pre-trial investigation of proven and probable criminal offenses committed by rf soldiers, members of their sabotage and intelligence groups and private military campaigns, on 14 assaults, 97 robberies, 65 armed attacks, 643 cases of illegal handling of weapons, ammunition or explosives.

From the perspective of the criminal procedural legislation of Ukraine, such acts by pre-trial investigation officials are in line with the regulations and principles, since part ten of Article 216 of the Criminal Procedure Code of Ukraine says that if pre-trial investigation reveals other criminal offenses committed by an individual being the subject of the ongoing pre-trial investigation, or by other individual, where they are related to criminal offenses committed by an individual being the subject of the ongoing pre-trial investigation, and such offences are not under the jurisdiction of the agency conducting the pre-trial investigation in criminal proceedings, the prosecutor supervising the pre-trial investigation shall, where it is impossible to separate such materials into a separate proceeding, define the jurisdiction of all such criminal offenses in its resolution.

At the same time, we believe, a number of technical changes need to be introduced to the Criminal Procedural Code of Ukraine, which, together with the institutional and legal framework to address committed criminal offenses (regarding the performance of investigative and operational units of the National Police of Ukraine), will enable and expand the list of possible investigative (search) actions and allow to make procedural decisions without the risk of them being recognized unlawful in the future for the purpose of effective and timely documentation of criminal activities committed by rf's servicemen and preventing their evasion of criminal liability.

### **3.3. On detention by an authorized official (in view of the changes introduced by the Law of Ukraine dated April 14, 2022 No. 2201-IX 'On Amendments to the Criminal Procedural Code of Ukraine to improve procedure for criminal proceedings in wartime' (effective from 01.05.2022))**

Today, the most controversial issue in the legal community is the one to extend the time of detention of an individual without a judgement of the investigating judge, a court or the order of the head of the prosecutor's office during martial law and such time may not exceed two hundred and sixteen hours (9 days) from the moment of detention, which is set by Article 209 (Moment of detention) of the Criminal Procedure Code of Ukraine.

This provision is the subject of much debate in the legal community, in particular, that it contradicts the Constitution of Ukraine, since, as human rights defenders say, it greatly limits human and citizen rights and freedoms

and is not sufficiently justified and proportionate to the public threat of the offender, which is hard to agree with considering the objective factors.

Surely, it is important to objectively assess all factors during the pre-trial investigation and determine whether it is necessary or not to detain a person without a judgement of the investigating judge for up to 9 days. Other researchers also speak of this.

For example, Lazareva emphasizes that there is no doubt among academics and practitioners that the procedure to detain a person suspected of committing a crime by an authorized body shall fall under criminal procedural regulation. Recognition of the procedural nature of detention by an authorized official raises the need to define its essence as a criminal procedural institution (Lazareva, 2018). The importance of the institution of detention and the need to ensure its proper legal regulation and protection of the rights and freedoms of the detainee are also covered by V. Rohalska and other authors of the Detention in Criminal Proceedings study guide (Fedchenko, 2021), which, as we believe, raises the issue of evaluating the risk when this measure is utilized by authorized subjects illegally but within the formal legitimacy in accordance with the Criminal Procedure Code of Ukraine.

The Constitution of Ukraine stipulates that in case of urgent need to prevent or stop a crime, authorized agencies may use detention of a person as a temporary preventive measure, herewith a court has to verify the relevance of such measure within seventy-two hours. A detained person shall be immediately released if, within seventy-two hours from the moment of detention, he or she was not served a reasoned court decision on detention (Constitution of Ukraine, 1996).

This provision shall be the mainline and the starting point, underlying the entire national legislation that deals with this issue. Herewith, such provision on the detention by an authorized official appeared in the Criminal Procedure Code of Ukraine due to some objective reasons when it is actually impossible to bring a relevant person to court and verify whether his or her detention was reasonable.

Legal uncertainty in this issue has a bad effect, primarily, for the evidencing process, as well as has a high risk that all evidence collected as a result of such detention will be found inadmissible and will further not allow to prosecute offenders, including Russian army men.

**3.4. On determining territorial jurisdiction and ensure the judiciary's proper serving (in view of changes introduced by the Law of Ukraine dated March 3, 2022 No. 2112-IX 'On amendments to part seven of Article 147 of the Law of Ukraine 'On the Judiciary and the Status of Judges' regarding the determining of territorial jurisdiction of court cases' (effective from 07.03.2022))**

Another fundamental change is determining territorial jurisdiction during martial law, which shall be there where the pre-trial investigation was finished, and before that – where the crime was committed (part nine of Article 615 of the Criminal Procedure Code of Ukraine).

One of the basic pillars of the functioning of the courts on the territory of Ukraine, which are authorized to administer justice on behalf of Ukraine, is the category and principle of territorial jurisdiction, which is also a component of the check-and-balance system and a guarantee of justice, as well as the mechanism for the access to justice for all citizens without exception, and in the pre-trial investigation, it directly affects whether certain investigative (search) actions, which require investigating judge's authorization, may be implemented.

V. Bibilo notes that the competence of the court actually represents its legal function, i.e. the rights and liabilities to fulfill it (Bibilo, 2001). Thus, it is emphasized that the issue of territorial jurisdiction during any time, and in particular during active hostilities, required a profound revision of how relevant arrangements are organized, since it is impossible to objectively administer justice in such area.

In addition, M. Smokovich stresses that ensuring the administration of justice by courts and allowing real access to justice, especially during the martial law, is a complex multilayer issue that involves a wide range of measures and tools (Smokovich, 2022). Which, we think is fair, since the stability and fine functioning of all judicial institutions, without exception, is, primarily, the prerequisite for democracy and the rule of law in all states of the civilized world.

Herewith, we shall stress that the actual scope of the territorial jurisdiction of the courts, separation of duties between them are set by the orders of the Chairman of the Supreme Court, who defines the actual scope of the territorial jurisdiction of the judicial branch, and provides argumentation that serves the basis to declare inability to administer justice in a certain territory and defines how this issue shall be addressed. Speaking about the pre-trial investigation, this issue links with the activity of investigating judges, who, together with the court where they do public service, shall be relocated due to inability to exercise their powers.

In view of that, the orders of the Chairman of the Supreme Court 'On changing the territorial jurisdiction of court cases during war' dated 06.03.2022 No. 1/0/9-22 (regarding certain courts in Donetsk, Kyiv, Luhansk, Kherson regions); dated 08.03.2022 No. 2/0/9-22 (regarding certain courts in Kharkiv and Chernihiv regions); dated 10.03.2022 No. 4/0/9-22 (regarding certain courts in Zhytomyr, Zaporizhzhia and Kharkiv regions); dated 12.03.2022 No. 5/0/9-22 (regarding certain courts in Zaporizhzhia region); dated 14.03.2022 No. 7/0/9-22 (regarding certain courts in Donetsk, Zaporizhzhia and Kharkiv regions); dated 15.03.2022 No. 8/0/9-22 (regarding Kramatorsk City Court in Donetsk region); dated 16.03.2022 No. 10/0/9-22 (regarding suspension of the order dated 16.03.2022 No. 9/0/9-22, change of the territorial jurisdiction of court cases during war in certain courts of Mykolaiv and Kharkiv regions); dated 18.03.2022 No. 11/0/9-22 (regarding certain courts in Donetsk, Kharkiv and Kherson regions); dated 22.03.2022 No. 12/0/9-22 (regarding commercial courts of Mykolaiv, Sumy and Chernihiv regions); dated 22.03.2022 No. 13/0/9-22 (regarding individual courts of the Sumy region), depending on the intensity and nature of hostilities within certain administrative-territorial entities, the rules of territorial jurisdiction are changed ad hoc, since there is a need to ensure that the justice is implemented and human and citizen rights and freedoms are observed on the territory of Ukraine, and the above narratives are also supported.

We find such changes have greatly simplified the communications between investigating judges and investigators (prosecutors), in particular, during pre-trial investigation of war-related criminal offenses and violations of the rules and customs of war. Further, amendments to the content and essence of the institution of territorial jurisdiction allowed to proceed with pre-trial investigation in those criminal offenses where relevant procedural deadlines were about to expire. Introduction of relevant amendments to the Criminal Procedure Code of Ukraine has also guaranteed that all suspects, victims and other participants in the criminal process will have the rights to defense, a fair trial, an unbiased pre-trial investigation and other rights prescribed by the Constitution of Ukraine.

**3.5. On cooperation with the International Criminal Court regarding the broadening of its jurisdiction to rf's army officials (in view of changes introduced by the Law of Ukraine dated May 3, 2022 No. 2236-IX 'On Amendments to the Criminal Procedure Code of Ukraine and other legislative acts of Ukraine regarding cooperation with the International Criminal Court' (effective from 20.05.2022))**

We believe that another revolutionary change, along with the territorial jurisdiction, is that the Criminal Procedure Code of Ukraine



was complemented with a new IX<sup>2</sup> section ‘Specifics of cooperation with the International Criminal Court’, whose provisions cover only cooperation with the International Criminal Court with the aim to expand its jurisdiction to rf’s military officials, despite the fact that the Rome Statute has not yet been ratified by the Verkhovna Rada of Ukraine.

The Constitution of Ukraine states that Ukraine may accept the jurisdiction of the International Criminal Court under the terms set out by the Rome Statute of the International Criminal Court, which was adopted by the Verkhovna Rada of Ukraine on July 17, 1998, but has not yet been ratified.

T. Sadova draws attention to the fact that Ukraine, being an independent self-sustained country, shall have legislation that would meet international standards with respect to grave international crimes. Implementation by Ukraine of the legal elements of the crime as defined in the Rome Statute is of special significance, since the International Criminal Court does not encroach upon the sovereignty of states when carrying out its activities, but only complements national criminal judiciary (Sadova, 2019), which in light of the full-scale Russia’s armed aggression dictates the need to speed up the harmonization of Ukrainian and international legislation.

At the same time, a decision to ratify the Rome Statute may be adopted successfully if domestic criminal law is aligned with its basic provisions and they do not contradict each other, which guarantees effective international criminal justice for crimes committed on the territory of Ukraine. Ratification by the Verkhovna Rada of Ukraine of the Rome Statute of the International Criminal Court is a political and legal act, which will bring along some consequences in criminological security.

We believe, existing and possible (forecasted, planned) criminogenic risks and elements of policy repelling armed aggression, anti-terrorist policy and future reintegration of currently temporarily occupied territories, shall be taken into account. An important factor when adopting a ratification decision.

According to Part 3 of Article 89 of the Regulations of the Verkhovna Rada of Ukraine, as well as Part 6 of Article 9 of the Law of Ukraine ‘On International Treaties of Ukraine’, only the President of Ukraine and the Cabinet of Ministers of Ukraine have the exclusive right of legislative initiative to ratify international treaties by Ukraine.

Herewith, we note that the Constitutional Court of Ukraine in its conclusion dated 11.07.2001 No. 3-B/2001 (Rome Statute case) (Conclusion of the Constitutional Court of Ukraine, 2001) recognized the Rome Statute of the International Criminal Court, signed on behalf of Ukraine on January 20, 2000, which was submitted to the Verkhovna Rada of Ukraine to accept it as binding, inconsistent with the Constitution of Ukraine in the part that



covers the provisions of paragraph ten of the preamble and Article 1 of the Statute which say that 'the International Criminal Court ... complements national criminal justice system.'

In justifying their opinion, the Constitutional Court of Ukraine stated that, in accordance with Part 1 of Article 124 of the Constitution of Ukraine, justice in Ukraine is administered only by the courts. These include the Constitutional Court of Ukraine and courts of general jurisdiction (Part 3 of Article 124). The system of courts of general jurisdiction in Ukraine includes: the Supreme Court of Ukraine, which is the highest judicial body in the system of courts of general jurisdiction, higher specialized courts, courts of appeal and local courts (Parts 2–4 of Article 125 of the Constitution of Ukraine).

Article 1 of the ICC Statute, which states that the International Criminal Court is a permanent agency authorized to exercise jurisdiction over persons responsible for the gravest crimes that raise concern to the international community, also says that this Court complements national criminal justice system (The Rome Statute of the International Criminal Court, 1998).

A similar provision is also found in paragraph ten of the preamble of the ICC Statute. It is also pinpointed in some other articles of the ICC Statute, in particular in paragraph 2 of article 4 stating that the Court may exercise its functions and powers on the territory of any member state, in subparagraph 'a' of paragraph 1, article 17, which says that the Court takes over the cases both at the request of a member state and on its own initiative, when the state whose jurisdiction covers a person suspected of committing a crime envisaged in the Statute 'is unwilling or unable to conduct an investigation or initiate a criminal prosecution in a proper manner', which has currently been demonstrated by the court in the context of Russia's hostilities against Ukraine (Krasnitsky, 2022).

We believe that the above-mentioned legal basis contrasts the International Criminal Court to the other international judicial agencies, in particular, the European Court of Human Rights, with the right to appeal to them to seek protection of rights and freedoms regularized in part four Article 55 of the Constitution of Ukraine. These international judicial agencies initiate proceedings only at the request of eligible applicants who have exhausted all domestic remedies. Therefore, unlike the international judicial agencies mentioned in part 4 of Article 55 of the Constitution of Ukraine, which by their nature play auxiliary role in protecting human and citizen rights and freedoms, the International Criminal Court complements the national judicial system.

Amendments to Article 124 of the Constitution of Ukraine made in 2016 state that Ukraine may recognize the jurisdiction of the International Criminal Court subject to the conditions laid down in the Rome Statute of

the International Criminal Court. Thus, this drives the conclusion that the ICC may already take over (initiate) cases of Ukraine.

Herewith, our opinion is that it is absolutely necessary to ratify the Rome Statute of the International Criminal Court, so that aggressors from rf who started a war of aggression against independent Ukraine were brought to justice in a proper manner. Upon ratification, provisions of the current Criminal Code of Ukraine need to be harmonized with the Rome Statute, for example:

1. The Criminal Code of Ukraine will need to be supplemented with new offenses, since it does not contain the exhaustive list of crimes available in the Rome Statute (it has only one article 438 (Violations of the Laws and Customs of War), which creates liability for such crimes, and absolutely has no such category of crimes as crimes against humanity (Article 7 of the Rome Statute), war crimes (Article 8 of the Rome Statute) and etc.

Article 437 of the Criminal Code of Ukraine, which envisages responsibility for the aggressive war, is more narrowly construed than Article 8 in the Rome Statute regarding the crime of aggression. The situation with the crime of genocide is the same (Article 442 of the Criminal Code of Ukraine; Article 6 of the Rome Statute).

Also, the Criminal Code of Ukraine does not list all types of fellowship in crimes stated in the Rome Statute. The approach laid in the Criminal Code of Ukraine to punishments for the acts that the Rome Statute considers as international crimes is inconsistent and does not meet the standards of the Rome Statute.

The International Criminal Court is complementary to the national justice system and only complements it when the State cannot prosecute criminals by itself. Law enforcement and judicial bodies of Ukraine currently have no actual opportunity to classify crimes in accordance with the Rome Statute.

2. Even with the amendments introduced by the aforementioned Law of Ukraine, the Criminal Procedure Code of Ukraine does not ensure proper functioning of mechanisms of cooperation with international judicial institutions, in particular with the International Criminal Court, in criminal prosecution of offenders and exchange of information, except as in separate international treaties where such cooperation is currently envisaged only between states, which brings out the need for further academic research of these challenging issues, including in areas where such cooperation is already extensive (for example, documenting of crimes by russian militants in certain communities of Kyiv, Chernihiv and Sumy regions).

2. Availability of statutes of limitation within which persons guilty of international crimes may be held criminally liable in Ukraine. Due to the long-term armed conflict in Donetsk and Luhansk regions and the occupation of Crimea, the number of international crimes that require investigation keeps growing.

But the lack of easy access to the crime scene, evidence, witnesses and suspects makes their investigation very difficult. When setting statutes of limitations, the Criminal Procedural Code does not take into account additional obstacles that occur during the investigation of crimes at wartime and occupation. The Rome Statute does not set such statutes of limitations given the investigating international crimes and prosecuting specific state representatives is challenging.

Other regulations will also need improvements.

### **3.6. Vectors for reforms of the system of pre-trial investigation during large-scale invasion of Russia and further integration of Ukraine into the European Union**

The issue of reforming the system of pre-trial investigation during hostilities was and is highly urgent, since becoming a candidate for EU membership requires from Ukraine introduction of certain amendments to its basic legislation and the fulfillment of European Parliament requirements in certain fields (need to be urgently addressed), and significant academic research in the view of fragmentary changes in the system of pre-trial investigation, in particular.

The fact that in 2020 (according to the official website of the Commissioner for Human Rights of the Verkhovna Rada of Ukraine), the Commissioner received 5,744 reports of violations of procedural rights in criminal proceedings (Annual report of Commissioner for Human Rights of the Verkhovna Rada of Ukraine, 2021) also reflexes the need to identify vectors to enhance pre-trial investigation performance.

The academics stress that the law enforcement system is currently undergoing reforms, therefore external and internal factors dictate the need for constant improvement of the policies of the National Police of Ukraine, changes in their structure and functions, and this requires timely academic analysis and development to further bring them into practice (Kobzar and Daragan, 2020). War, static warfare of the Armed Forces of Ukraine in certain directions, as well as a set of measures to resist the invasion make this process even more difficult.

In this regard, an analyst A. Dmytriev rightly notes that Ukraine may become a European and democratic state when it is able to ensure its national security, which is something what the NP of Ukraine agencies and

units shall do (Dmytriiev, 2016), and this supports the opinion that certain human rights and freedoms cannot be protected only by some certain units of the National Police of Ukraine. This complex process requires intersectional engagement of all structures and units of the police system, which is aimed at comprehensive implementation of human and citizen rights and freedoms – od all people without exception, in particular citizens and persons who are suspected or already accused of committing criminal offenses.

We believe one of the most important areas of improving the system of pre-trial investigation during large-scale invasion of russia and further integration of Ukraine into the European Union is legislative support, legal and informational analysis of the practical application of certain legal norms, which gives further rise to reform the adopted regulations and draft new ones.

For example, the Decree of the President of Ukraine dated August 7, 2019 No. 584/2019 ‘Issues of the Legal Reform Commission’ approved the Regulations on the Legal Reform Commission and its composition, and its priority areas included amendments to the Constitution of Ukraine and the laws of Ukraine aimed at ensuring the implementation of constitutional standards and principles, namely the priority to protect fundamental human and citizen rights and freedoms, improve the legislation on criminal liability and criminal procedural legislation of Ukraine, reform law enforcement agencies, as well as create prerequisites for the reintegration of temporarily occupied territories of Ukraine and its population into the single constitutional space of Ukraine (Decree of the President of Ukraine, 2019).

Therefore, one should concentrate on the institutional approach when identifying the vectors for the improvement of Ukrainian legislation from the perspective of democratic values and European integration efforts, by grouping them into: general issues to ensure human and a citizen rights and freedoms; issues related to policing of the public agencies during shaping of democratic values; ensuring proper compliance with criminal procedural procedures in pre-trial investigation.

For example, the Main Investigative Department of the National Police of Ukraine, People’s Deputies of Ukraine – members of the Committee of the Verkhovna Rada of Ukraine on Law Enforcement, as well as academics and experts focus on the fact that the lawmaker overlooked some property crimes, such as fraud and illegal possession of transport vehicles, committed in wartime on the territory of Ukraine, and the number of such crimes is also great.

Also, taking into account the general trend of the need to arm the civilian population, the entire academic community supported the initiative to

change part three of Article 263 of the Criminal Code of Ukraine, where liability for committing a certain act, in cases of voluntary surrender of weapons, ammunition, explosives or devices is cancelled.

## Conclusions

Thus, the authors carried out a general review of the functioning of the criminal justice system in wartime conditions, identified the main tendencies of pre-trial investigation, as well as identified risks and dangers in the relevant process, and characterized the significance of the fact that Ukraine acquired the status of a candidate for membership of the European Union. Based on this, the authors offer the following directions and methods of reforming the criminal justice system in general and pre-trial investigation in particular, in the conditions of the large-scale invasion of russia and the operation of the legal regime of martial law:

1. The analysis of the legislation of Ukraine and the European Union in the light of harmonization demonstrates that the legal regulation issue of the establishment of relations between the International Criminal Court and law enforcement agencies (represented by specially authorized entities) of Ukraine requires the most significant legislative contribution since the effectiveness of documenting the criminal activities of the russian troops and their mercenaries determines the final result – bringing them to criminal liability and starting the compensation procedure for the damage caused to the civil infrastructure.
2. The effect and essence of Ukraine's acquiring the status of a candidate for membership of the European Union are that the receipt and confirmation of this candidacy (the procedure for resolving several problematic issues defined in the decision of the European Parliament) have different legal nature and are correlated as the fact of acquisition and some circumstances that may affect the cancellation of the relevant decision.

Therefore, in the context of long-term European integration ambitions to acquire the status of a full-fledged member of the European Union, we believe that other aspects related to the harmonization of national legislation in the European context should be implemented. In particular, the most important thing in a warring state is to ensure the continuous functioning of the justice system, the functioning of law enforcement agencies, the preservation of anti-corruption traditions and tendencies, as well as the creation of a united European security environment.

3. Among the most significant risks in the issue of continuous ensuring of the functioning of state authorities in general and the criminal justice system (in terms of pre-trial investigation) is the impossibility of ensuring the security and protection of human and citizen rights and freedoms in temporarily uncontrolled territories, excessive workload of the law and order system while conducting hostilities, since the usual scope of everyday functions also includes the provision of humanitarian work and others directions aimed at meeting the needs of the civilian population and law enforcement forces.
4. The main and most effective tool for reducing these risks is the rule-making and legislative activity aimed at optimizing the activities of law enforcement agencies, improving procedures and mechanisms in pre-trial investigation and law enforcement activities in the context of the criminal justice institute in general. The clarification of the relevant provisions will, first of all, lead to the harmonization of the range of duties assigned to various law enforcement agencies and guarantee a quick, complete, impartial pre-trial investigation of criminal offenses and unlawful infringements, as well as ensuring the rights and freedoms of a person and a citizen in general.
5. In our opinion, the main and most priority way to improve the legislation today, based on the analyzed and researched materials, is the need to:
  - bringing the provisions of Article 615 of the Criminal Procedure Code of Ukraine into compliance with the Convention on the Protection of Human Rights and Fundamental Freedoms and the Constitution of Ukraine in terms of determining the term of detention of a person and providing him with the right to protection;
  - normalization of the provisions of the Criminal Procedure Code of Ukraine regarding the selection of the most severe preventive measure of detention exclusively by an investigating judge;
  - simplification of the criminal procedural procedure of carrying out an examination of a person based on his voluntary consent, with observance of his guarantees of personal integrity, based on the resolution of the inquirer, investigator, prosecutor;
  - predicting the possibility of the police collecting biological material and establishing genetic characteristics (genomic information) using express tests already at the scene of the incident;

- simplification of the procedure for the extradition of human bodies during the legal regime of martial law with mandatory establishment of the cause of death and in the absence of signs of violent death;
- bringing the provisions of the Criminal Code of Ukraine into compliance with the provisions of the Rome Statute regarding crimes against humanity and introducing the mechanisms of the International Criminal Court regarding the collection of evidence in accordance with the “best evidence rule” principle;
- introduction of special criminal law norms (compounds of crimes) regarding the provision of liability for forced renunciation of citizenship and forced passporting;
- adoption of a basic legal act (Law of Ukraine) on the regulation of legal relations regarding the procedure for obtaining and using firearms by the military, law enforcement agencies and the civilian population.

### **Bibliographic References**

- BIBILO, Valentina. 2001. Judicial power in criminal proceedings: monograph. Publishing House “Law and Economics”. Minsk, Belarus.
- BORCH, Frederic. 2001. Judge advocates in combat: Army lawyers in military operations from Vietnam to Haiti. Office of the Judge Advocate General and Center of Military History, US Army. Washington, D.C., USA.
- CASE NO. 759/833/18. 2021. Resolution of the Criminal Court of Cassation of the Supreme Court of Ukraine. No. 96669438. Unified state register of court decisions. Kyiv, Ukraine. Available online. In: <https://verdictum.ligazakon.net/document/96572338>. Consultation date: 20/04/2022.
- CASE NO. 640/5023/19. 2021. Resolution of the Criminal Court of Cassation of the Supreme Court of Ukraine. No. 51-2917kmo20. Unified state register of court decisions. Kyiv, Ukraine. Available online. In: <http://iplex.com.ua/doc.php?regnum=97286253&red=100003161acef099a0dbfcoc8b729fac56e1ee&d=5>. Consultation date: 20/04/2022.
- DEVI, Tanaya; ROLAND, Fryer. 2020. Policing the police: The impact of “pattern-or-practice” investigations on crime. Working paper No. w27324. National Bureau of Economic Research. Available online. In: [https://www.nber.org/system/files/working\\_papers/w27324/w27324.pdf](https://www.nber.org/system/files/working_papers/w27324/w27324.pdf). Consultation date: 20/04/2022.



- DMYTRIIEV, Anatoliy. 2016. "Principles and legal regulation of activities of the National Police of Ukraine in combating organized crime" In: Bulletin of the Criminological Association of Ukraine. Vol. 12, No. 1, pp. 164-174.
- DOCUMENT NO. V003V710-01. 2001. Opinion of the Constitutional Court of Ukraine in the case based on the constitutional submission of the President of Ukraine on the provision of an opinion on the conformity of the Constitution of Ukraine with the Rome Statute of the International Criminal Court (Rome Statute case). Official Web site of the Verkhovna Rada of Ukraine, July, 11, 2001. Available online. In: <https://zakon.rada.gov.ua/laws/show/v003v710-01#Text>. Consultation date: 20/04/2022.
- FEDCHENKO, Volodymyr. 2021. Detention in criminal proceedings: study guide. "Helvetika" Publishing House. Odesa, Ukraine.
- HLOVIUK, Iryna; TETERIATNYK, Hanna; ROHALSKA, Viktoriia; ZAVTUR, Viktor. 2022. Special regime of pre-trial investigation, trial in conditions of war, state of emergency or in the area of anti-terrorist operation or measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation and/or other states against Ukraine: a scientific and practical commentary on Section IX-1 of the Criminal Procedure Code of Ukraine. Electronic edition. Lviv-Odesa.
- INTERNATIONAL CRIMINAL COURT. 1998. The Rome Statute of the International Criminal Court. Available online. In: <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>. Consultation date: 20/04/2022.
- KHARYTONOV, Evhen; KHARYTONOVA, Olena; KOLODIN, Denis; TKALYCH, Maxym; LARKIN, Mikhail; TOLMACHEVSKA, Yuliia; ROJAS-BAHAMON, Magda Julissa; ARBELÁEZ-CAMPILLO, Diego Felipe; PANCHENKO, Olha Ivanivna. 2021. "Distance learning in the conditions of Covid-19: problems and prospects of their solution" In: Amazonia Investiga. Vol. 10, No. 48, pp. 157-169.
- KOBZAR, Oleksandr; DARAHAN, Valerii. 2020. "Areas of improvement of training National police pre-trial investigators" In: Scientific Bulletin of Dnipropetrovsk State University of Internal Affairs. No. 1, pp. 158-163.
- KRASNITSKY, Vladyslav. 2022. Investigating Russia's war crimes: why does the ICC initiate the opening of an office in Ukraine? Ukrainian radio. Available online. In: <http://www.nrcu.gov.ua/news.html?newsID=98868>. Consultation date: 20/04/2022.
- LAW OF UKRAINE NO. 2201-IX. 2022. On amendments to some legislative acts of Ukraine regarding the establishment of criminal liability for collaborative activity. Official Web site of the Verkhovna Rada of Ukraine,



March, 03, 2022. Available online. In: <https://zakon.rada.gov.ua/laws/show/2108-20#n12>. Consultation date: 20/04/2022.

LAW OF UKRAINE NO. 2341-III. 2001. Criminal Code of Ukraine. Official Web site of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/2341-14#Text>. Consultation date: 20/04/2022.

LAW OF UKRAINE NO. 254K/96-VR. 1996. The Constitution of Ukraine. Official Web site of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/254%Do%BA/96-%Do%B2%D1%80#Text>. Consultation date: 20/04/2022.

LAW OF UKRAINE NO. 4651-VI. 2012. Criminal Procedure Code of Ukraine. Official Web site of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>. Consultation date: 20/04/2022.

LAZAREVA, Daria. 2018. Detention by an authorized official in the criminal process of Ukraine: monograph. Dnipropetrovsk State University of Internal Affairs. Dnipro, Ukraine.

MOLCHANOV, Rostyslav. 2014. "Experience of assessing the effectiveness of operational and service activities of the police of foreign countries and its implementation in Ukraine" In: Scientific Bulletin of Dnipropetrovsk State University of Internal Affairs. No. 4, pp. 235-243.

ORDER OF THE PRESIDENT OF UKRAINE No. 584/2019. 2019. About the Commission on Legal Reform. Official Web site of the Verkhovna Rada of Ukraine, August 07, 2019. Available online. In: <https://zakon.rada.gov.ua/laws/show/421/2019#Text>. Consultation date: 20/04/2022.

PRESS SERVICE OF THE APPARATUS OF THE VERKHOVNA RADA OF UKRAINE. 2021. Annual report of the Commissioner of the Verkhovna Rada of Ukraine on human rights for 2020. Official Web site of the Verkhovna Rada of Ukraine. Available online. In: <https://www.rada.gov.ua/news/Povidomlennya/206083.html>. Consultation date: 20/04/2022.

SADOVA, Tetiana. 2019. "Rome statute norms implementation into the criminal legislation of Ukraine". Bulletin of the Odesa I. I. Mechnikov National University. Science of Law. Vol. 24, No. 1, pp. 119-124.

SMOKOVICH, Mykhailo. 2022. "Execution of justice in martial law: to the question of legislative changes" In: Scientific Bulletin of the Uzhhorod National University: Law. No. 70, pp. 450 -455.

- TETERIATNYK, Hanna. 2021. Criminal proceedings under emergency legal regimes: theoretical, methodological and praxeological foundations: monograph. Publishing house "Helvetika". Odesa. Available online. In: <https://jurkniga.ua/contents/kriminalne-provadzheniya-v-umovakh-nadzvichaynikh-pravovikh-rezhimiv-teoretiko-metodologichni-ta-prakseologichni-osnovi.pdf>. Consultation date: 20/04/2022.
- UDALOVA, Larysa. 2005. Theory and practice of obtaining verbal information in the criminal process of Ukraine: monograph. Palyvoda Publishing House. Kyiv, Ukraine.



UNIVERSIDAD  
DEL ZULIA

---

# CUESTIONES POLÍTICAS

Vol.40 N° 74

*Esta revista fue editada en formato digital y publicada en octubre de 2022, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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