

The Right to Liberty and Personal Integrity During Detention in the Human Rights protection system

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Abstract: The study examined the legal problems of protecting the right of individuals to liberty and personal integrity during detention in Ukraine, taking into account the practice of the European Court of Human Rights, and also analyzed the foreign experience of individual states. The main purpose of the article is to analyze international standards and individual court decisions of the European Court of Human Rights regarding the protection of the rights of individuals under study in the human rights protection system. The results of the study demonstrated how the practice of the European Court of Human Rights can address the problems of protecting the right of individuals to liberty and personal integrity during detention in Ukraine, in particular under martial law. The researcher compared the problems of protecting the rights of individuals to freedom and personal integrity during detention in Ukraine with certain legislative norms of foreign countries. The study showed that the effectiveness of the legal mechanism must be ensured by strict adherence to the Constitution of Ukraine and the Criminal Procedure Code, which guarantee the right to know the reason for detention, immediate protection, and the opportunity to challenge unlawful detention in court in compliance with international standards. It is indicated that under national law, every detainee has the right to a lawyer, to immediate notification of relatives, and to have the case heard by a court within a reasonable time, which are often violated. The methodology of the article included a review of academic literature, a comparative analysis of the provisions of the Criminal Procedure Code of certain foreign countries and Ukraine, and an assessment of the practice of the European Court of Human Rights in the studied area. It also included a systematic review using a system of scientific knowledge methods. In particular, using the method of comparative analysis, the criteria for distinguishing between the legal categories of "detention of persons in administrative proceedings" and "detention of persons during administrative activities" were revealed, and European Court of Human Rights precedents were revealed, including the standards of "reasonable suspicion" necessary for the detention of a person. The authors of the article also consider the general grounds for the procedure of detention by officials, as well as the legal criteria for detainees to acquire the procedural status of a suspect under both national and foreign legislation of some states. The study concludes that it is important to use the practice of the European Court of Human Rights in national legislation, which will ensure effective protection of the right of individuals to liberty and personal integrity during detention in the human rights protection system.

Keywords: European Court of Human Rights; Human rights; Legal regulation; Standard of "reasonable suspicion"; the detention of a person

Introduction

The procedural status of the suspect, and in particular, its integral structural component - the right to freedom of personal integrity, is the most vulnerable, regularly undergoes significant restrictions, and even violations during the implementation of a wide range of procedural actions during the pre-trial investigation of various categories of criminal offenses. In this regard, it is of particular doctrinal and applied importance to thoroughly study the extremely relevant and at the same time debatable issue regarding the correct establishment of the moment of acquisition of such status by a person detained on suspicion, as well as the establishment at the legislative level of guarantees of ensuring his basic rights when choosing/applying relevant preventive measures in the context of generally recognized international standards for the protection of human rights and freedoms and precedent practice of the ECtHR.

Among the tasks of the research, it is appropriate to highlight the following: (1) to investigate the general grounds and procedural issues of detention of persons carried out by officials; (2) to highlight the factual and legal grounds for the acquisition of a suspect's procedural status by a person detained on suspicion; (3) to study the foreign experience of individual states in this field; (4) to analyze the relevant practice of the ECtHR regarding the application to a person of such a preventive measure as "bail" and to form basic criteria for determining its "optimal size"; to propose ways of applying ECtHR decisions to improve national legislation in the context of protecting the right to freedom and personal integrity during detention in Ukraine.

Literature review

Scientific discussions on determining the specifics of a detained person's acquisition of the status of a suspect under national legislation are of increased scientific interest to both Ukrainian [1-3] and foreign scholars, for example, McBride [4] and Bayer [5]. In particular, Tyshchenko actively researched specific problematic issues in human rights protection [6]. Kaplina et al. analyzed the practice of Ukrainian judges' decisions and those of the ECHR and identified several problems of law enforcement in cases involving detained persons [7]. Hlynska and Klepka have identified problems in judicial practice regarding the consideration of complaints about reports of suspicion during pre-trial investigation [8]. In scientific works, the definition of the content of the right to liberty and personal integrity remains controversial. Supporters of a broad understanding are the authors Mirkovets [9] and Tatarov [10]. For example, Vynokurov proposes to distinguish between the categories of "choice" and "application" of a preventive measure in the form of detention [11]. Khrystova, Y., et. al. studied the right to information in the decisions of the ECHR, the experience of individual Nordic countries in ensuring protection in justice [12], Laulhe-Shaelou et. al. revealed the problems of protecting human rights in the digital age [13]. Chandler et. al., taking the rule of law as a basis, investigated the protection of human rights and concluded that it is necessary to include the principle of justice as the main priority of rights over other political imperatives and the obligation to ensure equal care and respect for all persons in custody [14]. However, the study of the problems of implementing the right to liberty and personal integrity in the context of harmonizing the criminal procedural legislation of Ukraine, taking into account the practice of the ECHR, remains a relevant problem of scientific research.

Materials and methods

This study is based on an interdisciplinary approach to the analysis of national and international legal documents, peer-reviewed scientific publications, and ECHR decisions that are relevant to addressing the problems of protecting the right to liberty and personal integrity during the detention of individuals in Ukraine, taking into account the experience of individual foreign states. This study is based on a review of the scientific discussion on such concepts as "reasonable suspicion", grounds for detaining a person, the distinction between the categories of "detention of a person under an administrative procedure" and "detention of a person while carrying out administrative activities", and the practice of the ECHR. This article uses a system of scientific research methods, namely: formal-logical, system-structural and structural-functional methods, dialectical method, methods of analysis and synthesis, abstraction as a formal-logical method, as well as comparative-legal method, and others. In particular, using the method of comparative analysis, criteria for distinguishing between the legal categories of "detention of persons in administrative proceedings" and "detention of persons during administrative activities" were identified, and also identified precedents from the European Court of Human Rights, including the standards of "reasonable suspicion" required to detain a person. As for the legal analysis of the problems of protecting the right to liberty and personal integrity during the detention of persons, the methodology is based on the interpretation of this concept in the system of human rights protection within the framework of the doctrine of criminal procedural and administrative law. The scientific search covers the period from 2002 to 2024, which corresponds to the goal and objectives of the article. The primary database

consisted of 119 sources, of which 39 were included in the final analysis. The search criteria focused on modern scientific approaches and practical experience in legal regulation of the protection of the right to liberty and personal integrity during the detention of persons in Ukraine. The study included sources that met the following criteria: directly related to the problems of protecting the right to liberty and personal integrity during detention in Ukraine, and also containing an analysis or practice of applying relevant legal norms; national and international regulatory legal acts related to the subject of the study, in particular the Criminal Procedure Code of Ukraine, the Convention for the Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights; legislation of individual foreign states on the issues under study. Sources that met at least one of the following criteria were excluded from the study: lack of direct connection to the subject of the study, in particular works devoted to general human rights issues without analyzing the problems of detention of individuals; sources that are of an administrative-legal or criminological nature (except for the comparative aspect) without taking into account the procedural guarantees of the right to liberty and personal integrity. The materials of the work are the basis for systematizing legislation on the implementation of legal guarantees for the protection of the rights to freedom and personal integrity during the detention of persons in Ukraine, the main ones of which are: the Constitution of Ukraine, the Criminal Procedure Code of Ukraine, the Convention for the Protection of Human Rights and Fundamental Freedoms, the Code of Ukraine on Administrative Offenses, etc.

Results and discussion

Detention of a suspect by an authorized official in the context of international standards: procedural legal aspects

The subject of our consideration in this part of the scientific article is the legal grounds for a person to acquire the procedural status of a suspect in criminal proceedings. Note that a person acquires the status of a suspect from the moment of: (1) notification of suspicion; (2) his/her detention on suspicion of committing a criminal offense; (3) taking all necessary measures to serve the drawn up notification of suspicion on a person whose whereabouts have not been established. The above follows from the analysis of Part 1 of Article 42 of the Criminal Procedure Code of Ukraine of 2012 (CPC of Ukraine of 2012)[15]. It should be noted that in the previous edition of the Criminal Procedure Code of Ukraine of December 28, 1960, other grounds on which a person is recognized as a suspect (CPC of Ukraine of 1960)[16].

The legislator does not link the acquisition of the procedural status of a person under investigation by the person from the moment of his lawful detention, provided for in Article 207 of the CPC of Ukraine of 2012[15]. Thus, in the provisions of Art. Article 209 of this Law, a person is considered detained from the moment of his delivery to an authorized official or premises designated by this person.

In addition, Davydenko & Skidan believe that a person detaining the following Article 207 of the CPC of Ukraine and not being a subject of official powers, may both in good faith and with a certain intention be mistaken about the nature of the previous actions of the detainee, in connection with which there was a restriction of his rights and freedoms. Such a person does not have the necessary powers, a priori is not qualified to explain the rights to the detainee, to properly record this measure, and take other actions about it [17].

The grounds for detention of a person by an authorized service are as follows: 1) the person was detained during the commission of a crime or an attempt to commit one; 2) simultaneously after the commission of the crime, an eyewitness, including the victim, or a set of obvious signs on the body, an event or events indicate that this person committed a crime (Part 1 of Article 208 CPC of Ukraine of 2012)[15]. The main components of the right to liberty and security of a person are given in Table 1 [12;18].

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Table 1. The components of the right of the individual to liberty and security of the person

Component	Description
Protection from arbitrary detention	No one may be deprived of their liberty without lawful grounds
The need for lawful grounds for detention	Any deprivation of liberty must be based on law and a reasoned court decision.
The right of an individual to immediate notification	A detained person has the right to be promptly informed of the reasons for the arrest and the charges against him
A person's right to protection	Every detainee has the right to a lawyer and the opportunity to defend themselves from the moment of detention
The right of an individual to judicial protection	A detained person has the right to appeal to a court to challenge the legality of the detention
The need to comply with the procedure for detaining a person	The detention of a person must be carried out in accordance with the procedure established by law
A person's right to compensation	Everyone who has been the victim of unlawful arrest or detention has the right to compensation

Source: compiled by the author

Given the formulation provided by the legislator, attention should be paid to the problem that arises and is not only theoretical, but also purely applied in nature. Thus, the legislator provides that a written notice of suspicion is served on the detained person no later than twenty-four hours from the moment of his detention. However, other provisions of the CPC of Ukraine 2012 (Part 1, Article 42)[15] indicate that at the moment of detention, a person is considered a suspect. In this regard, it is necessary to clarify the following question: Is the detained person a suspect? In addition, a key question arises, the solution of which is the purpose of this part of the article: from what moment does a person acquire the procedural status of a suspect?

For a more detailed analysis of the issues outlined, it is worth first of all referring to the practice of the ECtHR. In particular, Lazareva indicate that the ECtHR repeatedly reiterates that a person may be detained following paragraph 1 (c) of Article 5 of the Convention only within the framework of criminal proceedings to bring him to a competent judicial authority if there is a reasonable suspicion that he has committed an offense (crime), or if it is reasonably believed necessary to prevent her from committing an offense or her escape after committing it [19].

Regarding the "reasonable suspicion" category. First, it should be noted that the ECtHR first defined "reasonable belief" in the decision in the case of *Fox, Campbell and Hartley v. the United Kingdom*, which indicates the content of this category of criminal law as the presence of facts or information that could be considered by an objective observer that this person could have committed a crime (p. 32) (*Fox, Campbell and Hartley v. the United Kingdom*) [20]. In another case of the ECtHR of 21 April 2011, the category of content "reasonable suspicion" is interpreted as facts or information that may convince an objective observer that a given person may have committed an offence. The purpose of detaining an offender is to facilitate the investigation of a crime by confirming or refuting the suspicions that gave rise to the detention (*Case of "Nechiporuk and Yonkalo" v. Ukraine*)[21].

It is important that, in the absence of reasonable suspicion, a person may not be detained under any circumstances. In particular, also to force him to confess to committing a crime, to testify against other persons, or to obtain from him facts or information that may serve as a basis for reasonable suspicion. In addition, the ECtHR emphasizes that the detention of a person without documents demonstrates an absolute disregard for the fundamentally important guarantees of Article 5 of the European Convention and reveals a gross violation of this norm [18]. Another reason for the violation of a person's rights is also given based on the practice of the ECtHR. In particular, in the case of failure to document information such as the date, time and place of the person's detention, his name, the grounds for the detention and the name of the person who carried out the detention, it should be considered contrary to the principle of legality and the very purpose of Article 5 of the European Convention ("*Nechiporuk and Yonkalo" v. Ukraine*)[21].

In connection with the above, law enforcement agencies are obliged to prove the involvement of a certain person in the commission of a specific criminal offense. In this legal aspect, the category of "reasonableness" is of great importance. Its interpretation can also be found in individual decisions of the ECHR. Thus, the category of

“reasonableness” indicates the threshold that suspicion must cross to satisfy an objective observer as to the likelihood of the charges. Therefore, there can be no “reasonable suspicion” if the acts or facts with which the detained person is accused were not a crime at the time they were committed (“Kavala v. Turkey”, 2019)[22].

Thus, the procedural statuses of the detainee and the suspect are equal, as evidenced by the essence of the “reasonable suspicion” standard. As a result, the detainee is considered a suspect (paragraph 126) (“Kavala v. Turkey”, 2019[22]; “O’Hara v. the United Kingdom”, 2001[23]). In addition, we note that if at the time of the detention of a person no facts or information could convince that this person could commit a criminal offence, then the detention of such a person is considered arbitrary within the meaning of Article 5 of the European Convention (paragraph 131) (Case of “Kavala v. Turkey”, 2019) [22].

It should be noted that the ECtHR noted, in particular, in the following cases: Khadija Ismayilova v. Azerbaijan (No. 2)[24]; (Aleksandrovskaya v. Ukraine) [25] and others, an unconditional violation of paragraph 1 of Article 5 of the European Convention (right to liberty and security of person), due to the absence of reasonable suspicion during detention.

In one of the ECHR decisions, the Court (“Korban v. Ukraine”)[26] indicated that in cases where the “lawfulness” of detention is in question, including the question of compliance with the “procedure prescribed by law”. It is necessary to take into account the provisions of the European Convention on Human Rights regarding such an approach, which is provided for in the provisions of national legislation of states. And the ECHR establishes the obligation to comply with its procedural provisions.

The ECtHR stresses that under Ukrainian law, deprivation of liberty without a reasoned court decision is possible only in a limited number of situations. This is provided for in Article 29 of the Constitution of Ukraine and Article 208 of the CPC of Ukraine of 2012 [15]. The latter law stipulates that the investigator has the right to detain a person, especially if he was detained during the commission of a crime. Or was identified by witnesses or the victim as the perpetrator. On his body and clothes, there were obvious signs of the committed crime immediately after the crime was committed. For the application of this article of the national law, it is important that the authorized official correctly understands and applies the legal grounds for this type of detention of a person. This is because the suspect has the right to demand a review of the justification for the detention (paragraph 6, part 3, article 42)[15].

According to the uniform provisions of the European Convention, “anyone who... is detained under the provisions of subparagraph ‘c’ of paragraph 1 of this Article of the Convention shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be granted trial within a reasonable time or released pending trial. Everyone who is deprived of his liberty by arrest... shall have the right to take proceedings by which the lawfulness of his detention shall be determined without delay by a court and his release ordered if the detention is not lawful” (Articles 3-4)[18].

The issue of “lawfulness” in the context of its review by a court of detention has also been considered in the decisions of the ECHR. In this regard, it is important that, under Article 5 § 4 of the European Convention, a detained person has the right to initiate proceedings for a court to review the procedural and substantive legal conditions that are necessary. That is, the competent court must verify not only compliance with the procedural requirements of national law but also the validity of the suspicion that served as the basis for the detention and the legality of the purpose for which such detention was carried out (Sergey Volosyuk v. Ukraine) [27].

For the completeness of the study, it would be useful to refer to the foreign experience of individual states in regulatory regulation in this area in Table 2.

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Table 2. Regulatory and legal grounds for the detention of a person under the legislation of certain foreign states: a comparative aspect [28 -30].

Legal grounds	Legal norms
Part 7 of Article 3 of the CPC of Georgia	The defense party is the accused, convicted, acquitted, and their lawyer
CPC of Georgia	does not involve a participant, such as a suspect
Part 11 of Article 3 CPC of Georgia	provides for a definition of reasonable suspicion, which is substantively consistent with the interpretation of "reasonable suspicion" in the CPC of Ukraine
Part 1, Article 128 CPC of the Republic of Kazakhstan	The detention of a person suspected of committing a criminal offense is a measure of procedural coercion, contrary to the CPC of Ukraine
Part 1 of Article 129 of the CPC of the Republic of Kazakhstan	detention of a person, applied for no more than three hours to determine the person's involvement in a criminal offense
Parts 3 and 5 of Article 64 CPC of the Republic of Kazakhstan	In the event of detention, the suspect must be interrogated no later than 24 hours from the moment the detention report is drawn up
Clause 1, Part 1, Article 63 of the CPC of the Republic of Moldova	A suspect is a natural person against whom there is evidence of having committed a crime before being charged
art 1, Article 63 of the CPC of the Republic of Moldova	One of the procedural actions based on which a person can be recognized as a suspect is a report of detention
Part 4 of Article 63 of the CPC of the Republic of Moldova	If the suspicion is not confirmed, the suspect must be released from custody, or the preventive measure applied to him must be canceled, and a resolution must be issued to remove him from criminal prosecution

Source: compiled by the author

Detailing the above data in a comparative aspect, it is important to note that according to Part 2 of Article 170 of the Georgian Criminal Procedure Code, a person is considered an accused from the moment of arrest. And according to Part 1 of Article 38 of the Georgian Criminal Procedure Code [28], the accused must be handed a copy of the detention report or, if he was not detained, the decision to present an indictment. That is, recognizing a person as an accused as a result of his detention eliminates the need for additional registration of his legal status, since it is enough to draw up a report of detention. According to clause 2, part 1, article 64 of the Criminal Procedure Code of the Republic of Kazakhstan, one of the cases when a person is considered a suspect is his detention under article 131 of the Criminal Procedure Code of the Republic of Kazakhstan [29]. That is, we are talking about a preliminary check, only based on the results of which a person can be detained under Article 131 of the Criminal Procedure Code of the Republic of Kazakhstan, and the legal consequence is that the person acquires the status of a suspect. According to the CPC of the Republic of Moldova, the factual basis for recognizing a person as a suspect (acquiring the status of a suspect) is his or her detention, and the legal basis is the detention protocol, which does not provide for the issuance of other procedural documents on this occasion.

Discussion

There is no unified approach to defining the legal categories of "detention of a person in an administrative procedure" (Code of Ukraine on Administrative Offenses, 1984) [31] and "detention of a person in the process of carrying out administrative activities." Individual researchers will distinguish from the structure of criminal procedural detention the activity of authorized officials of law enforcement agencies for the physical capture of a person suspected of committing a crime, with subsequent delivery to the pretrial investigation body, characterizing the legal nature of such activity as administrative.

Thus, some researchers believe that in the case of direct detection of a socially dangerous act, when the decision on detention cannot be made in advance, the capture and delivery of a person has only an administrative nature. But if,

after that, it is established that the circumstances of a socially dangerous act indicate the fact of a crime, the investigation is entrusted to the investigator, after which the detention becomes procedural. Other scientists also point out that when the pre-trial investigation body refuses to prosecute a person detained by law enforcement officers, the detention does not acquire a criminal procedural character.

Thus, according to Lazareva, due to certain informational uncertainty at the initial stage of detention, it is not possible to rule out situations when, after the detainee is brought to the pre-trial investigation body, the initial suspicion about him will not be confirmed, or his actions will be classified as an administrative offense, or his procedural status will be changed to a witness or even the victim [19]. Tertyshnyk believes that if a person is restricted in his freedom and personal integrity in connection with the suspicion of committing a crime, then there can be no question of detention "administratively"; each stage of such detention will have only a criminal procedural nature [32]. Some authors have problematic issues of determining the system and structure of guarantees for ensuring the right to liberty and personal integrity in criminal proceedings [33], and investigated problematic issues of detention in Ukraine [6], other authors have investigated the problems of ensuring the right to liberty and personal integrity within the framework of criminal proceedings [34].

Antonyuk & Tymoshenko investigated the historical stages of the criminal procedural institution of detention is interesting, these authors indicate that the practice of applying a preventive measure in the form of detention in Ukraine indicates the preservation of the traditional "repressive" bias when choosing it, however, it is necessary to adhere to the principle of the rule of law, proportionality and justice without any restriction of the rights and freedoms of a person already proclaimed and guaranteed by law to confirm the chosen direction of humanization and democratization of the institution of preventive measures [35]. Another author studied the criteria for qualifying the guaranteed rights and freedoms of a suspect during the application of a preventive measure in the form of detention. Author Zhuk correctly notes that the set of guarantees of the rights and freedoms of a suspect accused of committing an offense will operate only in a system that is the content of its implementation, each of its elements is an inseparable part and cannot be implemented separately from the others, and also studied the criteria for classifying the guaranteed rights and freedoms of a suspect during the application of the preventive measure of detention [36].

We will remind you that this issue was the subject of research by other scientists who reached similar conclusions on this issue. Thus, some researchers indicate that the analysis of the provisions of Part 1 of Article 42 of the CPC of Ukraine, which establishes that a suspect is a person detained on suspicion of committing a criminal offense, and Article 209 of the Criminal Procedure Code of Ukraine [15], which defines the moment of detention as the moment when a person remains with an authorized official or in the premises designated by an authorized official by force or by obeying an order, which allows us to unequivocally state that the moment of actual detention is the moment when a person receives the procedural status of a suspect.

For a more detailed investigation of the specified problem, the legal nature of the suspicion and the notification of the person about the suspicion should be clarified. Yes, in the correct opinion of Kaplina, suspicion is a well-founded assumption by an investigator and/or prosecutor that a certain person has committed a criminal offense. Suspicion is formalized in the procedural document "notification of suspicion"[37]. Taking this into account, the suspect's right "to know what criminal offense he is suspected of committing" (Clause 1, Part 3, Article 42 CPC of Ukraine) corresponds to the duty of the accused party to bring the content of the suspicion to his attention, to inform him about its existence.

At the same time, some researchers consider the legal category of "report of suspicion" to have a multifaceted meaning. It should be noted that the analysis of the provisions of the current Criminal Procedure Code of Ukraine and thematic scientific sources makes it possible to single out the following meanings of the normative construction of "notice of suspicion": a procedural activity, the content of which consists in the preparation of a written notice of suspicion by an investigator or prosecutor and its delivery to a person under articles 276-279 CPC of Ukraine; procedural decision; procedural action; institute of criminal procedural law; notification form; the stage of the stage of the pre-trial investigation; the first stage of formation of the state prosecution; the primary form of incriminating activity against a specific person; the beginning of the prosecution function. Thus, we consider it necessary to agree with the fact that "from the content of Chapter 22 of the CPC of Ukraine, it can be concluded that under the notification of suspicion is meant both the document in which the suspicion is formulated, and the action - the notification of suspicion". That is why it is worth considering the notification of suspicion as a procedural act and as a procedural procedure [38]. It is important to note the scientific position that, to confirm that a detained person has acquired the status of a suspect, it is not necessary to hand him or her a written notice of suspicion [39].

Therefore, the notification of suspicion is one of the most important procedural decisions, based on which appropriate criminal procedural relations arise between the investigator, the inquirer, the prosecutor, and the suspect, the content

of which is the rights and obligations defined by law. The legal significance of the act of notifying a person of suspicion also lies in the fact that at the stage of the pre-trial investigation, a certain stage occurs, connected with the fact that in the course of the investigation, sufficient evidence has been collected for suspecting a specific person of committing a criminal offense, which is formulated for the first time in such to an official document as a written notification to a person of suspicion [38]. In connection with what has been said, the proposal of the vast majority of jurists that it is necessary to make corrections to Article 110 and/or Chapter 22 of the CPC of Ukraine, according to which the procedural decision on granting a person the status of a suspect will have an independent character, deserves absolute support.

On the detention of a person suspected of committing a crime, a procedural document is drawn up - a protocol, in which information about the person of the detainee must be indicated: either his surname, first name and patronymic, or a detailed description of such a person with the attachment of his photograph if these data at the time of detention are not known (Part 5 of Article 208 of the CPC of Ukraine)[15].

Under the given circumstances, the pre-trial investigation becomes personalized, in connection with which, it is considered that the arrest protocol is a sufficient legal basis for recognizing a person as a suspect. Analyzing the content of the latter, it is advisable to also pay attention to the information that should contain a notification of suspicion, namely, the name (number) of the criminal proceeding within which the notification is made; content of suspicion; the legal qualification of the criminal offense of which the person is suspected, with an indication of the article (part of the article) of the Law of Ukraine on Criminal Liability, and a brief statement of the circumstances of the criminal offense (clauses 3-6, part 1 of Article 277 CPC of Ukraine)[15]. At the same time, similar information can be noted in the detention report. For this purpose, it is rational to make changes to those provisions of the CPC of Ukraine that regulate the list of information that must be fixed in this document (in particular, to Part 5 of Article 208), or to accumulate such norms in a separate article of the Criminal Procedure Law.

Conclusion

The conclusions in this paper are based on an interdisciplinary approach, which involves a comprehensive analysis of national and international legal acts, peer-reviewed scientific publications, as well as individual decisions of the European Court of Human Rights, relevant for solving the problems of ensuring and protecting the right to liberty and personal integrity during the detention of persons in Ukraine. The validity of the results obtained is also ensured by taking into account the experience of individual foreign states in the field of legal regulation of these legal relations. In order to minimize internal biases, the study did not use empirical data, including testimonies of detainees, interviews with employees of pre-trial investigation bodies, materials from national judicial practice, and reports from human rights organizations. To increase the reliability of the results, the principle of methodological triangulation was applied, which consists in combining various sources of legal information and methods of their analysis. The research process ensured a clear distinction between factual material and value judgments, and also used unified criteria for assessing compliance with human rights, in particular the standards and legal positions of the European Court of Human Rights. Involving the work of independent academic experts, both domestic and foreign, helped reduce the risk of professional or ideological biases when analyzing the legal regulation of the exercise of the right to liberty and personal integrity during the detention of individuals in Ukraine.

In particular, resolving the main problems on the outlined issues primarily depends on the legislator, who must systematically, consistently and in detail regulate the procedure:

(1) recognition of a person as a suspect in case of his detention by an authorized official under Article 208 of the Criminal Procedure Code of Ukraine to properly ensure her right to freedom and personal integrity, using clear and unambiguous normative constructions to characterize such a legal mechanism, in particular, by:

(a) making corrections to Article 208 of the Criminal Procedure Code in terms of the legality of the application of grounds for detention;

(b) exclusion of clause 2, part 1 of Article 276 of the CPC of Ukraine 2012 from the text of the law due to the inconsistency of the provisions of Articles 177 and 276 of the Criminal Procedure Code of Ukraine;

(c) supplementing the list of information that must be specified in the detention protocol (Part 5 of Article 208 of the Criminal Procedure Code of Ukraine); (2) the application of such a popular preventive measure as bail to prevent or minimize violations of conventional guarantees.

Of course, the proper and timely implementation of ECtHR decisions is a complex legal, technical, and apolitical process that can have irreversible potential political consequences, in particular the transformation of the legal systems

of the member states of the Council of Europe. However, it gives an additional impetus to the convergence of these systems, ensures the incorporation into them of the existing principles of the rule of law and judicial protection of human rights, and the convergence of ineffective legal institutions and their replacement with effective institutional means of protection of European values.

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