The phenomenon of understanding the conceptual principles of evidence in criminal proceedings regarding corruption offenses in Ukraine

El fenómeno de la comprensión de los principios conceptuales de la prueba en los procesos penales por delitos de corrupción en Ucrania

O fenômeno da compreensão dos princípios conceituais de evidência em processos criminais sobre crimes de corrupção na Ucrânia

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Abstract

A systematic analysis of judicial practice reveals that gathering evidence in criminal proceedings related to corruption and corruption-related offenses is an exceptionally complex and multidimensional process. This complexity stems primarily from the inherently multifaceted nature of corruption in the modern scientific discourse. Additionally, over the past decade, there has been an ongoing effort to redefine and enhance anti-corruption measures within the state. Key institutions such as the Asset Tracing and Management Agency, the Specialized Anti-Corruption Prosecutor's Office, and the High Anti-Corruption Court of Ukraine play a pivotal role in addressing corruption-related offenses. The guiding principles for combating corruption in a legally compromised environment are regarded as top priorities, as they form the foundation for investigative and prosecutorial procedures. These principles define the procedural framework, the specific characteristics of investigative and covert operations, and the primary challenges associated with conducting them. Some core conceptual principles include: the extreme complexity of proof in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine; compliance with the requirements of national and international human rights standards; the complex nature of investigative (detective) actions and covert investigative (detective) actions; and interaction with the public.

Keywords: Conceptual principles, evidence, corruption, criminal proceedings, corruption and corruption-related criminal offenses.

Resumen

Un estudio sistemático de la práctica judicial muestra que la prueba en los procesos penales por corrupción y delitos relacionados con la corrupción es un proceso particularmente complejo y multidimensional. En primer lugar, esto se debe al hecho de que el problema de la corrupción en sí es extremadamente multifacético en el sentido científico moderno. Es necesario tener en cuenta el hecho de que el proceso de replanteamiento de las actividades anticorrupción en el estado se lleva a cabo durante los últimos diez años. En realidad, el rastreo y la gestión de los activos derivados de la corrupción y otros delitos; la Fiscalía Especializada Anticorrupción; el Tribunal Superior Anticorrupción de Ucrania. La regla sigue siendo que los principios conceptuales examinados en el entorno corrupto se definen como la máxima prioridad, ya que siempre constituyen disposiciones fundamentales. Tales principios determinan el orden procesal, las peculiaridades de la realización de acciones de investigación (detectives) y acciones de investigación (detectives) encubiertas, así como los principales problemas durante su realización. Algunos de los principios conceptuales incluyen: la extrema complejidad de la prueba en los procesos penales por corrupción y delitos relacionados con la corrupción en Ucrania; el cumplimiento de los requisitos de las normas nacionales e internacionales de derechos humanos; la naturaleza compleja de las acciones de investigación (detectives) y las acciones de investigación (detectives) encubiertas; y la interacción con el público.

Palabras clave: Principios conceptuales, pruebas, corrupción, procesos penales, corrupción y delitos relacionados con la corrupción.

Resumo

Um estudo sistemático da prática judicial mostra que a evidência em processos criminais sobre corrupção e crimes relacionados à corrupção é um processo particularmente complexo e multidimensional. Em primeiro lugar, isso se deve ao fato de que o problema da corrupção em si é extremamente multifacetado no sentido científico moderno. É necessário levar em conta o fato de que o processo de repensar as atividades anticorrupção no estado vem acontecendo nos últimos dez anos. Na verdade, o rastreamento e a gestão de ativos

derivados da corrupção e outros crimes; o Gabinete do Promotor Especializado Anticorrupção; o Tribunal Superior Anticorrupção da Ucrânia. A regra permanece que os princípios conceituais examinados no ambiente corrupto são definidos como a mais alta prioridade, pois sempre constituem disposições fundamentais. Tais princípios determinam a ordem processual, peculiaridades da condução de ações investigativas (detetives) e ações investigativas secretas (detetives), bem como os principais problemas durante sua condução. Alguns dos princípios conceituais incluem: a extrema complexidade da prova em processos criminais sobre corrupção e delitos criminais relacionados à corrupção na Ucrânia; conformidade com os requisitos de padrões nacionais e internacionais de direitos humanos; a natureza complexa de ações investigativas (detetives) e ações investigativas secretas (detetives); e interação com o público.

Palavras-chave: Princípios conceituais, evidência, corrupção, processos criminais, corrupção e delitos criminais relacionados à corrupção.

Introduction

For more than three decades, Ukraine has been trying to get rid of the Soviet legacy and ensure the actual implementation of the standards and principles enshrined in the Constitution of Ukraine and numerous international treaties to which our country is a party (Sverdlin, 2023). At the same time, one of the most important aspects of the proper functioning of the state is the state of its economy (Pchelin & Zvirianskyi, 2023). However, even highly developed economies are not completely free from corruption. In this regard, an effective national anti-corruption policy is one of the means of improving the legal mechanisms for observing guarantees of human rights and freedoms at the national level. The level of corruption in the public sector reflects the state of development of Ukraine as an economic and legal state and its place in the international arena.

The system of measures to implement Ukraine's anti-corruption policy has become an effective tool for preventing and combating corruption. Effective anti-corruption measures in Ukraine include coordinated state anti-corruption strategy; newly created structure of anti-corruption bodies; integrity of public service; introduction of an electronic system of public procurement and property management; regular public reporting; independence of the prosecutor's office and the court; and monitoring of civil society (Kotukov et al., 2023). In this context, "the optimal division of expenditure powers between the authorities at all levels will help to ensure that they are spent with the greatest efficiency. In Ukraine, this can be realized precisely on the principles of financial decentralization and subsidiarity" (Bortnyk & Sievidova, 2023, p. 17), which are based on zero tolerance for corruption at all levels of public administration. At the same time, some scholars point out that there is still insufficient control over the implementation of the requirements (Petrovska, Petrovskyi, 2023). However, in the

light of anti-corruption reforms, there is a clear increase in the responsibility of public officials, which is largely due to the functioning of registers and the restoration of electronic declaration.

Salmanova and Shovkun (2023) argue that "as a result of the reform of the public service, in almost nine years, it was possible to create a strong state apparatus that was able not only to withstand the pressure of the aggressor in the first months of Russia's war against Ukraine, but also to work under martial law" (p. 5).

The statistics published by the National Agency of Ukraine on Civil Service in August 2022 highlight key trends: "more than 3,500 civil servants are defending Ukraine in the Armed Forces and other armed formations, 76% of civil servants continue to work in their regular workplace, 91% are willing to remain in civil service despite budget cuts, and only 4% have gone abroad since February 24, 2022". In the challenging security environment imposed by martial law, the importance of evidence in criminal proceedings related to corruption offenses in Ukraine becomes even more critical. The combat effectiveness of the armed forces depends largely on the adequate financing of weapons, equipment, transportation, and financial support (Pavlenko, 2023). Additionally, each day of armed aggression exacerbates environmental and infrastructural destruction (Kyrieieva, 2023). Addressing these consequences effectively requires zero tolerance for corruption among those responsible for national recovery efforts.

To date, many issues of evidence in the investigation of various criminal offenses have been the subject of substantial scientific research. At the same time, it should be noted that in the context of digitalization, new security challenges of martial law, corrupt practices penetrate new social relations, distorting them and making it impossible for them to develop further, which requires a rethinking of the conceptual foundations of evidence in criminal proceedings concerning the relevant group of criminal offenses. Due to numerous scientific studies in the fields of political science, criminology, criminal law, criminal procedure, and forensics, a scientific basis for combating corruption crimes has been formed. Its analysis indicates that there are gaps in the scientific support of evidence in criminal proceedings for corruption crimes (Shevchyshen, 2015). Therefore, Dzhafarova, Shatrava and Pohorilets (2023) quite rightly note that "certain legal relations are constantly emerging and transforming, new social phenomena are emerging, which requires appropriate regulation by the state" (p. 98).

In addition, the fundamental importance of anti-corruption activities at the level of international documents is indicated by the provisions of the UN Convention against Corruption, as well as conventions adopted within the framework of the

Council of Europe and the Group of States against Corruption (GRECO), in particular the Criminal Law Convention on Corruption (ETS 173), the Civil Law Convention on Corruption (ETS 174), the Council of Europe Convention against the Manipulation of Sports Competitions, and the EU Anti-Corruption Initiative (EUACI). At the same time, research by the United States Agency for International Development has identified a number of problems faced by Ukrainian society in the fight against corruption, including bureaucratization, incomplete judicial reform, political interference, and a weak institutional framework (Paryzkyi et al., 2023). Given the systemic challenges and the fundamental significance of anti-corruption efforts at the international level, studying the conceptual foundations of evidence in criminal proceedings related to corruption in Ukraine is particularly relevant. This is especially crucial in the context of the development of domestic pre-trial investigation bodies and the broader law enforcement system. A critical question that arises is whether the existing anti-corruption principles and measures in Ukraine are truly effective and efficient, as corruption cases continue to rise. The prevailing concern is that investigations conducted by law enforcement agencies often appear questionable and ineffective, with many yielding insufficient or inconclusive results. This raises doubts about the efficacy of investigative methods used in corruption-related cases. The issue at hand is not merely identifying the measures employed to combat corruption but rather evaluating the extent to which these measures have successfully addressed and mitigated corruption cases in Ukraine. It is essential to assess whether the current mechanisms can produce tangible and lasting outcomes in the fight against corruption.

Methodology

The combination of general and special methods of scientific cognition made it possible to highlight in this research the topical issues related to evidence in criminal proceedings on corruption. The method of documentary analysis allowed us to analyze the provisions of the Constitution of Ukraine, acts of the European Union, analytical documents of the National Agency of Ukraine on Civil Service, and the Criminal Procedure Code of Ukraine. This made it possible to detail the positions of domestic and foreign scholars, as well as to work out the fundamental principles of proof in the studied category of criminal proceedings.

The use of the comparative legal method made it possible to compare the effectiveness of anti-corruption activities in the state at different periods of the state formation, and the effectiveness of certain non-procedural forms of interaction between an investigator, a coroner and public organizations during the pre-trial investigation of

criminal offenses. Using analytical, structural-logical, and system-functional methods, this study examines the conceptual principles of evidence in criminal proceedings related to corruption and corruption-related offenses in Ukraine. It has been determined that the extraordinary complexity of evidence in such cases, coupled with compliance with national and international human rights standards, is a crucial factor.

This is especially true when operatives, investigators, and prosecutors strictly adhere to the principles of evidence admissibility. Another essential aspect is the execution of a comprehensive set of investigative (detective) and covert investigative (detective) actions in corruption-related criminal proceedings. Structural-logical and system-functional methods have been applied to further define the rule of law as a multifaceted and complex legal phenomenon, while also analyzing the role of state institutions and civil society in ensuring its enforcement. The rise in corruption-related offenses in the country is a pressing concern, with its damaging consequences being widely felt. Therefore, urgent measures are required to effectively address and mitigate corruption, fostering an environment conducive to stability, accountability, and good governance.

The purpose of this article is to determine the conceptual framework of evidence in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine. To achieve this purpose, it is necessary to solve the following tasks: to reveal the existing problems and developments in the field of combating corruption in Ukraine; to reveal the essence and content of certain conceptual principles of evidence in criminal proceedings concerning the category of criminal offenses under study. One really has to understand here that the problem is not just understanding the evidence that are needed in criminal proceedings for corruption offenses, but the issue is to see the extent to which the methods used by the so-called corruption agencies and even the law enforcement officers are really effective. One thing is to put in place measures, the other is in ensuring that these measures are fully implemented. It will be of no use in putting in place measures in combatting corruption offenses in the country where such measures cannot be implemented.

Results and discussion

Corruption as a negative anti-social phenomenon that can destroy any civil society.

Dion (2010) distinguishes five levels of corruption from a philosophical perspective: corruption of principles ("ontic/spiritual/axiological corruption"), corruption of moral

behavior ("moral corruption"), corruption of people ("social corruption"), corruption of organizations ("institutional corruption") and corruption of states ("national/cultural corruption").

Fedotov and Voloshyna (2019) argue that traditionally there are three functional types of corruption: political corruption, grand corruption, and petty corruption. Scholars also propose a generalized group of indicators for measuring the effectiveness of the fight against corruption, including group 1 (economic indicators): reduction of economic losses due to the elimination of specific corruption schemes and elimination of conditions that give rise to corruption; group 2 (indicators of law enforcement system performance): number of persons brought to administrative and criminal liability for corruption offenses and crimes; amounts of compensated losses; group 3 (indicators of public recognition of the effectiveness of combating corruption).

What is the process of evidence in criminal proceedings on corruption and corruption-related criminal offenses?

All criminal proceedings on corruption criminal offenses are divided by Hribov, Venediktov and Venediktova (2021), into two groups, distinguishing between "clean" (the guilt of the accused is established on the basis of proper and admissible evidence and proven beyond reasonable doubt) and "dirty" (the prosecution used inadmissible evidence, provocation was used, the right of the suspect or accused to defense was grossly violated, etc.).

At the same time, evidence in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine is a particularly complex and multidimensional process, given that the problem of corruption itself is extremely multifaceted in the modern scientific understanding.

Evidence in criminal proceedings on corruption and corruption-related criminal offenses is also complicated by deeply rooted corrupt practices. Of course, these practices have been formed for decades in the public administration system, leading to an exacerbation of the problem of oligarchizing power. At the same time, over the past seven years, the process of rethinking anti-corruption activities in the country, including at the institutional level, has been ongoing, embodied in the development of a system of national anti-corruption bodies: the National Agency on Corruption Prevention; the National Anti-Corruption Bureau of Ukraine; the National Agency of Ukraine for Finding, Tracing, and Management of Assets Derived from Corruption and Other Crimes; the Specialized Anti-Corruption Prosecutor's Office; and the High Anti-Corruption Court of Ukraine. Meanwhile, the following conceptual principles of

evidence in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine are of particular importance both considering their fundamental impact on the formation of public policy and their importance in the national criminal procedural and forensic thought.

Dniprov (2020) defines conceptual foundations as "a fundamental, basic understanding of someone or something, that is, a set of views on a certain process, activity, phenomenon" (p. 37). We understand conceptual principles in the context of the issues under study as the most significant from the perspective of an individual researcher, as well as considering the priorities of state policy and urgent social problems, the fundamental provisions that determine the procedural order, peculiarities of conducting investigative (detective) actions and covert investigative (detective) actions, as well as the main problems in the course of their conduct arising from domestic legislation, departmental regulatory documents, doctrinal provisions, case law, including the European Court of Human Rights.

In the national criminal procedural doctrine, some scholars have paid special attention to the study of the peculiarities of criminal procedural evidence at certain stages of criminal proceedings. For example, Hloviuk (2023) argues that "the key features of criminal procedural evidence at the stage of appeal proceedings that affect the determination of the limits of the court's initiative in the examination of evidence are dependent on the positions of the participants in criminal proceedings and the possibility of direct examination of evidence, a specific range of subjects of evidence and the delimitation of the burden and obligation of evidence; features of evidence assessment, which results in a new verdict/ruling" (p. 84).

Regarding certain conceptual principles, we can emphasize the extreme complexity of evidence in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine. According to some domestic scholars, the analysis of judicial practice shows that proving corruption crimes is characterized by increased complexity for two reasons. Firstly, the defendants in criminal proceedings on corruption offenses often have a high social status, patrons from among public officials, use sophisticated methods of disguising their criminal activities, and actively resist the investigation. Secondly, detection and investigation of corruption-related criminal offenses requires high professionalism of operatives, investigators, and prosecutors to ensure proper evidence base necessary for a comprehensive and objective trial in court (Shcherbakovskyi et al., 2020).

The effectiveness of evidence in a particular group of criminal proceedings is influenced by the appropriate use of special knowledge, scientific and technical means, devices, methods for identifying, collecting, examining and evaluating evidence

(Prokopenko, 2023). Thus, special knowledge in the field of cryptocurrencies is of particular importance. Some scholars emphasize that "not only respectable users but also criminals often show interest in the cryptocurrency market and technology. Virtual assets are increasingly becoming an acceptable form of payment for many illegal activities, mainly due to the ability of certain cryptocurrencies to perform anonymous transactions remotely" (Nosov, Manzhai & Kovtun, 2023, p. 103).

Another conceptual basis of evidence in criminal proceedings on corruption and corruption-related criminal offenses in Ukraine is compliance with the requirements of domestic and international human rights standards, if operatives, investigators, and prosecutors strictly comply with the admissibility of evidence, especially when conducting covert investigative actions during the investigation. Errors and violations that occur at the pre-trial investigation stage in this category of criminal cases lead to restrictions on human rights and freedoms. In most cases, they consist of significant violations of the criminal procedure law during the collection, verification and evaluation of evidence, as well as during the disclosure of the collected materials to the defense. Preventing such violations requires strict compliance with the general requirements for conducting covert investigative (detective) actions set forth in the decisions of the European Court of Human Rights and domestic courts. The doctrine of "fruit of the poisonous tree" on the inadmissibility of evidence obtained from materials collected in violation of the law should be considered. The defense should be granted access to all materials of covert measures, including documents that served as the basis for their conduct. It is important to prevent actions of operatives, investigators, prosecutors, and undercover agents that are considered as provocation (incitement) of the suspect to commit a corruption crime (Shcherbakovskyi et al., 2020).

In its Resolution No. 1-p/2019 of February 26, 2019, the Constitutional Court of Ukraine noted that an element of the principle of presumption of innocence is the principle of "in dubio pro reo", according to which, when evaluating evidence, all doubts about the guilt of a person are interpreted in favor of his or her innocence. The presumption of innocence means that the burden of proof is on the state to prove the person's guilt. In addition, the European Court of Human Rights has repeatedly emphasized that courts are guided by the criterion of proof "beyond a reasonable doubt" when evaluating evidence. Such proof may be based on a set of signs or irrefutable presumptions that are sufficiently weighty, clear, and consistent with each other (e.g., judgments in «Ireland v. the United Kingdom», «Yaremenko v. Ukraine», «Nechyporuk and Yonkalo v. Ukraine», «Kobets v. Ukraine»). Therefore, in fulfilling its professional duty under Article 92 of the CPC, the prosecution must prove to the court with the help of appropriate, admissible and reliable evidence that there is only one version by

which a reasonable and impartial person can explain the facts established in court, namely, the guilt of the person in committing the criminal offense for which he or she is charged. At the same time, it is important to ensure compliance not only with the requirements of domestic and international human rights standards, but also with moral and ethical ideals aimed at protecting every member of our society who has suffered injustice, to ensure the creation of a society where no member is subjected to violence or suffering from other members of this society. As members of this world, we can only strive for the ideals of justice and righteousness for every living being, especially those who suffer. Our obligation in life should be to do everything in our power to contribute to the elimination of this suffering (Šimić, 2023).

It is important to highlight the conceptual basis of evidence in the studied category of criminal offenses as the complex nature of investigative (detective) actions and covert investigative (detective) actions in criminal proceedings on corruption and corruption-related criminal offenses. Some researchers point out that such offenses as obtaining undue advantage from public officials are quite difficult to detect and investigate. This is due to a few reasons, such as the circular interest of all participants in concealing events, the high social status of the offender, corrupt relations with other authorities, etc. Considering this, investigative (detective) actions in this category of criminal proceedings may be open and covert. They are conducted both separately and comprehensively (in the form of tactical operations). Complex investigative actions are most effective at the initial stage of the investigation, when the tasks of fixing the circumstances of the criminal event and the involvement of individuals are solved (Stepaniuk, Kikinchuk & Shcherbakovskyi, 2021).

When collecting evidence through investigative (detective) actions and covert investigative (detective) actions in criminal proceedings for corruption-related criminal offenses, it is important to comply with the rules of jurisdiction, as well as the appointment of the prosecutor and investigator in a particular criminal proceeding. Violation of this is the basis for recognizing the evidence collected as inadmissible. Unfortunately, the case law on this issue is not uniform. In particular, in the issue of vesting the prosecutor (group of prosecutors) with powers in a particular criminal proceeding and considered it necessary to deviate from the conclusion on the application of the rule of law in similar legal relations, set out in the Resolution of the panel of judges of the First Judicial Chamber of the Criminal Court of Cassation of the Supreme Court of 19. 05.2020 (Case No. 490/10025/17). Thus, the panel of judges did not agree that the absence of a resolution on the appointment of a certain investigator or prosecutor by itself means that this investigator or prosecutor did not have the relevant powers. According to the panel, the CPC of Ukraine does not require

that every decision made in connection with the investigation of a criminal case be set out in the form of a resolution, the appointment of an investigator or prosecutor is not a case for which the CPC of Ukraine requires a resolution, and concluded that such a resolution is not necessary to determine the specific investigator or prosecutor who is entrusted with the exercise of the relevant powers in a particular case. Instead, in its Resolution of 19.04.2018 (Case No. 754/7062/15-к), the panel of judges of the Second Judicial Chamber of the Criminal Court of Cassation of the Supreme Court came to the opposite conclusion that the resolution on the appointment of a prosecutor, which grants a specific prosecutor (group of prosecutors) the powers provided for in Article 36 of the CPC in criminal proceedings, is mandatory, as well as signing by the relevant person who issued it. It should be noted that an extract from the Unified register of pre-trial investigations in the absence of a procedural decision of the head of the prosecutor's office does not empower the prosecutor to supervise the observance of laws during the pre-trial investigation in the form of procedural guidance. A similar legal position was expressed by the Criminal Court of Cassation of the Supreme Court in its Resolutions of 19.09.2018 (Case No. 761/20108/15-к) and 17.12.2019 (Case No. 235/6337/18).

We believe it is appropriate to agree with the position of the judges that failure to comply with due process entails a violation of the right to a fair trial guaranteed to everyone by Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The application of due process "fair procedure" (in the European system), "*dut procyes*" (in the American system) is one of the constituent elements of the rule of law principle, which provides, among other things, that the powers of public authorities are determined by the provisions of law and requires that officials have permission to act and continue to act within the scope of their powers. Considering this, the appointment by the head of the prosecutor's office of a prosecutor (group of prosecutors) who will exercise the powers of a prosecutor in a particular criminal proceeding is a criminal procedural decision that creates, changes or terminates rights and obligations, i.e., has legal consequences, in a particular criminal proceeding from its beginning to its completion and should be provided for (established) by the criminal procedural law. The granting of rights, imposition of duties and determination of the scope of responsibility by their legal nature requires a written form to avoid subjectivity and ensure legal certainty. Although Article 37 of the CPC does not provide for a specific form of decision for the head of the prosecutor's office to appoint a prosecutor (group of prosecutors) who will exercise the powers of a prosecutor in a particular criminal proceeding, such a procedural form is evident from the interpretation of the provisions of Article 110 of the CPC with the provisions of

Part 5 of Article 36 of the CPC. In accordance with the latter provision, the Prosecutor General, the head of the regional prosecutor's office, their first deputies and deputies have the right to entrust the pre-trial investigation of any criminal offense to another pre-trial investigation body by their reasoned resolution.

Compliance with the requirements of the criminal procedural law is ensured by observance of the criminal procedural form, i.e., it is related to the observance of guarantees of the rights and freedoms of participants in criminal proceedings regarding any actions and decisions of the authorities of criminal proceedings, in particular: guarantees of appeal and the possibility of verifying the legality of such decisions, verification of impartiality and objectivity of the authorities. In turn, the resolution of the head of the relevant prosecutor's office on the appointment (determination) of a prosecutor or a group of prosecutors who will exercise the powers of prosecutors in a particular criminal proceeding must meet the requirements. The absence of a resolution on appointment (determination) of a prosecutor who will exercise the powers of a prosecutor in a particular criminal proceeding, and, if necessary, a group of prosecutors who will exercise the powers of prosecutors in a particular criminal proceeding in the pre-trial investigation materials or its non-signature by the head of the relevant prosecutor's office causes the inadmissibility of evidence collected during the pre-trial investigation as such that was collected under the supervision and procedural guidance of a prosecutor (prosecutors) who did not have the legal authority to do so (Case No. 754/7061/15, 2021).

The Supreme Court also concluded that the authority of the head of the pre-trial investigation body to appoint the investigator(s) who will conduct the pre-trial investigation in the form of a written "order" containing the same details as the resolution is a sufficient document to authorize such investigator to conduct the pre-trial investigation in a particular criminal proceeding. Deciding in such a written form (and not in the form of a resolution) does not indicate that the pre-trial investigation was carried out by an unauthorized person and that the evidence obtained during such an investigation is inadmissible on these grounds (Case No. 663/267/19, 2021.). On this issue, it is also worth citing the position of the judges set out in the Resolution of the Criminal Court of Cassation of the Supreme Court of January 24, 2023, in case No. 663/3293/20, which states that the decision of the head of the pre-trial investigation body to entrust the pre-trial investigation to a specific investigator in the form of an order, the content of which meets the requirements for a procedural decision in the form of a resolution provided for by the CPC of Ukraine, is not considered a significant violation of the requirements of the criminal procedure law.

Thus, declaring evidence inadmissible is not an automatic process. If the court declares evidence inadmissible, it must substantiate its conclusions about a material violation of the requirements of the criminal procedure law, indicating which and whose rights and freedoms were violated and how it was expressed. When assessing evidence for admissibility in accordance with the criteria established by the criminal procedural law, the court proceeds from the circumstances of a particular case and must also provide reasons for its decision (Case No. 756/10060/17. Resolution of the Grand Chamber of the Supreme Court of 31.08.2022).

It is worth noting that when deciding whether the requirements of the law on conducting investigative (detective) actions and covert investigative (detective) actions in criminal proceedings on corruption-related criminal offenses have been violated, it is necessary to proceed from the following interrelated conditions:

1. the existence of an initiated pre-trial investigation - in accordance with the requirements of the CPC of Ukraine, all investigative (detective) actions, except for the inspection of the scene, may be conducted exclusively during the pre-trial investigation;
2. the existence of a general (factual) basis for a specific procedural action provided for by the CPC of Ukraine, that is, the availability of sufficient information indicating the possibility of achieving the purpose of a specific one (Part 2 of Article 223 of the CPC of Ukraine);
3. the existence of a special (legal) basis, for example, a search requires a ruling by an investigating judge or court (Part 2 of Article 234 of the CPC of Ukraine);
4. the existence of a proper entity authorized to conduct a procedural action.

In the light of the development of civil society in Ukraine, interaction with the public as a separate conceptual basis of evidence is becoming essential, which "requires non-standard approaches in terms of organizing the work of the state mechanism, consolidating the efforts of all stakeholders, and focusing the attention of civil society" (Cherviakova, 2023, p. 135). Pevko, (2023) emphasizes that "by realizing the legal status, namely by creating social institutions to protect the interests of individuals, to influence public administration in the form of various types of public formations (political parties, organizations, etc.), as well as by fulfilling the requirements of legal norms, society becomes civil" (p. 151).

Among the tools available in the anti-corruption arsenal of nations, civil society usually plays an ambiguous role. In post-communist Ukraine, where the political

leadership was unwilling to effectively pursue anti-corruption policy for reasons of its interests, where agencies created specifically for this purpose were compromised by political interference, internal struggles and lack of coordination, the question of civil society's ability to compensate for these shortcomings to make significant positive changes is acute (Harasymiw, 2019). In this context, we believe it is appropriate to pay attention to the non-procedural forms of interaction between the investigator, the coroner and public organizations during the pre-trial investigation of criminal offenses, proposed by Naida and Kuzubova (2021, p. 182), in particular

1. providing law enforcement agencies with information containing information about a criminal offense, including information obtained by analyzing open databases, registers, public procurement sites;
2. involvement of members of public organizations as witnesses in conducting investigative (detective) actions to comply with the requirements set out in Part 7 of Article 223 of the CPC of Ukraine;
3. interaction with public organizations that protect the interests of diasporas to find translators to involve them in investigative (detective) actions, as well as to find out the peculiarities of life, customs of a particular nation, if this data is necessary and useful for the investigation of a particular criminal proceeding. (p. 182)

Conclusions

Proving corruption and corruption-related offenses in criminal proceedings in Ukraine is an exceptionally complex and evolving process. The very nature of corruption is dynamic, continuously adapting and restructuring in response to modern market economy conditions, legal reforms under martial law, and the increasing digitalization of everyday life. The conceptual principles of evidence in corruption-related criminal proceedings must be examined through the lens of state policy priorities and pressing social issues, incorporating an analysis of domestic legislation, departmental regulatory documents, doctrinal provisions, and case law, including decisions of the European Court of Human Rights. Given the multifaceted nature of this issue, further scientific research should focus on analyzing specific conceptual principles of evidence, particularly the role of public engagement, its forms, regulatory frameworks, and legal norms governing such interaction. This aspect is increasingly important under martial

law, as pre-trial investigation bodies face significant operational challenges, particularly in de-occupied territories and settlements near active conflict zones.

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