European Standards of Judicial Control at the Pre-Trial Stage of Criminal Proceedings

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Abstract. This article examines European standards of judicial control at the pre-trial stage of criminal proceedings and their implementation in national criminal procedure of Ukraine. The relevance of the study is determined by need to harmonize Ukrainian criminal procedural legislation with standards of the Council of Europe and case law of the European Court of Human Rights. The purpose of this research is to identify key models and principles of judicial control in pre-trial proceedings and to assess their integration into Ukrainian legal practice.

The methodological basis of the study includes comparative legal analysis, systemic-structural and formal-legal methods, which allow examination of international standards and national legislation in their interrelation. It is established that judicial control at the pre-trial stage is a fundamental guarantee of protection of human rights in relation to the legality of detention, searches, seizures, and other procedural coercive measures.

The study highlights that European standards emphasize the independence and impartiality of the investigating judge, requirement for effective judicial review, and the principle of proportionality in restricting fundamental rights. The analysis of the case law of the European Court of Human Rights demonstrates persistent challenges in ensuring effective judicial oversight in Ukraine regarding the duration of detention and the quality of judicial reasoning.

Findings indicate Ukraine has advanced in aligning its criminal procedure with European standards, but further improvement is required to ensure compliance with Articles 5 and 6 of the European Convention on Human Rights. Findings may contribute to improvement of national legislation and judicial practice.

Keywords: judicial control; pre-trial criminal proceedings; European standards; European Court of Human Rights; criminal procedure of Ukraine.

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Introduction

The formation of Ukrainian statehood and the national legal order was historically conditioned by the country's distinctive geographical and geopolitical position, which for centuries shaped a unique synthesis of diverse civilizational traditions. Ukraine evolved at the intersection of Asian nomadic customs, the Byzantine-oriental legal and cultural paradigm, and the broader European legal space, integrating elements of each into its own legal tradition. Until the end of the eighteenth century, Ukrainian territories developed under a substantial influence of the continental European legal tradition while simultaneously preserving the distinctive features of their own political and legal evolution [1, p. 241 (2, pp. 6–7)].

Within the framework of contemporary globalization processes, the necessity of harmonizing domestic legislation with the norms and principles of international law in the sphere of human rights protection has acquired particular relevance. The incorporation of international legal standards into criminal proceedings is primarily обусловед by Ukraine's ratification of numerous international instruments establishing the fundamental principles governing criminal procedural activity.

Research Results.

Against the backdrop of ongoing global legal integration, a comprehensive system of international legal instruments has emerged, codifying standards for the protection of human rights and fundamental freedoms within criminal proceedings. Thus, O. P. Kuchynska reasonably substantiates that the defining feature of such international sources lies in their binding normative character for the States Parties to the respective treaties. In this regard, Ukraine has undertaken systematic and gradual efforts aimed at harmonizing both its legislation and enforcement practice with established international approaches and universally recognized human rights standards [4, p. 60].

Pursuant to Article 9 of the Constitution of Ukraine, international treaties whose binding force has been duly ratified by the national legislature form an integral component of the domestic legal system and are subject to direct application as constituent elements thereof. At the same time, the conclusion of international agreements inconsistent with the Constitution of Ukraine is permissible solely after introducing appropriate constitutional amendments in accordance with the established constitutional procedure, thereby ensuring their legal compatibility with the Basic Law [3].

As prescribed by Article 1 of the Criminal Procedure Code of Ukraine, the criminal procedural framework is constructed upon the provisions of the Constitution of Ukraine, international treaties ratified by the Verkhovna Rada of Ukraine, as well as the norms of the Criminal Procedure Code itself and other legislative acts regulating the relevant procedural relations [1, p. 241 (5)]. Such a normative model enables investigative authorities and courts to directly apply international legal norms duly incorporated into the domestic legal order, thereby reinforcing the coherence of the national legal system with international legal standards.

Part 2 of Article 8 of the Criminal Procedure Code of Ukraine expressly establishes that the principle of the rule of law in criminal proceedings shall be implemented with due regard to the case-law of the European Court of Human Rights [5]. Alongside this, the legislator has formally recognized the priority of international law over conflicting domestic provisions by stipulating in Part 4 of Article 9 of the Criminal Procedure Code of Ukraine that, in cases of conflict between the provisions of the Code and an international treaty ratified by Ukraine, the provisions of the relevant international treaty shall prevail [5]. Moreover, Part 5 of the same Article imposes an obligation to apply criminal procedural legislation in light of the established jurisprudence of the ECtHR as a source of interpretative guidance [5]. Thus, such a

constitutional and procedural framework ensures the supremacy of international legal standards within national law enforcement practice and confirms their progressive implementation into the Ukrainian legal system [6, p. 402].

The conceptual foundation of the implementation of international legal norms is formed by established international (global) and European (regional) standards determining the direction of harmonization between national legal systems and supranational legal requirements [7, p. 350]. At the same time, criminal procedural doctrine lacks a unified approach to interpreting the category of "international standards," which has resulted in diverse scholarly positions regarding its substantive content. Consequently, the current criminal procedural legislation does not contain a precise definition of this concept, thereby complicating its consistent application in legal practice [10, p. 45].

Within academic and reference literature, the term "standard" is generally interpreted as a model or exemplary benchmark determining the required parameters – formal, qualitative, and structural – to which a particular object or activity should conform. In other words, it represents a model of organizing or conducting specific processes, devoid of individual variability and functioning as a template or legal pattern [40, p. 274]. Another doctrinal approach defines a standard as a normatively established document intended for repeated application and aimed at formulating rules, principles, or characteristics of activity in order to ensure an optimal level of order within a specific sphere; moreover, its adoption occurs through a prescribed procedure grounded upon the principle of consensus [41, p. 614]. Scholarly literature likewise advances the position that a standard encompasses a system of norms and principles adopted in accordance with current legislation and designed to regulate a particular segment of social relations [42, p. 671; 43, p. 16].

As regards the classification structure of human rights standards, legal doctrine, alongside the traditional division into international, regional, and national standards, also proposes alternative typologies reflecting the multidimensional nature of this category [42; 43; 44].

O. Salenko examines international standards through the prism of several criteria, including their substantive nature and form of legal consolidation, territorial scope, legal force, functional purpose within the mechanism of international legal regulation, as well as the manner of their formation and external expression [45, p. 265].

A synthesis of existing doctrinal developments concerning both international standards [8, pp. 55, 57; 10, p. 45; 20, p. 74; 21; 22; 23, pp. 143, 158; 24, p. 8; 27, p. 24; 28] and European standards [19, p. 15; 20, p. 74; 21; 29, p. 51] makes it possible to distinguish a number of fundamental and stable criteria forming the conceptual basis for their understanding.

It should be emphasized that the category of "international standards" possesses a substantially broader meaning than merely the aggregate of provisions formally enshrined in ratified international treaties. It additionally encompasses legal positions elaborated by international judicial and quasi-judicial institutions [10, p. 45]. Furthermore, we support the reasoning advanced by M. H. Motoryhina, who convincingly argues that certain standards may also be embodied in international agreements not formally ratified by Ukraine but nevertheless recognized by the international community as authoritative benchmarks of proper legal regulation to which the State should orient its legislative and law-enforcement activity [8, p. 72].

In this regard, scholars of the National School of Judges of Ukraine substantiate that international standards governing the exercise of powers by the investigating judge should be understood as a body of universalized minimum requirements of both normative and doctrinal character (rules, principles, prescriptions, and methodological guidelines), which [46]:

– are institutionalized either in international legal provisions or in the jurisprudence of international judicial bodies;
– define the scope and substance of the legal regulation governing the activity of the investigating judge;
– possess both binding (mandatory) and recommendatory legal character;
– are aimed at ensuring the proper fulfillment of the objectives of criminal proceedings at the national level.

In our view, the influence of universally recognized principles and norms of international law upon domestic legal systems manifests itself in several principal forms. First, they serve as a basis for developing recommendatory provisions, compliance with which rests upon the voluntary assumption of corresponding obligations by States. Second, international treaties, conventions, and related instruments contain mandatory requirements concerning the adaptation or revision of domestic legislation in order to align it with international standards. Third, international legal norms perform the function of universal guidelines and methodological benchmarks directing the modernization of national legal acts and shaping their practical application.

Within the context of Ukraine's European integration trajectory, the European Convention on Human Rights and Fundamental Freedoms (the Convention), together with the jurisdictional practice of the European Court of Human Rights (ECtHR), constitutes a key point of reference for the functioning of criminal procedural regulation, particularly regarding standards governing pre-trial investigation in the course of implementing international human-rights approaches.

Researchers V. D. Basai, V. A. Savchenko, and T. V. Sadova note that understanding the role of the Convention and ECtHR judgments within the structure of Ukrainian criminal procedural law is grounded upon Articles 8 and 9 of the Constitution of Ukraine, the provisions of the Criminal Procedure Code of Ukraine, as well as the Laws of Ukraine "On International Treaties of Ukraine" and "On the Enforcement of Judgments and Application of the Case-Law of the European Court of Human Rights" [6, p. 402]. It is precisely the systemic analysis of these normative acts that enables determination of the place and legal force of Convention norms within the national legal order.

According to L. M. Loboyko, European standards of human rights protection in criminal justice should be understood as a system of universal provisions enshrined in the European Convention on Human Rights and Fundamental Freedoms, supplemented by the corpus of ECtHR judgments. Such judgments concretize the content of Convention norms and orient national authorities toward their practical application during the adjudication of individual criminal cases, thereby forming standardized approaches to the realization and protection of human rights in this sphere [11, p. 7].

O. V. Kaplina further confirms that where the ECtHR establishes inconsistency between a provision of Ukrainian criminal procedural legislation and the Convention, resulting in violations of subjective rights or legitimate interests, or where the Court formulates an interpretative model differing from the national approach, courts and other law-enforcement authorities possess legitimate grounds to rely upon ECtHR jurisprudence as an authoritative source of legal interpretation [10, pp. 44–45 (9)].

O. M. Fedoriv, having systematized various doctrinal approaches, identifies the principal characteristics inherent in the concept of a "European standard," including: "formal certainty of the rule; the source of its legal consolidation; its mandatory or recommendatory character; the minimum nature of guarantees; its impact upon domestic legislation; the legal consequences of non-compliance; and the necessity of proper implementation" [15, p. 67]. Such classification allows for a systematic determination of the functional significance of standards within criminal proceedings.

Taking into account ECtHR jurisprudence, the provisions of the Convention, and other international legal instruments [30], criminal procedural doctrine distinguishes a number of relevant requirements that must be observed by competent authorities in organizing and conducting investigations, namely [12, p. 20; 13, p. 96; 14, p. 52; 16, p. 304]: institutional independence and procedural impartiality of investigative bodies; compliance of investigative actions with the criterion of adequacy; an appropriate level of professional competence and diligence on the part of authorized actors; promptness and intensity of investigative measures; a sufficient degree of transparency for society; adequate procedural involvement of victims or their representatives; and openness of procedures to ensure effective public oversight [17, pp. 32–36]. In the Opinion of the Council of Europe Commissioner for Human Rights Thomas Hammarberg concerning the necessity of establishing an effective and independent mechanism for addressing complaints against police actions, these requirements are characterized as structural principles of effective investigation [14, pp. 96–97]. This demonstrates the integrated nature of such standards, which doctrine qualifies as unified principles, criteria, or requirements for effective investigation.

In turn, D. V. Siminovych defines European standards of criminal proceedings as "provisions reflecting general principles and practices of human rights protection formulated in the Convention, its Protocols, and ECtHR judgments, which possess binding force for national authorities in the administration of criminal justice" [18, pp. 51–52 (19, p. 15)]. Thus, the scholar emphasizes the interrelation between normative and precedential components which collectively form a comprehensive standard of due legal procedure.

P. A. Rudyk logically distinguishes the category of "European standards," which encompasses normative provisions and principles enshrined in the foundational acts of the European Union and the Council of Europe, compliance with which is mandatory for member States of these organizations [20, pp. 74, 78].

By synthesizing scholarly approaches, B. Yu. Holovko systematized European standards applicable within criminal proceedings into several substantive groups. First and foremost, the researcher identifies standards regulating the lawfulness of detention and the application of preventive measures in the form of pre-trial detention, together with the procedural safeguards related thereto. The second group encompasses standards establishing requirements for the sufficiency and reasonableness of suspicion as a prerequisite for State interference with individual rights and freedoms during the pre-trial stage. The third group covers standards aimed at ensuring the effectiveness of pre-trial investigation, including its promptness, comprehensiveness, procedural diligence, and the effectiveness of judicial control mechanisms. The fourth group concerns standards of access to justice in criminal proceedings, encompassing guarantees of the right to judicial recourse, access to legal assistance, and effective mechanisms for challenging decisions, actions, or omissions of investigative authorities [6, p. 52].

Thus, European standards of judicial control at the pre-trial stage of criminal proceedings are shaped under the direct influence of ECtHR jurisprudence and the provisions of the Convention [30]. These standards constitute an integral component of the guarantees of a fair trial and are directly aimed at ensuring the rule of law and protecting individuals against arbitrary interference by the State in the sphere of their rights and freedoms. The principal normative benchmarks defining the essence of judicial control are Articles 5 and 6 of the Convention [30], which guarantee the right to liberty and security of person and the right to a fair trial. According to ECtHR jurisprudence, judicial control at the pre-trial stage must ensure a genuine, rather than merely formal, review of the legality of restrictions imposed upon individual rights, particularly in cases involving preventive measures, searches, seizure of property, or covert investigative actions.

A generalized chronological table illustrating the implementation of European standards of judicial control at the pre-trial stage of criminal proceedings in Ukraine, based

upon the applicable regulatory framework and relevant international legal instruments, is presented in Table 1.

Table 1

Implementation of European Standards of Judicial Control at the Pre-Trial Stage of Criminal Proceedings in Ukraine

Date	Normative Legal Act (Document)	Characteristics of the Implementation of Standards
17.07.1997	Law of Ukraine No. 475/97-VR "On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950" [50]	Incorporation of the provisions of the Convention and the jurisdiction of the ECtHR into the national legal system, which, accordingly, initiated the obligation to ensure judicial control over restrictions of individual rights, particularly at the pre-trial stage (Articles 5 and 6 of the Convention).
28.06.1996	Constitution of Ukraine [3]	Consolidation of the principle of the rule of law (Art. 8), guarantees of judicial protection of rights and freedoms (Art. 55), as well as the requirement of judicial supervision over detention (Art. 29), which, in turn, corresponds to European legal standards.
21.06.2001	Criminal Procedure Code of Ukraine (as amended in 2001)	Partial extension of judicial control mechanisms, particularly regarding the authorization of detention; nevertheless, the procedural model remained predominantly inquisitorial and, thus, did not fully comply with ECtHR standards.
23.02.2006	Law of Ukraine No. 3477-IV "On the Execution of Judgments and Application of the Case-Law of the European Court of Human Rights" [51]	Establishment of the mandatory consideration of ECtHR jurisprudence by Ukrainian courts as a source of law, which directly influenced the development of judicial control during pre-trial proceedings.
13.04.2012	Criminal Procedure Code of Ukraine (new edition) [5]	Comprehensive implementation of European standards: introduction of the institution of the investigating judge, expansion of judicial oversight over pre-trial investigation (preventive measures, investigative actions, protection of participants' rights). At the same time, the adversarial model of criminal procedure and judicial control was practically introduced in accordance with ECtHR principles, including independence, impartiality, and effective legal remedy.
02.06.2016	Law of Ukraine No. 1402-VIII "On the Judiciary and Status of Judges" [52]	Strengthening of institutional guarantees of judicial independence, including the independence of investigating judges, which constitutes one of the fundamental ECtHR standards for effective judicial control.
30.09.2016	Law of Ukraine No. 1401-VIII "On Amendments to the Constitution of Ukraine	Constitutional consolidation of the reformed justice system, reinforcement of guarantees of judicial independence, and further

	(Regarding Justice)" [53]	implementation of European standards of fair trial.
03.10.2017	Law of Ukraine No. 2147-VIII "On Judicial Reform" [54]	Improvement of procedural mechanisms of judicial control, particularly concerning time limits for consideration of motions, procedural safeguards for the parties, and access to justice.
18.09.2018	Law No. 2548-VIII "On Amendments to the CPC of Ukraine Regarding Improvement of Ensuring the Rights of Participants in Criminal Proceedings and Other Persons by Law Enforcement Authorities During Pre-Trial Investigation" [66]	Expansion of procedural rights of the parties at the pre-trial stage and strengthening of the role of the investigating judge in supervising compliance with human rights guarantees.
2018–2025	Practice of national courts with due regard to ECtHR judgments	Formation of a stable practice of applying ECtHR standards, particularly concerning the reasonableness of detention, proportionality of interference, and effectiveness of judicial control, thereby ensuring their actual implementation.

Source: compiled by the author

The chronological analysis demonstrates that the implementation of European standards of judicial control at the pre-trial stage of criminal proceedings in Ukraine has developed in an evolutionary manner and has been realized through a combination of legislative consolidation of relevant guarantees and their subsequent concretization in judicial and law-enforcement practice. In our opinion, the pivotal stage of this process was the codification reform of 2012, which institutionalized the investigating judge as the principal mechanism for ensuring judicial control in accordance with the Convention and ECtHR jurisprudence. Alongside this, subsequent legislative amendments and judicial practice have been directed toward deepening the conformity of the national criminal procedural model with European human rights protection standards.

At the same time, it appears appropriate to emphasize the relevant ECtHR judgments that correlate with the formation of standards of judicial control at the pre-trial stage of criminal proceedings in Ukraine (Table 2).

Table 2

Consideration of ECtHR Case-Law in the Context of the Implementation of European Standards of Judicial Control at the Pre-Trial Stage of Criminal Proceedings in Ukraine

ECtHR Case	Characteristics of the Judgment
"Brogan and Others v. the United Kingdom" of 29.11.1988 (Applications Nos. 11209/84, 11234/84, 11266/84, 11386/85) [31]	The Court established that prolonged detention without promptly bringing detainees before a judge failed to satisfy the requirement of "promptness" under Article 5 § 3 of the Convention. A violation of the right to liberty and security was found. Furthermore, the Court formulated the approach according to which even considerations of state security cannot justify excessive delay in judicial review of detention.

"Nikolova v. Bulgaria" of 25.03.1999 (Application No. 31195/96) [32]	It was determined that judicial review of the lawfulness of detention must comply with the principles of adversarial proceedings and equality of arms. The Court found a violation of Article 5 § 4 of the Convention due to restrictions on the applicant's ability to effectively challenge detention and emphasized the necessity of procedural safeguards during such review.
"Schöps v. Germany" of 13.02.2001 (Application No. 25116/94) [35]	The ECtHR held that the right to a fair hearing encompasses the obligation of the State to ensure that the defense has a genuine opportunity to examine materials relevant to detention issues. A violation of the principle of equality of arms was established due to restricted access to the case materials.
"Merit v. Ukraine" of 30.03.2004 (Application No. 66561/01) [55]	The Court established violations of the right to a fair trial and the right to an effective remedy, simultaneously emphasizing the necessity of proper judicial supervision over procedural decisions.
"Assanidze v. Georgia" of 08.04.2004 (Application No. 71503/01) [36]	A grave violation of Article 5 of the Convention was identified due to the continued unlawful detention of a person despite a final judicial order for release. The Court stressed the binding nature of judicial decisions as an integral element of the rule of law and effective judicial control.
"Salov v. Ukraine" of 27.04.2004 (Application No. 65518/01) [56]	Violations of the fair trial principle were established. Particular emphasis was placed on judicial independence and the necessity of proper judicial scrutiny of restrictions on individual rights.
"Nevmerzhitsky v. Ukraine" of 05.04.2005 (Application No. 54825/00) [33]	Violations of Articles 3 and 5 of the Convention were found, particularly in relation to force-feeding and inadequate judicial control over detention conditions. The Court underscored the State's obligation to ensure humane treatment of detainees and effective judicial supervision over restrictions of their rights.
"Sokurenko and Strygun v. Ukraine" of 20.07.2006 (Applications Nos. 29458/04 and 29465/04) [57]	The Court identified violations concerning judicial independence as a component of effective judicial control, including during pre-trial proceedings.
"Yeloyev v. Ukraine" of 06.11.2008 (Application No. 17283/02) [58]	The ECtHR stressed the necessity of proper reasoning in judicial decisions concerning detention and declared the formalistic approach to be unacceptable.
"Nechiporuk and Yonkalo v. Ukraine" of 21.04.2011 (Application No. 42310/04) [59]	Violations of Article 5 of the Convention concerning unlawful detention and the absence of effective judicial control were identified. Standards of "reasonable suspicion" and judicial supervision were further elaborated.
"Kharchenko v. Ukraine" of 10.02.2011 (Application No. 40107/02) [60]	The Court established the systemic nature of violations of Article 5 of the Convention, manifested in prolonged detention without an appropriate judicial decision and formalistic extensions of preventive measures. Standards concerning the legality and substantiation of detention, as well as the necessity of regular and substantive judicial review, were formulated.

"Ignatov v. Ukraine" of 15.12.2016 (Application No. 40583/15) [61]	The Court emphasized the obligation of national courts to conduct prompt and effective review of detention, particularly regarding the justification for extending preventive measures.
"Kulykov and Others v. Ukraine" of 19.01.2017 (Applications Nos. 5114/09 et al.) [62]	Violations were established due to the lack of adequate judicial review of detention lawfulness and insufficient reasoning in judicial decisions.
Council of Europe Projects Regarding the Implementation of Article 6 of the Convention in Ukraine (24.11.2022) [63]	The necessity of ensuring effective functioning of judicial control and maintaining judicial independence, particularly under martial law conditions, was reaffirmed.
"Sytnyk v. Ukraine" of 24.04.2025 (Application No. 16497/20) [65]	Violations of the right to a fair trial and respect for private life were established. The Court highlighted the necessity of ensuring procedural fairness and proportionality of interference.

Source: compiled by the author

A systemic analysis of ECtHR jurisprudence provides sufficient grounds to conclude that the implementation of European standards of judicial control at the pre-trial stage of criminal proceedings is carried out in two interrelated dimensions: normative and precedential. Thus, ECtHR judgments perform not merely an interpretative function regarding the provisions of the Convention but also operate as a source of concretized legal standards, particularly concerning the lawfulness of detention, reasonable suspicion, reasonable time requirements, and the effectiveness of judicial review, which are gradually being integrated into national criminal procedural legislation and its practical application.

In its judgments, particularly in "Brogan and Others v. the United Kingdom" [31], "Nikolova v. Bulgaria" [32], "Nevmerzhitsky v. Ukraine" [33], and "Kharchenko v. Ukraine" [34], the ECtHR repeatedly emphasized that any deprivation of liberty must be lawful, justified, and proportionate to the legitimate aim pursued, whereas judicial review must remain independent, effective, and timely. Accordingly, the court is required not only to establish formal compliance with procedural requirements but also to assess the factual grounds justifying interference with the right to liberty. Hence, judicial control is perceived as a preventive safeguard against arbitrariness on the part of pre-trial investigation authorities.

European standards likewise define the criteria for effective judicial control. First, the court reviewing the legality of detention or arrest must be independent ("Schöps v. Germany" [35]). Second, review of restrictions on rights must be prompt, that is, conducted within the shortest possible period following the actual interference with individual liberty. Third, the court must possess authority to order release where deprivation of liberty has been found unlawful ("Assanidze v. Georgia" [36]).

A separate and particularly significant place within the system of European standards is occupied by the guarantee of an effective remedy under Article 13 of the Convention, which requires that an individual have a genuine possibility to challenge any unlawful decision, action, or omission of pre-trial investigation authorities. Consequently, the State must ensure the functional independence of the judiciary from executive authorities and prosecution bodies, as well as establish clear procedural mechanisms enabling recourse to the courts at any stage of pre-trial proceedings.

The Ukrainian scholar in constitutional law, P. Martynenko, having conducted a comprehensive analysis of international legal instruments, focused particular attention on the substance and scope of the principle of judicial independence [47; 48; 49]. In his view, within the international legal dimension, judicial independence should be understood not solely as an individual's subjective right to an impartial and autonomous tribunal, but equally as a legal obligation imposed upon judges to administer justice independently, free from any external interference or internal pressure from colleagues or court administration. Moreover, the scholar additionally underlines the right of the judiciary to collective actions aimed at safeguarding its institutional autonomy [47].

The author further observes that the principle of judicial independence encompasses institutional autonomy of the judiciary vis-à-vis the legislative and executive branches of power. Pursuant to international standards, no authority or official is entitled to interfere with the administration of justice, exert pressure upon courts, influence judicial decision-making, or obstruct the proper functioning of judicial institutions. Alongside this, an indispensable component of judicial independence lies in guaranteeing the material and financial autonomy of the judicial system. The allocation and distribution of budgetary resources necessary for court functioning must therefore occur in close cooperation with judicial authorities, thereby preventing financial pressure or manipulative influence.

An integral element of judicial independence also consists in safeguarding guarantees of the personal status of judges established by international standards. This concerns, inter alia, adequate remuneration fixed by law, prohibition of reduction of judicial remuneration during tenure, as well as mandatory indexation corresponding to economic conditions, which, in turn, ensures genuine protection of judges from any form of financial dependence or influence [37, p. 616].

Recommendation No. 10 of the Committee of Ministers of the Council of Europe to Member States on the European Code of Police Ethics, adopted on 19 September 2001 at the 765th meeting of the Ministers' Deputies [38], emphasizes the fundamental necessity of a clear functional separation between police authorities, prosecution bodies, the judiciary, and the penitentiary system (para. 6 of the Recommendation). According to paragraph 8, every individual must be guaranteed the right to judicial review of any police act, decision, or omission violating their rights. Furthermore, paragraph 9 highlights the necessity of proper interaction between police and prosecution authorities based upon legality, accountability, and cooperation.

Analysis of Recommendation No. 10 additionally confirms the logical conclusion regarding the objective necessity of judicial control at the pre-trial investigation stage. On the one hand, such control ensures the supervisory function of the judiciary over police and investigative authorities; on the other hand, it precludes the conferral of judicial powers upon law-enforcement bodies. Such an approach corresponds to the principle of separation of powers, guarantees effective protection of individual rights, and contributes to strengthening the rule of law within criminal justice.

The implementation of the aforementioned standards into the national legal systems of Council of Europe member states has consequently led to a reconsideration of the role of the judiciary within criminal justice systems. In contemporary legal systems, judicial control is perceived not as an element of formal procedural supervision, but rather as a constitutional guarantee of the rule of law designed to maintain a balance between the public interests of criminal prosecution and the private rights of the individual.

Conclusions

Summarizing the foregoing, it should be emphasized that European standards of judicial control at the pre-trial stage of criminal proceedings constitute a comprehensive normative and axiological foundation ensuring the legality, proportionality, and fairness of

interference with individual rights. These standards determine not only the procedural mechanisms of judicial supervision but also the very philosophy of judicial control as an effective instrument for safeguarding human rights within a democratic state.

References

1. Stolitnii, A. (2015). Vtilennia mizhnarodnykh standartiv dosudovoho rozsliduvannia u kryminalnomu protsesualnomu zakonodavstvi Ukrainy [Implementation of international standards of pre-trial investigation into the criminal procedural legislation of Ukraine]. Natsionalnyi yurydychnyi zhurnal. Teoriia i praktyka. Instytut prava im. V. Stashysa. Klasychnyi pryvatnyi universytet, 6(16), 241–243. URL: https://ibn.idsi.md/sites/default/files/imag_file/241-243_13.pdf
2. Khaustova, M.H. (2009). Natsionalna pravova systema Ukrainy v simi pravovykh system suchasnosti [National legal system of Ukraine in the family of modern legal systems]. Pytannia istorii derzhavy i prava ta polityko-pravovykh uchen. Problemy zakonnosti, 101, 3–12. URL: https://dspace.nlu.edu.ua/server/api/core/bitstreams/3fad8cda-15b0-4581-8409-5410c51a4a28/content
3. Konstytutsiia Ukrainy [Constitution of Ukraine]. (1996). Vidomosti Verkhovnoi Rady Ukrainy (VVR), 30, Art. 141. (Document 254k/96-VR, current version as of 01.01.2020, basis – 27-IX). URL: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text
4. Kuchynska, O.P. (2014). Pravovi pytannia implementatsii zahalnovyznanykh mizhnarodnykh standartiv u haluzi prav liudyny u vitchyzniane kryminalne protsesualne zakonodavstvo [Legal issues of implementation of universally recognized international human rights standards into domestic criminal procedural legislation]. Chasopys tsyvilnoho i kryminalnoho sudochynstva, 1, 57–61.
5. Kryminalnyi protsesualnyi kodeks Ukrainy [Criminal Procedure Code of Ukraine]. (2013). Vidomosti Verkhovnoi Rady Ukrainy (VVR), 9–10, 11–12, 13, Art. 88. (Document 4651-VI, current version as of 01.08.2025, basis – 4560-IX). URL: https://zakon.rada.gov.ua/laws/main/4651-17?utm_source=chatgpt.com#Text
6. Basai, V.D., Savchenko, V.A., & Sadova, T.V. (2015). Kryminalnyi protses Ukrainy, Respubliky Polshchi, FRN: porivnialnyi analiz [Criminal procedure of Ukraine, the Republic of Poland, and the Federal Republic of Germany: Comparative analysis]. Kyiv: Alerta.
7. Babchynska, T.V. (2016). Zastosuvannia Konventsii pro zakhyst prav liudyny i osnovopolozhnykh svobod ta rishen Yevropeiskoho Sudu z prav liudyny v pravozastosovchii praktytsi Ukrainy [Application of the Convention for the Protection of Human Rights and Fundamental Freedoms and judgments of the European Court of Human Rights in the law enforcement practice of Ukraine]. In Pravovi ta instytutsiini mekhanizmy zabezpechennia rozvytku derzhavy ta prava v umovakh yevrointehratsii: materialy Mizhnarodnoi naukovo-praktychnoi konferentsii (Odesa, 20 May 2016) (Vol. 2, pp. 349–352). Odesa: Yurydychna literatura.
8. Motoryhina, M.H. (2016). Storona zakhystu v sudovomu provadzhenni u pershii instantsii [The defense party in first instance court proceedings] (Candidate's thesis). Kharkiv.
9. Kaplina, O.V. (2008). Pravozastosovne tlumachennia norm kryminalno-protsesualnoho prava [Law enforcement interpretation of criminal procedural law provisions]. Kharkiv: Pravo.
10. Babchynska, T.V. (2020). Realizatsiia prava na zakhyst u kryminalnomu provadzhenni vidpovidno do vymoh mizhnarodnykh standartiv [Implementation of the right to defense in criminal proceedings in accordance with international standards] (Candidate's thesis). Odesa.
11. Loboiko, L.M. (2007). Yevropeiski standarty dotrymannia prav liudyny u haluzi kryminalnoho sudochynstva: poniattia, systema i tsinnist dlia reformuvannia

kryminalnoho protsesu Ukrainy [European standards of human rights observance in criminal justice: Concept, system and value for reforming the criminal procedure of Ukraine]. In Aktualni problemy reformuvannia kryminalno-protsesualnoho zakonodavstva: materialy “kruhloho stolu” (Dnipropetrovsk, 25 May 2007) (pp. 6–8).

12. Bielousov, Yu., Hatiiatullin, O., Zaporozhtsev, K., Tarasova, M., & Shurduk, V. Fiksatsiia ta rozsliduvannia katuvan u mistsiakh nesvobody (analiz zakonodavstva) [Documentation and investigation of torture in places of detention (analysis of legislation)]. URL: https://ecpl.com.ua/wp-content/uploads/2018/11/Fiksatsiia-ta-rozsliduvanniakatuvan-.pdf
13. Kasko, V. (2011). Kryterii efektyvnosti rozsliduvannia faktiv pohanoho povodzhennia: ohliad pretsedentnoi praktyky Yevropeiskoho sudu z prav liudyny, zokrema u spravakh proty Ukrainy [Criteria for effective investigation of ill-treatment: Review of the case law of the European Court of Human Rights, particularly in cases against Ukraine]. Pravo Ukrainy, 7, 96–103. URL: https://files.znu.edu.ua/8080/library/DocDescription?doc_id=751331
14. Svanidze, E. (2009). Efektyvne rozsliduvannia faktiv zhorstokoho povodzhennia: Kerivni pryntsypy zastosuvannia yevropeiskykh standartiv [Effective investigation of ill-treatment: Guidelines for applying European standards]. Kyiv: K.I.S. URL: https://opac.donnu.edu.ua/cgi-bin/koha/opac-detail.pl?biblionumber=49806
15. Fedoriv, O.M. (2023). Yevropeiski standarty efektyvnosti dosudovoho rozsliduvannia [European standards of effectiveness of pre-trial investigation] (Doctor of Philosophy thesis). Lviv. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/5669/1/fedoriv_1.pdf
16. Ostrohliad, O., Torbas, O., Zavtur, V., Sydorchuk, V., & Fedoriv, O. (2021). Effectiveness standards for investigation of corruption crimes: Theory and practice. Amazonia Investiga, 10(44), 295–306.
17. Dovidnyk iz zastosuvannia statti 2 Yevropeiskoi konventsii z prav liudyny. Pravo na zhyttia [Guide on Article 2 of the European Convention on Human Rights. Right to life]. (Updated 31 August 2018). URL: https://www.echr.coe.int/Documents/Guide_Art_2_UKR.pdf
18. Holovko, B.Yu. (2024). Yevropeiski standarty sudovoho kontroliu na etapi dosudovoho rozsliduvannia v kryminalnomu provadzhenni [European standards of judicial control at the stage of pre-trial investigation in criminal proceedings]. Naukovyi visnyk UzhNU. Seriia PRAVO, 85(4), 50–54. URL: https://visnyk-pravo.uzhnu.edu.ua/article/view/315979/306616
19. Simonovych, D.V. (2011). Yevropeiski standarty zabezpechennia prav liudyny u dosudovykh stadiiakh kryminalnoho protsesu Ukrainy [European standards for ensuring human rights at the pre-trial stages of criminal proceedings in Ukraine] (Extended abstract of Candidate’s thesis). Kharkiv. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/465399c5-6033-4dec-bc5f-4fc645199bef/content
20. Rudyk, P.A. (2019). Osnovni mizhnarodno-pravovi ta yevropeiski standarty u sferi pravosuddia ta yikh vplyv na zabezpechennia yednosti sudovoi praktyky [Basic international legal and European standards in the field of justice and their influence on ensuring the unity of judicial practice]. Chasopys Kyivskoho universytetu prava, 4, 74–80. URL: https://chasprava.com.ua/index.php/journal/article/view/115/103
21. Vladovska, K., & Tysovska, V. (2019). Mizhnarodni ta yevropeiski standarty zakhystu prav liudyny: do problemy vyznachennia poniattia ta klasyfikatsii [International and European standards of human rights protection: On the problem of defining the concept and classification]. Visnyk Natsionalnoi akademii Derzhavnoi prykordonnoi sluzhby Ukrainy. Yurydychni nauky, 4. URL: https://periodica.nadpsu.edu.ua/index.php/legal/article/view/302/303

22. Hanzytska, T.S., & Shtanko, M.V. (2015). Mizhnarodni standarty prav liudyny: teoriia ta praktyka realizatsii v Ukraini [International human rights standards: Theory and practice of implementation in Ukraine]. Porivnialno-analitychne pravo, 4, 16–18. URL: http://pap-journal.in.ua/wp-content/uploads/2020/07/4_2015.pdf
23. Hryniuk, V.O. (2017). Funktsiia obvynuvachennia v kryminalnomu sudochynstvi Ukrainy: pravovi, teoretychni ta praktychni problemy realizatsii [The prosecution function in criminal proceedings of Ukraine: Legal, theoretical and practical implementation problems] (Doctoral dissertation). Kyiv.
24. Korovaiko, O.I. (2017). Realizatsiia mizhnarodnykh standartiv kryminalnoho sudochynstva v sudovomu provadzhenni Ukrainy [Implementation of international standards of criminal justice in court proceedings of Ukraine] (Extended abstract of Doctoral dissertation). Kharkiv. URL: http://dspace.univd.edu.ua/xmlui/bitstream/handle/123456789/2586/aref_Korovaiko_2017.pdf?sequence=2&isAllowed=y
25. Krukevych, O.M. (2017). Zdiisnennia pravosuddia u kryminalnomu provadzhenni za uchastiu nepovnolitnikh osib [Administration of justice in criminal proceedings involving juveniles] (Candidate's thesis). Kyiv.
26. Liakhvinienko, S.M. (2011). Mizhnarodni pravovi standarty: do vyznachennia poniattia ta vydovoi kharakterystyky [International legal standards: On defining the concept and species characteristics]. Derzhava i pravo, 51, 666–672. URL: http://dspace.nbuv.gov.ua/bitstream/handle/123456789/34001/106-Lyakhivnenko.pdf?sequence=1
27. Rabinovych, P.M. (2016). Mizhnarodni standarty prav liudyny: vlastyvosti, zahalne poniattia, klasyfikatsiia [International human rights standards: Properties, general concept, classification]. Visnyk Natsionalnoi akademii pravovykh nauk Ukrainy, 1, 19–29.
28. Salenko, O. (2014). Mizhnarodni standarty u sferi sudoustroiu ta statusu suddiv, yikh zmist i klasyfikatsiia [International standards in the field of judicial system and status of judges, their content and classification]. Jurnalul Juridic National: Teorie si Practica, 4, 263–269.
29. Verlanov, S.O. (2008). Ekonomichni i sotsialni prava liudyny: yevropeiski standarty ta yikh vprovadzhennia v yurydychnu praktyku Ukrainy (zahalnoteoretychne doslidzhennia) [Economic and social human rights: European standards and their implementation in the legal practice of Ukraine (general theoretical study)] (Candidate's thesis). Lviv.
30. Konventsiia pro zakhyst prav liudyny i osnovopolozhnykh svobod (z protokolamy) (Yevropeiska konventsiia z prav liudyny) [Convention for the Protection of Human Rights and Fundamental Freedoms (with protocols) (European Convention on Human Rights)]. (Ratified by Law No. 475/97-VR of 17.07.97). (Document 995_004, current version as of 01.08.2021). URL: https://zakon.rada.gov.ua/laws/show/995_004#Text
31. Case of Brogan and Others v. the United Kingdom (Application nos. 11209/84, 11234/84, 11266/84, 11386/85). Judgment (Merits). Court (Plenary). 29/11/1988. Judgment of 29 November 1988. The European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57450%22]}
32. Case of Nikolova v. Bulgaria (Application no. 31195/96). Judgment (Merits and Just Satisfaction). Court (Grand Chamber). 25/03/1999. The European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58228%22]}
33. Case of *Nevmerzhitsky v. Ukraine* (Application no. 54825/00). Judgment 5 April 2005. Judgment (Merits and Just Satisfaction). Court (Second Section). European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-68715%22]}
34. Case of *Kharchenko v. Ukraine* (Application no. 40107/02). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 10 February 2011. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103260%22]}

35. Case of *Schöps v. Germany* (Application no. 25116/94). Judgment (Merits and Just Satisfaction). Court (First Section). 13 February 2001. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-59210%22]}
36. Case of *Assanidze v. Georgia* (Application no. 71503/01). Judgment (Merits and Just Satisfaction). Court (Grand Chamber). 08 April 2004. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-61875%22]}
37. European and International Standards in the Field of Judiciary. Kyiv, 2015. 708 p. URL: https://hcj.gov.ua/sites/default/files/field/file/eu_standarts_book_web-1.pdf
38. Recommendation Rec(2001)10 of the Committee of Ministers to member states on the European Code of Police Ethics and its commentary (adopted by the Committee of Ministers at the 765th meeting of Deputy Ministers). URL: https://pravo.org.ua/oldsitelink/files/Criminal%20justice/rec1.pdf
39. The Role of the Investigating Judge in Criminal Proceedings. Analytical report based on research 2019–2020. International Renaissance Foundation. Kyiv, 2020. URL: https://www.irf.ua/wp-content/uploads/2020/05/rol_slsuddya_web-2.pdf
40. Large Explanatory Dictionary of the Modern Ukrainian Language. Compiled and edited by V. T. Busel. Kyiv; Irpin: Perun, 2009. 1736 p.
41. Legal Encyclopedia: in 6 volumes. Editorial board: Yu. S. Shemshuchenko (ed.-in-chief) et al. Kyiv: Ukrainian Encyclopedia, 2003. Vol. 5: P–S. 736 p.
42. Liakhvinenko S. M. International legal standards: towards defining the concept and typology. State and Law. 2011. Issue 51. P. 669. URL: http://dspace.puet.edu.ua/bitstream/123456789/573/1/09_09.pdf
43. Hanytska T. S., Shtanko M. V. International human rights standards: theory and practice of implementation in Ukraine. Comparative-Analytical Law. 2015. No. 4. P. 16–18. URL: https://dspace.uzhnu.edu.ua/items/6499aeec-4e3e-401a-8725-ee6f951d906a
44. Rabinovych P. M. International human rights standards: properties, general concept, classification. Bulletin of the National Academy of Legal Sciences of Ukraine. 2016. No. 1 (84). P. 19–29.
45. Salenko O. International standards in the field of judicial system and status of judges, their content and classification. Jurnalul Juridic National: Teorie Si Practica. 2014. No. 4. P. 263–269. URL: https://ibn.idsi.md/sites/default/files/imag_file/M%D0%86ZhNARODN%D0%86%20STANDARTI%20U%20SFER%D0%86%20SUDOUSTROJu%20TA%20STATUSU%20SUDD%D0%86V%2C%20%D0%87H%20ZM%D0%86ST%20%D0%86%20KLASIF%D0%86KAC%D0%86Ja.pdf
46. Investigating Judge and Judicial Control over the Observance of Rights, Freedoms and Interests of Persons in Criminal Proceedings. National School of Judges of Ukraine. URL: https://nsj.gov.ua/files/15517899713.%20%D0%A2%D0%B5%D0%BC%D0%B0%201.%20%D0%A1%D0%BB%D1%96%D0%B4%D1%87%D0%B8%D0%B9%20%D1%81%D1%83%D0%B4%D0%B4%D1%8F....pdf
47. Martynenko P. Project of constitutionalisation of the European Union. Bulletin of the Constitutional Court of Ukraine. 2003. No. 5. P. 113–126.
48. Martynenko P. The place and role of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms in the constitutional and legal mechanism of Ukraine. Bulletin of the Constitutional Court of Ukraine. 2002. No. 2. P. 64–72.
49. Martynenko P. F. Case method in legal education: Western experience and Ukraine. Problems of Higher Legal Education. Kharkiv, 2002. P. 90–93.
50. Law of Ukraine "On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950...". Bulletin of the Verkhovna Rada of Ukraine. 1997. No. 40. Art. 263. URL: https://zakon.rada.gov.ua/laws/show/475/97-%D0%B2%D1%80#Text

51. Law of Ukraine "On Execution of Judgments and Application of the Practice of the European Court of Human Rights". Bulletin of the Verkhovna Rada of Ukraine. 2006. No. 30. Art. 260. URL: https://zakon.rada.gov.ua/laws/show/3477-15#Text
52. Law of Ukraine "On the Judiciary and Status of Judges". Bulletin of the Verkhovna Rada of Ukraine. 2016. No. 31. Art. 545. URL: https://zakon.rada.gov.ua/laws/show/1402-19#Text
53. Law of Ukraine "On Amendments to the Constitution of Ukraine (on Justice)". Bulletin of the Verkhovna Rada of Ukraine. 2016. No. 28. Art. 532. URL: https://zakon.rada.gov.ua/laws/show/1401-19#Text
54. Law of Ukraine No. 2147-VIII of 03 October 2017 "On Amendments to the Commercial Procedure Code of Ukraine, Civil Procedure Code of Ukraine, Code of Administrative Procedure of Ukraine and other legislative acts". Bulletin of the Verkhovna Rada of Ukraine. 1992. No. 6. Art. 56. URL: https://ips.ligazakon.net/document/T172147?an=1
55. Case of *Merit v. Ukraine* (Application no. 66561/01). Judgment (Merits and Just Satisfaction). Court (Second Section). 30 March 2004. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-61685%22]}
56. Case of *Salov v. Ukraine* (Application no. 65518/01). Decision (Final). Court (Second Section). 27 April 2004. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-23870%22]}
57. Case of *Sokurenko and Strygun v. Ukraine* (Applications nos. 29458/04 and 29465/04). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 20 July 2006. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-76467%22]}
58. Case of *Yeloyev v. Ukraine* (Application no. 17283/02). Judgment (Merits). Court (Fifth Section). 06 November 2008. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-89452%22]}
59. Case of *Nechiporuk and Yonkalo v. Ukraine* (Application no. 42310/04). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 21 April 2011. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-104613%22]}
60. Case of *Kharchenko v. Ukraine* (Application no. 40107/02). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 10 February 2011. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103260%22]}
61. Case of *Ignatov v. Ukraine* (Application no. 40583/15). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 15 December 2016. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-192743%22]}
62. Case of *Kulykov and Others v. Ukraine* (Applications nos. 5114/09 and 17 others). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 19 January 2017. European Court of Human Rights. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-170362%22]}
63. Ensuring the effective implementation of the right to a fair trial (Article 6 of the ECHR) in Ukraine. Council of Europe Office in Ukraine. 24 November 2022. URL: https://www.coe.int/en/web/kyiv/ensuring-the-effective-implementation-of-the-right-to-a-fair-trial-article-6-of-the-echr-in-ukraine?utm_source=chatgpt.com
64. Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation). International Court of Justice. Document No. 166-20240131-SUM-01-00-EN. URL: https://www.icj-cij.org/index.php/node/203487?utm_source=chatgpt.com
65. Case of *Sytnyk v. Ukraine* (Application no. 16497/20). Judgment (Merits and Just Satisfaction). Court (Fifth Section). 24 April 2025. European Court of Human Rights. URL: https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-242999%22]}

66. Law of Ukraine “On Amendments to the Criminal Procedure Code of Ukraine regarding improvement of ensuring rights of participants in criminal proceedings…”. Bulletin of the Verkhovna Rada of Ukraine. 2018. No. 45. Art. 364. URL: https://zakononline.ua/documents/show/371394__371459