The purpose of the study is to assess changes in the legislative regulation of the initial stage of pre-trial proceedings in the criminal case according to the Criminal Procedure Code of Ukraine in 2012. The author notes an increase in the effectiveness of law enforcement activities of investigative bodies.

Methods of research are represented by general scientific methods of cognition. The comparative legal and formal-logical methods were chosen.

The results of the study include an assessment of the effectiveness of the current procedure for initiating a pre-trial investigation under the Criminal Procedure Code of Ukraine. The author notes that the system of access to justice created under the current CPC corresponds to democratic European standards.

Conclusions on the results of the study are formulated in several ways. The first of them is a statement of the strengthening of the guarantee of the right of citizens to access to justice in the Criminal Procedure Code of Ukraine. The second is recommendations on the need to interpret some of its provisions by the Supreme Court of Ukraine to optimize the initiation of pre-trial investigation in several categories of cases. The third is the definition of the list of innovations from the Criminal Procedure Code of Ukraine, which may be useful in reforming the criminal procedural legislation of other post-Soviet countries.

Key words: pre-trial investigation; investigator; the prosecutor; unified register of pre-trial investigations; access to justice.
The issue of updating and radical transformation of the criminal procedural legislation of Ukraine arose in 1996, when such a direction appeared in the long-term plans of cooperation between Ukraine and the Council of Europe [36, p. 3]. The long legislative activity ended with the adoption of the Criminal Procedure Code of Ukraine, which entered into force on November 20, 2012 [28]. As expected, there was a final rejection of the authoritarian model of pre-trial production inherent in the previous code, which was used for more than 50 years. The norms of the code were recognized as corresponding to recognized European standards [31]. In general, the rejection of the Soviet legal tradition, including the institution of procedural verification of applications, reports of crimes, marked the transition to a democratic model of pre-trial production, which has the basic principles of competition, and access to justice is simplified.

The EU project "Support for Justice Reform in Ukraine" has been actively implemented since 2014. Its total budget exceeds 9 million euros [46]. Civil society institutions played an active role during implementing judicial and anti-corruption reforms [36, p. 6]. At the same time, their task was to assess the effectiveness of the already implemented reforms, including changes in the procedure for carrying out pre-trial proceedings in a criminal case.

Ensuring access to justice in Ukraine was the subject of close attention on the part of international human rights organizations [44, p. 5]. Having studied the practice of ten Ukrainian regions (Lviv, Volyn, Rivne, Ivano-Frankivsk, Ternopil, Kiev, Odessa, Khmelnytsky, Chernivtsi, Donetsk), human rights activists focused on the judicial stages of the criminal process, the specifics of pre-trial investigations remained outside the analysis. In scientific studies prepared by Ukrainian scientists, simplification of the initial stage of pre-trial proceedings in a criminal case has not received a uniform assessment [15, p. 50-53, 3, p. 6-10].

The Center for Political and Legal Reforms in Ukraine in 2006 noted the existence of many normative acts regulating the exercise of the right to access to justice, but the problem was the low level of its actual implementation and the lack of a clear mechanism for providing legal assistance to citizens. In the modern period, the principles of ensuring access to justice in Ukraine fully comply with European standards. The procedure for the pre-trial investigation involves the use of modern technologies. This in many respects reduces the possibility of hiding information on the crimes committed by law enforcement officers [43, p. 100-115]. The Ukrainian experience was used in the legislation of the Republic of Kazakhstan when adopting the CCP in 2014 [1, p. 7-27].
Transformations that occurred in the legislation of Ukraine are assessed negatively in Russian scientific research [8, p. 80-83, 12, p. 9-16]. Meanwhile, a pressing and urgent problem for the Russian criminal trial is the change in the procedural order of initiating a criminal case. Changes in the Code of Criminal Procedure aimed at ensuring access to justice were made in 2010. However, the changes mainly affected only a reasonable period of judicial proceedings and did not lead to an optimization stage of the institution of criminal proceedings [29, p. 36-40]. Preservation in the Code of Criminal Procedure of the stage of initiation of a criminal case is an anachronism that needs to be overcome, since legislative regulation is bureaucratized, and enforcement is unnecessarily expensive [9, p. 395-403].

To date, the experience implemented in the Ukrainian criminal procedure legislation, requires scientific reflection and analysis. Through this, it will be possible to assess the increase in the protection of the rights and legitimate interests of citizens in their interaction with the bodies of preliminary investigation.

**Materials and Methods**

The study was conducted based on general scientific methods of cognition. The principles of dialectical methodology allowed to comprehend the essence of the changes made in the Ukrainian legislation from the point of view of increasing the effectiveness of pre-trial proceedings in a criminal case. Analysis and synthesis were used by the author to compare the norms of the legislation of Ukraine and some other countries (including Georgia [23], Kazakhstan [24], Moldova [25], Russia [26], Turkmenistan [27]).

The comparative-legal method was used to identify the provisions of the Criminal Procedure Code of Ukraine, which can be used (or already used) in improving the legislation of other post-Soviet states.

The statistical method was used by the author to study the quantitative and qualitative indicators characterizing the provision of access to justice in the "automated" initiation of criminal proceedings, as stipulated in the Criminal Procedure Code of Ukraine. The "automated" order already deserved the approval of scientists and was in demand when developing the Criminal Procedure Code of the Republic of Kazakhstan [4, p. 54-63]. In this connection, statistical analysis makes it possible to obtain scientific results characterizing the dynamics of investigative activity.

The author used the formal-logical method, according to which the available materials of judicial practice were studied. In the legislation of Ukraine, the principle of the supremacy of law was consolidated, as a result of which judicial practice becomes a means of ensuring
justice in criminal proceedings [13, p. 25-30]. The appearance in Ukraine of the body of investigative judges requires an assessment of the effectiveness of their activities.

The author used the sociological method, which analyzed data on the state of trust of civil society to the institutions of the law enforcement and judicial system.

Applied general scientific and private-scientific methods guarantee the reliability of the research conducted and the validity of its results.

During the discussion of the draft of the new Code of Criminal Procedure of Ukraine, law enforcement officials gave the most negative assessment of the forthcoming change in the beginning of the pre-trial investigation, connected with the liquidation of the stage of initiation of criminal proceedings. Thus, it was projected to increase the number of criminal cases by 7 or more times based on the practice of the prosecutor's office [2]. The number of criminal proceedings increased by only 70% in the first 10 months of the operation of the new Criminal Procedure Code of Ukraine [4, p. 54-63]. This makes it possible to note the unfoundedness of negative forecasts. 592.6 thousand crimes were detected in 2016; 535,100 criminal cases were terminated [47]. It should be noted that the provisions of Article 214 and Article 303 of the Criminal Procedure Code of Ukraine allow the immediate termination of the prosecution in cases where the crime event is absent, or the person is not involved in its commission. Therefore, an approximately equal ratio of the number of cases investigated and discontinued can be assessed optimistically. In cases where the investigation can not prove the person's involvement in the commission of the crime within the period established by law, the proceedings against him cease and, as a rule, are no longer renewed. Thus, the statistical data confirm the presence of positive changes in the legislation and practice of its application.

For comparison, the consequences of the termination of the criminal case and the impossibility of unconditional resumption of proceedings on it in Russia have been extensively outlined by the body of constitutional control [21], since the provisions of the Code of Criminal Procedure in this part are rather ambiguous. This happened only in 2017, although the Code of Criminal Procedure of the Russian Federation is applied from July 1, 2002. The ratio of the number of criminal cases initiated and materials on which decisions were made to refuse to open a criminal case are completely incommensurable data in Russia. More than 29 million applications and reports on crimes are received by internal affairs bodies annually. The number of prosecuted criminal cases does not exceed 1.7 million, representing about 6% of the total array [50]. The Ministry of Internal Affairs of Russia does
not publish data on the number of applications and reports on crimes since 2015, so only assumptions can be made about the negative dynamics over a three-year period. It can be concluded that the conditionally high efficiency of the procedural audit conducted at the stage of initiating a criminal case in accordance with Article 144 of the Code of Criminal Procedure directly stipulates an unjustified restriction of the right to access to justice guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

There is a domination of a "comprehensive approach" to the interpretation of the right to access to justice in foreign literature [38, p. 57]. It follows that a citizen must have protection guarantees already at the stage of applying to law enforcement agencies with a statement or a report on a crime. These guarantees should not be provided based on the results of the procedural inspection; they are needed from the moment of treatment. In foreign literature, it is emphasized that the victim of a crime must receive a universal status in national and international legislation, which will help to increase the guarantees of protection and restoration of the violated rights and legitimate interests of the victim [35, p. 5-8]. Ensuring the access of victims of crimes to interstate judicial institutions is also a relevant area of research [42, p. 25-27].

In this connection, it is necessary to positively assess the changes in the criminal procedural legislation of Ukraine, allowing to automatically start the investigation on the fact of the receipt of the crime report and the fixation of this information in the Unified Register of Pre-Trial Investigations. Currently, Ukrainian authors are proposing the establishment of open access to information included in the Unified Register of Pre-Trial Investigations (except for confidential information) [5, p. 81]. The registry does not change the balance of the ratio of public and private elements in criminal proceedings, but it significantly simplifies the interaction of victims with bodies authorized to prosecute. The information in the Register is made by the investigator or the prosecutor, and at the same time, the primary information about the crime event can be fixed as quickly as possible in the aggregate of investigative (and not procedural) actions. In fact, open access and the opportunity to monitor the movement of the case are not only modern tools of civil control, but also stimulate the bodies of preliminary investigation to work qualitatively and to demonstrate its positive results freely. For comparison, such initiatives are not currently being discussed in Russia, although, for example, the Internet resources of the Ministry of Internal Affairs of the Russian Federation show a fairly high level of feedback from civil society.

Nevertheless, according to foreign experts, many provisions of the Ukrainian legislation, including criminal procedure, are non-transparent and allow not to fully comply with its
norms [41, p. 35-49]. In this connection, a few regulatory legal acts have been amended, with
the help of which a number of topical problems are supposed to be solved [32, p. 189-223].
Including, optimization of counteraction to corruption is one of the main directions [33, p. 22-
23]. A lot of work has been done to improve the mechanism of public administration and to
quickly identify corruption-related crimes in modern Ukraine. A special anti-corruption body,
the National Anti-Corruption Bureau of Ukraine, was established [17] and special rules for
investigating criminal cases were established [18]. Over two and a half years of activity of the
NABU, more than 500 criminal cases on corruption were investigated [49]. The "automated"
order of the beginning of the pre-trial investigation allows to react quickly enough to the
revealed corruption offenses. Accordingly, the guarantee of the individual's right to access to
justice and the tools is enhanced, allowing for the rapid and complete investigation of crimes
characterized by a high degree of public danger. The existence of separate anti-corruption
laws is a modern trend in the development of the legal system of the post-Soviet countries
(the Federal Law on Counteracting Corruption was adopted in Russia in 2008 [19]). The
experience of regulating the investigative activity carried out by the authorized body (for
example, the Federal Law "On the Investigative Committee of the Russian Federation" in
Russia [20]) is also known.
Foreign researchers note that during the Soviet period the organization of the initial stage of
pre-trial proceedings in the criminal case was characterized by the "omnipotence" of the
prosecutor, who actually led the investigation and simultaneously supervised its legality [37,
p. 59]. In general, such a design was inherent in the Soviet criminal process, and to date it has
not been completely abandoned. In the modern period, the Criminal Procedure Code of
Ukraine provides that the prosecutor conducts the investigation of the criminal case and acts
and decisions of officials affecting the constitutional rights and freedoms of citizens are in
judicial control.
Ukrainian scientists have identified a negative attitude of law enforcement officers to judicial
control as an instrument that limits their procedural independence [40, p. 22-31]. For
comparison, judicial control is recognized in the Russian legal science as one of the ways to
maintain law in the investigation of a criminal case [22, p. 7-11] and is delimited from
prosecutor's supervision [7, p. 39-40]. The supervisory functions of the court and the
supervisory powers of the prosecutor are assessed in terms of the procedural independence of
the investigator in several dissertational studies [6, p. 64-110], and proposals are also made to
optimize procedural relations between the prosecutor and the investigator [12, p. 13-14].
In this case, the criminal procedure legislation of Russia provides that the prosecutor conducts procedural management of the inquiry, i.e. an investigation into certain categories of cases of crimes that do not pose a great public danger. Transformation of the powers of the prosecutor in pre-trial proceedings in the criminal case was not evaluated in the Russian legal studies, and therefore some authors consider it necessary to return the active role of the prosecutor at the initial stage of the proceedings [14, p. 16-17], while others, on the contrary, favor further restriction of the powers of the prosecutor and replacement of supervisory instruments with departmental procedural control exercised by the head of the investigative body [16, p. 40-66]. In comparison, article 100 of the Georgian Criminal Procedure Code establishes the duty to initiate an investigation immediately after receiving information about a crime, and article 32 places the prosecutor in charge of procedural management of the investigation. Article 214 of the Code of Criminal Procedure of Turkmenistan preserves the stage of initiating a criminal case in the form that was inherent in the Soviet criminal procedure, and the prosecutor exercises only the supervisory function. In accordance with clause 3 of part 1 of Article 52 of the CCP of Moldova, the prosecutor controls the legality of the procedural decisions of the preliminary investigation bodies, but the decision to initiate criminal proceedings may be taken by the investigator or the investigator within 30 days or more. Thus, the stage of initiation of criminal proceedings is partially preserved in some post-Soviet states, and access to justice is complicated in comparison with the order established in the legislation of Kazakhstan and Ukraine.

It can be concluded that the change in the Criminal Procedural Code of Ukraine of the rules of the initial stage of the investigation led to the strengthening of procedural and judicial control, which is a prerequisite for improving the quality of the investigation. At the same time, a significant proportion of control powers are exercised by investigative judges, which makes it possible to ensure the legality and validity of decisions taken.

We believe that the Ukrainian experience would be useful for the criminal procedure legislation of the Russian Federation. For comparison, in Kazakhstan, where the adoption of the new CCP, the experience of the reforms in Ukraine was actively used, an optimal balance has now been found, which allows to adequately respond to every report of a crime. At the same time, most criminal cases are being investigated as soon as possible [38, p. 42-46]. Analysis of the provisions of the criminal procedural legislation of Georgia, Moldova, Turkmenistan and the practice of their application, on the contrary, allows to conclude that maintaining special verification procedures does not contribute to the modernization of criminal procedure relations and makes quick access to justice difficult.
After analyzing the provisions of the Criminal Procedure Code of Ukraine on the procedure for initiating a pre-trial investigation and summarizing the views expressed in the literature, it can be concluded that the refusal of a special stage of initiating a criminal case does not entail destabilization of criminal procedure and the collapse of pre-trial proceedings in a criminal case.

The difference between the provisions of Article 214 of the Code of Criminal Procedure regarding the commencement of pre-trial investigation from the corresponding norms of Article 144 of the Code of Criminal Procedure is that the Russian investigator is obliged to conduct a procedural check and, based on its results, render a procedural decision on the presence (absence) of signs of a crime after the adoption of an application or a report on a crime. At the same time, there is a danger of losing information of evidentiary value, since the number of investigative actions that can be performed at this stage of the process is limited. In addition, the ruling on refusal to open a criminal case hinders the implementation of the victim’s access to justice. Although such a decision may be revoked by the prosecutor (Article 148 of the Code of Criminal Procedure) or recognized by the court as unlawful (Article 125 of the Code of Criminal Procedure of the Russian Federation) [48], the stage of procedural inspection hinders the process of collecting evidence, since the whole complex of investigative actions is not being made at this moment.

The Ukrainian legislator "automated" the beginning of the pre-trial investigation, thereby constructing a new model of criminal procedure relations in which the duty of a public official (investigator) to include the information obtained about the commission of a crime in the Unified Register of Pre-Trial Investigations allows the use of the entire arsenal of procedural instruments intended for collection evidence. If the crime is not proven, the pre-trial investigation is terminated, and if the person is not proven involved in the commission of the crime, a person stops the criminal prosecution against him. In addition, relatively complete information is provided to the participants in the pre-trial investigation of the progress of the case [34, p. 7].

Such a scheme does not mean a complete refusal from preliminary verification of the reliability of information about the commission of a crime and from the primary qualification of an event as a socially dangerous act. On the contrary, it allows to produce a wide range of investigative, operative-search and procedural actions aimed at establishing the signs of the crime and persons involved in its commission.
The primary hypothesis of this study is the statement of the positivity of the transformation of the initial stage of pre-trial investigation under the Ukrainian CPC 2012. The Ukrainian legislator solved several important problems, depriving it of archaic provisions that were formed during the Soviet period. First, it minimized the possibility of hiding information on the commission of offenses from accounting, as the rules for maintaining the Unified Register of Pre-Trial Investigations significantly complicate this type of illegal activity. Secondly, it partially helped to quickly respond to corruption-related crimes, which, combined with the establishment of a specialized body investigating such crimes, looks optimistic in terms of stabilizing public administration. These achievements undoubtedly testify to the establishment and strengthening of the rule of law in Ukraine. Currently, the implementation of international legal norms providing access to justice in the criminal procedure legislation of Ukraine was held. In the future, practical testing of international standards in strengthening judicial control in criminal proceedings, is required.

The secondary hypotheses of this study are, firstly, the thesis about the need to optimize the stage of the institution of criminal proceedings in the Criminal Procedure Code of the Russian Federation, and secondly, the conclusion about the successful adaptation of Ukrainian legal experience in the legislation of the Republic of Kazakhstan.

Today, there are reasonable judgments about the need for changes in the legal regulation of the stage of the institution of criminal proceedings in the criminal process of Russia [10, p. 9-19]. Failure to change can lead to further growth of citizens' distrust of law enforcement agencies and the inability of the state to effectively counter crime. In addition, questions regarding the status of persons participating in procedural actions, how to secure evidence, the limits of procedural verification and the need for duplication of its results in the conduct of investigative actions after the institution of a criminal case have not been unequivocally resolved.

The use of Ukraine's experience in Kazakhstan's legislation already makes it possible to express an opinion on the effectiveness of the "automation" of initiating an investigation and simplifying the interaction of persons affected by criminal encroachment with the bodies of preliminary investigation. The relevant procedural status is acquired fairly quickly by the participants in the proceedings, its features are clear and understandable, and the procedure of the investigation has been substantially reduced. Putting on the prosecutor the functions of the
procedural leadership of the investigation strengthened its quality, which can also be considered a positive result of the reforms.

**C O N C L U S I O N S**

Having systematized the normative, analytical and statistical materials considered above, the following conclusions are made:

1. The refusal of a lengthy inspection of applications or reports of a crime in favor of their immediate registration and the initiation of pre-trial investigation has certain risks that can be overcome by strengthening the functions of the prosecutor in pre-trial proceedings in a criminal case.

2. "Automation" of registration of information about crimes does not allow to hide it to dishonest law enforcement officers. It simplifies the initiation of the investigation and allows the entire complex of investigative actions to be made in full, to receive timely evidentiary information and legalize it in the materials of the criminal case.

3. Changes in the Criminal Procedure Code allowed the creation of a modern mechanism for initiating criminal proceedings, in which the interests of persons who have become victims of crimes are protected in accordance with the requirements of international legal acts. The rights of persons who can be recognized as suspects or accused are protected through criminal procedural rules prescribing the immediate termination of proceedings, if the person is not found to be involved in the event of a crime, or the version about the criminal nature of the event is disproved.

4. Ukrainian legal experience adapted to the legislation of the Republic of Kazakhstan allowed to improve the quality of investigation and protection of citizens from unlawful persecution and from restricting access to justice.

5. The existence in the Code of Criminal Procedure of the Russian Federation of archaic norms on the procedural verification of applications and reports on crimes allows officials of preliminary investigation bodies to issue groundless and unlawful decisions to refuse to open a criminal case. In this regard, it seems appropriate to introduce the following changes to the current legislation: to strengthen the supervisory powers of the prosecutor, entrusting him with the procedural direction of the investigation, to abandon the independent stage of instituting criminal proceedings, excluding the norms of chapter 19-20 of the Code of Criminal Procedure, and to develop a modern procedure for recording information on the commission of a crime that does not involve its prolonged processing and allows the investigator to immediately begin the investigation.


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