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Dynamics of criminal law and process in conditions of special legal regimes

Динаміка кримінального права та процесу в умовах особливих правових режимів

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Abstract

The research is aimed at identifying the main legislative changes made under the conditions of a special legal regime, within the criminal law and criminal process and its impact on the general dynamics of the regulation of relevant social relations. Thus, under the conditions of the introduction of a special legal regime of martial law on the territory of Ukraine, the issues of improving the existing criminal and criminal procedural legislation, criminalizing certain acts, and simplifying the relevant procedural actions that reflect modern legal realities and meet the challenges and needs of the state and society have become urgent. The purpose of the work is to identify certain fundamental changes in criminal and criminal procedural legislation, which embody the dynamics of criminal law and process, as well as determine their further vector of development. The methodological basis of the work consists of the following methods: dialectical, functional, axiological, system-structural analysis method, and generalization method. The result of the study was proof of the existence of positive dynamics of criminal law

Анотація

Дослідження направлене на виявлення основних законодавчих змін, здійснених в умовах особливого правового режиму, в межах кримінального права та кримінального процесу та його впливу на загальну динаміку регулювання відповідних суспільних відносин. Так, в умовах введення особливого правового режиму воєнного стану на території України актуальності наразі набули питання вдосконалення існуючого кримінального та кримінально-процесуального законодавства, криміналізації певних діянь та спрощення відповідних процесуальних дій, що відображають сучасні правові реалії та відповідають викликам та потребам держави та суспільства. Мета роботи полягає у виявленні окремих основоположних змін у кримінальному та кримінально-процесуальному законодавстві, що уособлюють собою динаміку кримінального права та процесу, а також визначають їх подальший вектор розвитку. Методологічна основа роботи складається з наступних методів: діалектичних, функціональний,

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and the criminal process in the conditions of a special legal regime. Despite the difficult time for Ukrainian statehood, Ukraine continues to improve the regulation of social relations within the framework of criminal law and process following the needs of society and the needs of the state, and also actively and effectively carries out a rule-making policy taking into account the prospects of the development of criminal law and process.

Keywords: special legal regime, legal regime of martial law, armed aggression, criminalization, national security, pre-trial investigation, criminal proceedings.

Introduction

The life of society is multifaceted and diverse, as it depends on a combination of many factors of a different nature: political, economic, social, and cultural. At the same time, such factors are not always positive, in connection with which they always lead to the emergence of negative fluctuations in society, which in the end can take the form of crises of various nature, which in turn are accompanied by a significant degree of destabilization of the usual rhythm of everyday life.

Such crises, against the background of society's natural need for regulation, require the state to establish regulations and, in the foreseen cases, introduce special additional measures that will create conditions for ensuring public safety, observing the rights and freedoms of man and citizen, that is, introducing the appropriate legal regime.

Kosse D. (2010) generally defines the legal regime as a regulatory procedure, which is expressed in a multidirectional complex of legal means, which characterize a special combination of interacting permits, prohibitions, as well as positive obligations, which create a special focus of legal regulation.

In turn, the emergence of the crisis, and atypical situations in the life of society create the need to introduce special legal regimes, which are distinguished by the specificity of the legal regulation of social relations, depending on the reason for the introduction of such a regime.

аксіологічний, метод системно-структурного аналізу, метод узагальнення. Результатом дослідження стало доведення існування позитивної динаміки кримінального права та кримінального процесу в умовах особливого правового режиму. Основні висновки полягають в тому, що, незважаючи на складний для української державності час, Україна продовжує вдосконалювати регулювання суспільних відносин в межах кримінального права та процесу відповідно до потреб суспільства та потреб держави, а також активно та ефективно здійснює нормотворчу політику з урахуванням майбутніх перспектив розвитку кримінального права та процесу.

Ключові слова: особливий правовий режим, правовий режим воєнного стану, збройна агресія, криміналізація, національна безпека, досудове розслідування, кримінальне провадження.

The current legislation of Ukraine does not contain a normatively established interpretation of the term special legal regime, however, according to the Law of Ukraine "On the Legal Regime of a State of Emergency" (Law 1550-III, 2000, Article 1) and the Law of Ukraine "On the Legal Regime of Military state" (Law 389-VIII, 2015) "On the legal regime of martial law", Article 1, through the term "special legal regime", the legislator interprets, in particular, the state of emergency and martial law. Thus, it can be concluded that the state of emergency and martial law are the main special legal regimes in Ukraine.

In the legal literature, a point of view is expressed about the existence of a "special state" regime along with the legal regimes of emergency and martial law (Sahakian, 2015).

In practice, this is confirmed by the fact that a special legal regime has indeed been established in the temporarily occupied territory of Ukraine. The mentioned regime also made corrections in the legislation of Ukraine, in particular the criminal procedural law, but the real dynamics of criminal law and the process under the conditions of a special legal regime should be followed by the example of the legal regime of the current martial law.

Thus, the issue of the legal regime of war has become particularly relevant at the moment, since the decree of the President of Ukraine dated February 24, 2022 No. 64/2022 introduced

martial law throughout the territory of Ukraine, which is currently extended by the Decrees of the President of Ukraine dated March 14, 2022 No. 133/2022, from April 18, 2022 No. 259/2022, May 17, 2022 No. 341/2022.

Everyday life of Ukrainian society in today's conditions, namely in the conditions of the full-scale phase of armed aggression by the Russian Federation against Ukraine, dictates changes to the Ukrainian legal reality as well. The changes that arose under the influence of the introduction of a special legal regime of martial law also touched the criminal law and criminal process. Such changes, in turn, are a manifestation of the dynamics of criminal law and process, as they testify to their timely development under the urgent needs of society.

Thus, the dynamics of law are a reflection of the dynamics of society, the relations of which are regulated by law, and therefore it responds to the state of development or peace of society with its reaction (Balobanova, 2021).

Moreover, it should be noted that this process is in development according to two concepts: the formation of legal chaos and the neutralization of the latter through radical (or interpretive) changes in legal regulation (Tulyakov & Tulyakova, 2005).

The object of the research is legal relations within the framework of the improvement of criminal law and the criminal process under the conditions of a special legal regime.

The subject of the research is the dynamics of criminal law and the process in the conditions of special legal regimes.

Theoretical Framework or Literature Review

A large number of works of domestic and foreign scientists are devoted to the study of certain issues of the dynamics of criminal law and the criminal process, however, within the scope of this study, considerable attention was paid to the works of domestic practitioners and theoreticians, since the manifestations of the practical dynamics of law in the conditions of special legal regimes, in particular, the regime of martial law, characteristic of a small number of states.

Thus, the contribution of D. Kosse (2010), who studied the meaning and essence of the legal regime in the legal system of Ukraine, is valuable. In his works, attention is paid to the

peculiarities of the legal regime category, its relationship with other legal categories and phenomena, its structure, and methods of legal regulation of social relations. Thanks to the work of the specified scientist, within the scope of this study, a reassessment of the differences between the legal regime and the special legal regime took place.

This study, within the framework of the concept of dynamics, is also based on the works of D. Balobanova (2021), who carried out a complex special scientific study of the dynamics of criminal law based on conclusions about its dynamic nature, and also improved the approach to recognizing the main tools of reflecting the dynamics of law-making on the implementation of criminalization and decriminalization.

V. Tulyakov and M. Tulyakova (2005) are of great importance in the study of the dynamics of criminal law because in their works these scientists identified the main regularities of the dynamics of criminal law and elaborated models of the dynamics of criminal-law relations, the formation and implementation of prohibitions along with the development of the doctrine of criminal law.

A. Kovalevskyi (2022) indirectly studied the dynamics of criminal law within one of its main elements, namely the criminalization of acts during martial law. The scientist proved that the changes in the Criminal Code of Ukraine, in particular regarding bringing to responsibility for the commission of collaborative activities and aiding the aggressor state, are balanced and justified, as well as those that will definitely find their implementation in law enforcement practice.

Yu. Ponomarenko (2022) turned his attention, as a scientist, to the dynamics of criminal law in the part of the newly introduced provision of criminal legislation regarding the circumstances that exclude the criminality of an act, that is, the lawful behavior of civilians who, during and to protect Ukraine, commit actions that ordinary circumstances would lead to the consideration of the issue of bringing to criminal responsibility.

Movchan R. (2022) conducted a study of new criminal legislation introduced after February 24, 2022, based on which he formulated proposals for eliminating defects that negatively affect the effectiveness of criminal law prohibitions on collaborative activities, aiding the aggressor state, looting, illegal use humanitarian aid, as

well as criminal and legal countermeasures against cybercrime under martial law.

Loskutov T. (2022) studied, in particular, the peculiarities of the implementation of certain procedural actions of the pre-trial investigation in the conditions of the legal regime of martial law, which in turn also indicate the presence of certain dynamics of the criminal process.

Based on the work of O. Dufenyuk (2022), conclusions were made within the scope of research questions about the balance of values and interests in criminal proceedings in wartime. Thus, the scientist noted a significant renewal of the paradigm of the criminal process, which is manifested in a shift in the balance between "public" and "private". Her works are devoted, in particular, to the analysis of innovations in the criminal procedural legislation of Ukraine and to the formation of an understanding of the acute timeliness and expediency of such changes.

Glowyuk I., & Zavtur V. (2022) drew attention to the identification of the main directions aimed at improving the functioning of criminal justice in wartime, which were implemented by the legislator and implemented in practice, the assessment of the legal certainty of the latest changes and additions to the criminal procedural law, while distinguishing other challenges, responses to which are necessary in conditions of martial law, in correlation with the observance of human rights in conditions of martial law.

At the same time, the new challenges of modernity in the conditions of special legal regimes, which are manifested in changes in criminal law and criminal process, indicate the need for further elaboration of the above-outlined issues of current dynamics.

Methodology

The result of the research was obtained thanks to the use of both general scientific and special methods, which made it possible to fully consider the dynamics of criminal law and the process on the example of changes made to the relevant legislation during the period of the special legal regime of martial law in Ukraine.

A significant role in drawing conclusions based on the results of this study was played by the dialectical method, which helped to determine and understand the general situation of the development of criminal and procedural law under the conditions of a special legal regime, as well as to determine the properties and

relationships of the dynamics of criminal law and the criminal process with social relations, that were formed during the period of martial law and took place in objective reality.

The formal-legal method was used to clarify the essence and content of such legal categories as a special legal regime, collaborative activity, assistance to the aggressor state, and grounds that exclude a criminal act.

The method of generalization made it possible to determine the main shortcomings and advantages of changes in criminal law and process, which were implemented after the full-scale invasion of the aggressor state on the territory of Ukraine, as well as to determine the perspective of applying such changes in the future. This method served to determine the dynamics of criminal law and the criminal process as positive because of the array of changes that have already taken place and are yet to take place in the future.

Thanks to the logical-legal method, it became possible to envision and formulate proposals regarding the future vector of the dynamics of criminal law and the criminal process, in particular, taking into account the changes analyzed in the study. The specified method made it possible to assume that the dynamics of criminal law and process will continue to gain momentum since the unstable situation in the state results in increased fluctuations in society, which in turn require an appropriate response and regulation.

The research also used the method of content analysis, which represents the study of a significant array of normative legal acts that amended the Criminal Code of Ukraine (hereinafter - CCU) and the Criminal Procedural Code of Ukraine (hereinafter - CPC).

The axiological method was applied to identify private and public values and interests in the criminal law and process of the war period. This method helped establish the balance of private and public interests in prompting the need to make appropriate changes to the main legal acts of criminal and criminal procedural legislation, as well as to monitor the observance of the highest value of human life and health in the changes made.

The method of system-structural analysis became the basis for revealing, based on familiarization with the texts of normative and doctrinal sources, the content and meaning of changes to the legislation within the framework of criminal law

and criminal process made under martial law, as well as providing an assessment of the need for their improvement.

The functional method played a role in clarifying the fundamental purpose of the dynamics of criminal law and the criminal process during the war period, as well as establishing its significance for the development of social relations within the state and the protection of national security, sovereignty, and integrity of Ukraine.

Results and Discussion

Many laws of Ukraine on amendments to the Criminal Code of Ukraine testify to the existence of positive dynamics of criminal law, which is manifested in the establishment of new acts, for the commission of which a person can be held criminally liable, as well as the improvement of already existing norms of the Criminal Code of Ukraine. Let's consider some of them, that most vividly illustrate the dynamics of criminal law and indicate the vector of their further development.

Thus, in particular, taking into account the new challenges to Ukrainian society in connection with the full-scale invasion of the aggressor on the territory of Ukraine, the Criminal Code of Ukraine was supplemented with a new article 201-2 "Illegal use for profit of humanitarian aid, charitable donations or free aid." The definition of the specified article for the first time provides for criminal liability for the sale of goods (items) of humanitarian aid or the use of charitable donations, free assistance, or the conclusion of other transactions regarding the disposal of such property, to obtain profit, committed in a significant/large amount (Law 2155-IX, 2022) "On Making of amendments to the Criminal Code of Ukraine regarding responsibility for the illegal use of humanitarian aid", item 1.

It should be noted that the Laws of Ukraine "On Humanitarian Aid" (Law 1192-XIV, 1999) and "On Charitable Activities and Charitable Organizations" (Law 5073-VI, 2012), which are relevant for the qualification of a person's actions under the above-mentioned article of the Criminal Code of Ukraine, are not new, and it can be assumed that neglecting the main purpose of goods (items) of humanitarian and/or charitable assistance were theoretically committed earlier, however, criminal liability for such actions was established precisely during the period of the legal regime of martial law, as it acquired special relevance and significance.

During the war, considerable attention was paid to the state of external threats to the foundations of Ukraine's national security regarding the criminalization of socially dangerous behavior. Therefore, in the process of law-making, the legislative body increased criminal liability for certain types of crimes in the sphere of national security of Ukraine (Kovalevskiy, 2022).

An important contribution to ensuring the foundations of Ukraine's national security, especially during the period of martial law, should be considered the establishment for the first time in the criminal legislation of responsibility for collaborative activity, which is provided for in Art. 111-1 of the Criminal Code of Ukraine (Law 2108-IX, 2022) "On Amendments to Certain Legislative Acts of Ukraine on Establishing Criminal Liability for Collaborative Activities", Clause 4 Clause 1.

The specified article is sufficiently detailed and covers a considerable number of actions that equate to collaborative activities. Thus, the said article covers virtually all actions that were carried out in support of and in cooperation with the aggressor state, armed formations, and/or the occupation administration of the aggressor state. At the same time, certain forms of collaborationism require possible clarification or exclusion. Such forms of committing a criminal offense primarily duplicate forms of treason (Kuznetsov & Siyploki, 2022), as well as forms of aiding the aggressor state (Gazdaika-Vasilyshyn, Sozansky, 2022).

Changes and additions to the Criminal Code of Ukraine were developed and adopted by the legislator as an operational response to the objective situation, therefore most of them concern the legal assessment of certain acts, their criminalization, or strengthening of their punishment. (Kyrychko, 2017).

Thus, the Cabinet of Ministers of Ukraine approved and submitted to the Verkhovna Rada of Ukraine a draft law developed by the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine regarding the exclusion from the subjects of the crime of collaborative activity of those persons who do not harm the interests of Ukraine but are forced in one way or another to work for the aggressor state. In the explanatory note to the specified draft law, registered under No. 7647 of August 8, 2022, it is stated that completely legitimate activities will fall under the scope of this article, in particular, measures aimed at solving humanitarian problems: medical care, activities in the field of

pipeline transport, work in a grocery store. (Draft Law 7647 "On Amendments to the Criminal Code of Ukraine on Improving Liability for Collaborative Activities", 2022). It is because of this, to protect the rights and interests of citizens of Ukraine, who take appropriate actions to ensure the proper functioning of the territories of Ukraine that are temporarily actually occupied, that there was a need to clarify the relevant provisions of the Criminal Code of Ukraine.

This bill is a vivid example of the positive dynamics of criminal law in the conditions of a special legal regime, as it shows the interest and effectiveness of the authorities in improving criminal legislation, taking into account the needs of the citizens of Ukraine and the realities of the legal regime of martial law and the special legal regime in the temporarily occupied territory of Ukraine.

At the same time, it is worth noting that even after the end of the war, the problem of collaborationism will present new challenges to the government and society, namely the solution of two opposite problems: the problem of repentance of collaborators and their responsibility for the crimes committed, and the problem of coexistence with collaborators in the state (Chaltseva, 2022).

Equally important is the addition of Article 111-2 of the Criminal Code of Ukraine "Assistance to the aggressor state", according to which intentional actions aimed at helping the aggressor state (assistance), armed formations and/or the occupation administration of the aggressor state, committed a citizen of Ukraine, a foreigner or a stateless person, with the exception of citizens of the aggressor state, with the aim of causing harm to Ukraine by: implementing or supporting the decisions and/or actions of the aggressor state, armed formations and/or the occupation administration of the aggressor state; voluntary collection, preparation and/or transfer of material resources or other assets to representatives of the aggressor state, its armed formations and/or the occupying administration of the aggressor state (Law 2198-IX, 2022) "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine on Improving Responsibility for Collaborative Activities and features of the application of preventive measures for the commission of crimes against the foundations of national and public security", item 2 item 1.

It is also indicative of the dynamics of criminal law that in the conditions of the legal regime of martial law, not all improvements and

innovations in criminal law are related to the establishment of sanctions for the corresponding actions. Thus, already after the introduction of martial law in Ukraine, part 3 of Article 263 of the Criminal Code of Ukraine "Illegal handling of weapons, ammunition or explosives" was added, according to which a person is not subject to criminal liability for the actions provided for in the first or second part of this article, who voluntarily surrendered weapons, ammunition, explosives or explosive devices to the authorities (Law 2150-IX, 2022) "On Amendments to Article 263 of the Criminal Code of Ukraine on Cancellation of Liability in Cases of Voluntary Surrender of Weapons, Military Supplies, Explosives or Devices", p.1.

Thus, the Ukrainian legislator established the legal possibility of a person to avoid being brought to criminal responsibility for a crime committed and recognized in the criminal legislation. In the opinion of the author, this norm is an example of a rational approach to assessing the risks and benefits of the so-called forgiveness of a crime.

The changes related to military actions also affected circumstances that, by their content, exclude a criminal offense. Thus, the criminal legislation was supplemented by Article 43-1 of the Criminal Code of Ukraine, according to part 1 of which an act (act or inaction) committed in conditions of martial law or during an armed conflict and aimed at repelling and deterring armed aggression of the Russian Federation is not a criminal offense or aggression of another country, if it caused damage to the life or health of the person who carries out such aggression, or caused damage to law-enforced interests, in the absence of signs of torture or the use of means of warfare prohibited by international law, other violations of the laws and customs of war provided for by international contracts, the binding consent of which was given by the Verkhovna Rada of Ukraine (Law 2124-IX, 2022) "On Amendments to the Criminal Code of Ukraine and other legislative acts of Ukraine regarding the determination of circumstances that exclude the criminal illegality of an act and provide combat immunity in the conditions of martial law", item 1.

According to its external (formal, objective) properties, the active action of a person for the protection of Ukraine coincides with the signs of a criminal offense. This is precisely why the problem of distinguishing such an action from a criminal offense and excluding criminal liability for it arises. In particular, such action may fall

under the signs of murder, bodily injuries of varying degrees of severity, destruction or damage to property, etc. (Ponomarenko, 2022).

Yes, the specified acts are crimes by their content, but, taking into account the need to resist external armed aggression, the legislator took a justified risk of establishing and consolidating the circumstances that exclude the criminalization of the act.

Changes made to the Criminal Code of Ukraine during the period of the special legal regime of martial law are a significant contribution to the dynamics of criminal law and will be important in most cases even after its end. As Yu. Ponomarenko (2019) rightly pointed out, that actions in which the presence of public danger is not due to the introduction of martial law, and even more so actions for which their commission under martial law is a qualifying feature, cannot lose public danger after the abolition of martial law.

The dynamics of criminal law, as a rule, closely interact with the criminal process, so it is obvious that the changes in the Criminal Code of Ukraine (Law 2341-III, 2001) also led to the dynamics of the criminal process.

Supplementing the Criminal Code of Ukraine with new articles providing for the introduction of previously unfixed crimes automatically means the further formation of the specifics of the pre-trial investigation of such crimes and new judicial practice. For example, following the provisions of Article 297-1 of the Criminal Procedure Code of Ukraine, a special pre-trial investigation (in absentia) is carried out based on the decision of the investigating judge in criminal proceedings regarding crimes, in particular, collaborative activities and assistance to the aggressor state (Law 4651-VI, 2012, part 2 Article 297-1).

Criminal proceedings carried out in the conditions of emergency legal regimes can be characterized as a system in a specific system of legal relations, because in contrast to the conduct of proceedings in the conditions of ordinary life activities of society, such categories of proceedings are in the plane of legal states, which are regulated by special norms, other methods, and means (Tetryatnik, 2020).

The specificity of the legal regulation of criminal proceedings in the conditions of emergency legal regimes is determined by the fact that, along with the norms characteristic for the regulation of

legal relations in the conditions of normal life, emergency laws are included in the normative component of legal regulation (Tetryatnik, 2020).

Thus, the armed aggression of the Russian Federation and the subsequent establishment of a legal regime of martial law on the territory of Ukraine led to the separation into a separate section of the Criminal Procedure Code of Ukraine of provisions relating to the regime of pre-trial investigation and trial under martial law conditions. It is worth noting that the specified section was rewritten several times in a short period, which indicates the work of the Ukrainian legislator on existing errors and inaccuracies. The latest edition was currently approved following the Law 2201-IX, 2022 "On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Criminal Proceedings in Martial Law".

The content of the articles of the specified section demonstrates a high level of adaptability and readiness of the criminal process to certain deviations from the proper usual regime of pre-trial investigation or trial, which arose as a result of the introduction of martial law. Thus, the legislator provided for the specifics of starting a pre-trial investigation, recording its results, conducting a search or inspection of a home, exercising the powers of an investigating judge and choosing a preventive measure, detaining a person, the period of conduct, and participation of the defense attorney in the relevant procedural actions, the end of the pre-trial investigation and the recovery of lost materials.

Analysis of the norms of section IX-1 of the Criminal Procedure Code of Ukraine allows us to conclude that in most cases their unifying ground, in the presence of which, under the condition of martial law, the norm of the specified section should be applied, is the absence of a certain technical possibility to perform one or another procedural action. For example, the provisions of Clause 1 of Part 1 of Article 615 of the Criminal Procedure Code of Ukraine establish that during martial law and in the absence of technical access to the Unified Register of Pre-Trial Investigations, the investigator, inquirer or prosecutor shall issue a relevant resolution, and the information to be entered in the said register shall be entered to him at the first opportunity. According to Clause 4 of Part 1 of the specified article, in the absence of technical access to the Unified Judicial Information and Telecommunication System, the

distribution of criminal proceedings materials between judges is ensured by the head of the court, and in his absence by the deputy head of the court (Law 4651-VI, 2012, item 1, clause 4 part 1 of Article 615).

The specified criminal procedural norms establish an alternative solution to relevant problematic issues that arise as a result of objective factors of martial law and cannot be resolved within the limits of general procedural requirements for taking the relevant procedural action. Thus, the legislator prudently predicted possible critical situations in advance during the pre-trial investigation and trial to quickly and effectively respond to them within the procedural rights and obligations of the parties to the criminal process.

No less indicative is the provision of the Criminal Procedure Code of Ukraine regarding the fact that during a search or inspection of a person's home or other possessions, a search of a person if the involvement of witnesses is objectively impossible or is associated with potential danger to their life or health, the relevant investigative (search) actions are carried out without the involvement of witnesses. In such a case, the course and results of a search or inspection of a person's home or other possessions, a search of a person, must be recorded by available technical means by continuous video recording (Law 4651-VI, 2012, clause 1, part 1, article 615).

It is worth noting that the question of the necessity of the above-mentioned changes was raised among scientists even before the actual introduction of martial law. Thus, Teteryatnik G. (2020) indicated that changes are needed to the Code of Criminal Procedure of Ukraine regarding the exclusion of the participation of witnesses in the conduct of investigations (investigative) actions in criminal proceedings in the conditions of emergency legal regimes due to the high factor of danger (real or potential), which calls into question the possibility of the participation of the specified subjects in procedural actions, and the factor of rapid change of the situation, which indicates the urgency of carrying out such actions with the aim preservation of evidentiary information.

The specified norm is a manifestation of respect and consideration of the highest value of human life and health, which should prevail over any other values and principles. In addition, the cited norm demonstrates the dynamics of the criminal process towards more active use of digital

technologies and technical capabilities in cases where such use is appropriate and justified.

In the opinion of the author, it is worth considering the issue of the possibility of further full replacement of witnesses during a search or inspection of a person's home or other property, a search of a person for continuous video recording of the specified procedural actions, thanks to which it is possible to solve the problem of excessive time spent on the search for witnesses, notification and clarification of their rights, etc.

Before martial law, the system of criminal proceedings presented a certain degree of balance of individual and social values, and public and private interests. And although many lawyers expressed critical views regarding the accusatory bias of the criminal process, the insufficient proportionality of the procedural capabilities of the various parties to the criminal proceedings, the victim, after the "war novels" it became quite clear that the sphere of private interests is further narrowing (Dufenyuk, 2022). At the same time, it is not worth talking about critical oppression and limitation of the sphere of private interest in criminal proceedings, since the legal realities of modern life of Ukrainian society in the conditions of war require a forced strengthening of public interest in the inevitability of punishment.

During the legal regime of martial law, it is advisable to simplify the form of criminal procedural actions as much as possible, but not to the detriment of human rights and freedoms (Loskutov, 2022).

For example, as Lysachenko S. (2021) points out, it is appropriate to introduce the trend of obtaining information from a person within the framework of pre-trial criminal proceedings through the use of a "free" means by the subject at his discretion under the conditions of 1) the propriety of the information received; 2) observance of the constitutional rights and freedoms of the person from whom such information is obtained. The use of an open system of means of obtaining information from a person in pre-trial criminal proceedings using a "free" means involves the inclusion of any means of obtaining information that do not contradict the Criminal Procedure Code of Ukraine.

This opinion deserves attention since the current development of the era of digital technologies has significantly expanded the methods of obtaining and transmitting information using

various types of communication. Moreover, in the conditions of special legal regimes, in particular martial law, the choice of the communication channel can be significantly limited, which is why, to achieve the goal of criminal proceedings, it is necessary to expand the variable range of possible permitted means of obtaining the necessary information from a person.

The peculiarity of the investigation of a criminal act in emergencies is due to many reasons, including the presence of a large number of victims and witnesses who are forced to leave their permanent place of residence and are temporarily in another place.

Thus, to date, to improve the information provision of pre-trial investigation in the conditions of martial law, the legislator needs, in particular, to establish a process of interaction between the parties of criminal proceedings for the timely exchange of information necessary to establish the truth (Kovalyova, 2022).

Conclusions

1. Criminal law and the criminal process in Ukraine, despite the unstable political and military situation, continue to actively develop in the conditions of a special legal regime, namely martial law, against the background of changes in social relations following the needs of the state and society.
2. The dynamics of criminal law, illustrated by the changes made to the criminal legislation, shows the multifacetedness of the law-making policy in the field of criminal law since the changes made concern not only those crimes that can be committed during the period of martial law, but the specified policy has a common feature, namely, focusing attention on the maximum protection of the interests of Ukraine as an independent, sovereign, territorially integral state. The introduced changes can be seen as a vector for the development of criminal law for the future, already after the end of martial law, since the mentioned changes will not lose their relevance.
3. The dynamics of the criminal process under the conditions of a special legal regime are aimed at shifting the balance of private and public interests within the framework of criminal proceedings towards public ones since the criticality of the current situation in Ukraine and the risks from the untimely adoption of appropriate procedural measures prevail over the legal restriction of rights. At

the same time, the changes made to the criminal procedural legislation testify to the observance of the principle of the highest value of human life and health, since in the prescribed cases they minimize the need for their direct participation in the implementation of procedural actions. Indicative for the further development of criminal law about the process is also the active involvement of the use of modern digital and information technologies within the framework of ensuring the technical component of the process.

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