

Features of the prosecutor's procedural guidance during the investigation of criminal offences in the field of official activity

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■ **Abstract.** The purpose of this study was to analyse the key aspects of the prosecutor's procedural powers within the framework of pre-trial investigation of criminal offences under Articles 364-370 of the Criminal Code of Ukraine. To fulfil this purpose, various methods were employed, including system-functional, formal legal, logical and dogmatic, modelling, classification, comparative legal, and statistical methods. It was found that the prosecutor is vested with broad powers in the procedural guidance of pre-trial investigation, supervising the implementation of procedural actions and providing relevant instructions. The study emphasised the necessity of improving the skills of law enforcement agencies in investigating white-collar and corruption crimes, which is critical for effective counteraction to offences. It was indicated that crimes in the field of official activity are often associated with abuse of office to influence investigators and other participants in criminal proceedings, including prosecutors and heads of pre-trial investigation bodies. The study analysed the practices of the USA, Brazil, Bulgaria, and Hungary regarding the regulation and specifics of prosecutors' work in the investigation of such offences. It was summarised that the US practices with grand juries can ensure further verification of evidence, Brazil's practices with AI-ACT can increase the transparency of processes, while Bulgaria's practices of transferring cases to specialised courts can reduce corruption risks. However, adapting these practices in Ukraine will require the consideration of the specific features of the national legal system. Thus, the practical significance of this study lies in the possibility of using its findings for the qualified implementation of international practices in the organisation of the prosecutor's procedural guidance during the investigation of white-collar crime

■ **Keywords:** white-collar crimes; corruption crimes; pre-trial investigation; undue advantage; supervisory activity; prosecutor's instructions; artificial intelligence

■ Introduction

The relevance of investigating the specific features of the prosecutor's procedural guidance in the investigation of criminal offences in official activity is conditioned by the necessity of ensuring effective law enforcement in the context of combating white-collar crime. The successful implementation of reforms in Ukraine aimed at harmonisation with European standards is a key stage in the country's integration into the European legal and social environment.

Usually, white-collar crimes function as a tool for committing graver and more serious offences. For example, white-collar crimes can serve as a precondition for crimes such as smuggling, violation of budgetary legislation, money laundering, and other offences arising from abuse of power or authority.

The prosecutor plays a key role in criminal proceedings, from pre-trial investigation to trial. Their functions include coordinating the work of

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investigative bodies, controlling the legality of evidence collection, and procedural decision-making. However, this broad scope of powers also carries the risk of involving the prosecutor in illegal schemes aimed at achieving criminal goals that undermine legal and social stability. Therefore, preventing and combating such abuses is critical to ensuring the rule of law and achieving European standards in the legal sector of Ukraine. The effective performance of the prosecutor's duties requires the development of effective legal mechanisms, which makes the study of this topic extremely relevant.

O. Amelin *et al.* (2024) investigated the issue of independence of judges and prosecutors in Ukraine. It was found that in practice, there are many problematic aspects that complicate the effective and guaranteed implementation of this principle in the activities of representatives of the judicial and prosecutorial systems. These problems include insufficient funding of salaries and organisational processes in courts and prosecutor's offices, legal gaps in the regulation of the status and functioning of judicial and prosecutorial self-government bodies, as well as imperfect mechanisms of selection and resignation. A.V. Poplavska (2024) considers the issue of maintaining public prosecution in court concerning offences related to official and professional activities, particularly in the context of public services. V.D. Hvozdetkyi & A.O. Lyash (2021) studied the specifics of prosecutorial oversight of compliance with legal requirements during the pre-trial investigation of corruption offences and crimes of a corrupt nature. S.O. Sofiev & A.A. Teslitsky (2024) investigated the specific features of the activities of the prosecutor's office of Ukraine under martial law and the expansion of the powers of the prosecutor's office in criminal proceedings.

A.Y. Pratomo *et al.* (2021), A. Hutahaean & E. Indarti (2020), and I. Miha (2024) examined the features of the prosecutor's exercise of powers in criminal prosecution online. It was found that such an approach can substantially reduce the time spent on holding hearings, since the parties can attend the hearing remotely, without the need for physical presence in the courtroom. This also simplifies coordination between participants in the criminal procedure, enabling prompt exchange of information and real-time procedural actions. Furthermore, the online format minimises the costs associated with organising hearings, as it does not require transport or security costs for the transport of suspects or defendants.

Thus, the overall burden on the judicial system is reduced, as well as the budgetary costs of criminal trials. D. Pamungkas (2020), B. Panjaitan *et al.* (2022) focused on the role of prosecutors in combating money laundering crimes in the United States and Indonesia. The findings showed that money laundering investigations are effective. This is achieved through systematic management of the process, which contributes to the quick and efficient handling of cases. The key objective is to facilitate the identification and investigation of the proceeds of crime, which is directly related to the collection of evidence.

In turn, A.K. Suud (2020), and S. Lal & K. Rashied (2023) addressed the cooperation between the police investigation department and the prosecutor's office as key elements of the criminal justice system. The studies focused on the benefits of an independent prosecutor's office, as is stipulated in some common law jurisdictions. Such a prosecutor's office would have its dedicated funding and would be staffed by qualified lawyers who would advise the police and other agencies and assess whether a case should be brought to court. The lawyers could guide decisions on whether to continue or discontinue prosecutions when there is no prospect of a trial. A possible solution would be to establish a legal unit within the police department to provide guidance on the preparation of charges. Despite numerous studies, the issue of procedural guidance at the pre-trial investigation stage is still understudied. This highlights the need for further theoretical substantiation and determines the relevance of this study.

Therefore, the purpose of this study was to investigate the key aspects which negatively affect the exercise of the prosecutor's procedural powers within the framework of pre-trial investigation of criminal offences under Articles 364-370 of the Criminal Code of Ukraine¹.

■ Materials and Methods

Within the framework of this study, a comprehensive assessment was made of the regulations governing criminal liability for these offences, specifically the provisions of Chapter XVII of the Criminal Code of Ukraine². The study also examined the provisions of the Criminal Procedure Code of Ukraine³, the Law of Ukraine No. 1697-VII "On the Prosecutor's Office"⁴, as well as departmental regulations governing the organisation of prosecutors' activities in criminal proceedings, including the Order of the Office of the Prosecutor General of Ukraine No. v0309905-21 "On

¹ Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

² Ibidem, 2001.

³ Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

⁴ Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1697-18#Text>.

Organisation of Prosecutors' Activities in Criminal Proceedings"¹.

The study also covered international legal acts, namely Directive 2014/42/EU of the European Parliament and of the Council "On the Freezing and Confiscation of Instrumentalities and Proceeds of Crime in the European Union"², which contains recommendations and requirements for the fight against corruption and the confiscation of illegally acquired assets. For a comparative analysis, the study employed the Criminal Procedure Code of Bulgaria³ (2019) and Act No. XC "On Criminal Procedures of Hungary"⁴, as well as the legislative acts governing whistleblower protection in these countries, such as the Whistleblower Protection Act⁵ and the Law of Bulgaria "On Confiscation of Illegally Acquired Property"⁶. The analysis of enforcement acts also included Act CLXIII on the Prosecution Service of Hungary⁷. Statistics on the work of the prosecutor's office (2024) was used to assess the effectiveness of law enforcement and identify trends in the fight against corruption.

The study employed various legal methods, which ensured a comprehensive analysis of the exercise of procedural guidance by prosecutors in the investigation of white-collar crime. The system-functional method allowed for an in-depth analysis of the effectiveness of the prosecutor's procedural powers. This approach helped to assess the current state of procedural guidance, identify its strengths and weaknesses, and identify the need to improve the relevant legal framework to increase the effectiveness of combating white-collar crime. The systemic and structural method was applied to investigate the interrelationships between various elements of the prosecutor's activity in procedural guidance, specifically, the interaction between the prosecutor and investigative units, the court, and other participants to the criminal procedure. This helped to establish the systemic nature of prosecutorial supervision and ensure its effectiveness.

The formal legal method was employed to examine the legal provisions governing the prosecutor's activities in procedural supervision, including

the analysis of legislative provisions relating to the rights and duties of the prosecutor, and the specifics of their interaction with pre-trial investigation bodies. This method enabled a clear understanding of legal institutions and the role of the prosecutor in criminal proceedings. The classification method was used to systematise phenomena according to certain criteria, which helped to clearly define the categories and subcategories of offences in the field of official activity. The comparative legal method was used to investigate the practice of procedural guidance in various jurisdictions, such as the United States of America, Brazil, Hungary, and Bulgaria. Descriptive statistics methods were used to present and analyse data from the Prosecutor General's Office (Statistics on the work of..., 2024). This helped to assess the effectiveness of procedural guidance based on quantitative indicators, identify trends in law enforcement, and substantiate recommendations for improving law enforcement practice.

■ Results

On 24 February 2022, due to the military aggression of Russia, martial law was introduced in Ukraine, which led to substantial changes in the work of the law enforcement system and public authorities, including the prosecutor's office. This regime imposed extra responsibilities on the prosecutor's office to ensure national security and law and order in a situation of heightened threat, which was explored in a separate study by O.Y. Amelin (2024). At the same time, the reform of law enforcement agencies and the harmonisation of criminal legislation with international standards have changed the powers of the prosecutor, particularly in terms of overseeing the legality of pre-trial investigations and the application of preventive measures, ensuring the achievement of justice goals.

Investigations into white-collar crimes, such as corruption offences, have special characteristics. White-collar crimes are often associated with high-level positions and may include complex schemes of undue advantage that require in-depth

¹ Order of the Office of the Prosecutor General of Ukraine No. v0309905-21 "On Organization of Prosecutors' Activities in Criminal Proceedings". (2021, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/v0309905-21#Text>.

² Directive of the European Parliament and of the Council No. 2014/42/EU "On the Freezing and Confiscation of Instrumentalities and Proceeds of Crime in the European Union". (2014, April). Retrieved from <https://eur-lex.europa.eu/eli/dir/2014/42/oj>.

³ Criminal Procedure Code of Bulgaria. (2019, November). Retrieved from [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2019\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2019)034-e).

⁴ Law of Hungary No. XC "On Criminal Procedures of Hungary". (2017, February). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/18617>.

⁵ Whistleblower Protection Act. (1989, July). Retrieved from https://whistleblower.house.gov/sites/evo-subsites/whistleblower.house.gov/files/wysiwyg_uploaded/Whistleblower_Protection_Act_Fact_Sheet.pdf.

⁶ Law of Bulgaria "On Confiscation of Illegally Acquired Property". (2018, January). Retrieved from <https://lex.bg/en/laws/ldoc/2137180227>.

⁷ Law of Hungary No. CLXIII "On the Prosecution Service of Hungary". (2011, April). Retrieved from [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2012\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2012)015-e).

analysis and special skills to solve. Thus, in 2023 alone, 10,360 criminal offences were registered under Articles 364-370 of the Criminal Code of Ukraine (Fig. 1). White-collar crimes are usually committed by individuals holding positions in government

agencies or local governments. These persons may abuse their official position, which may be manifested in the form of influence on investigators and other participants in the criminal procedure, including prosecutors and heads of pre-trial investigation bodies.

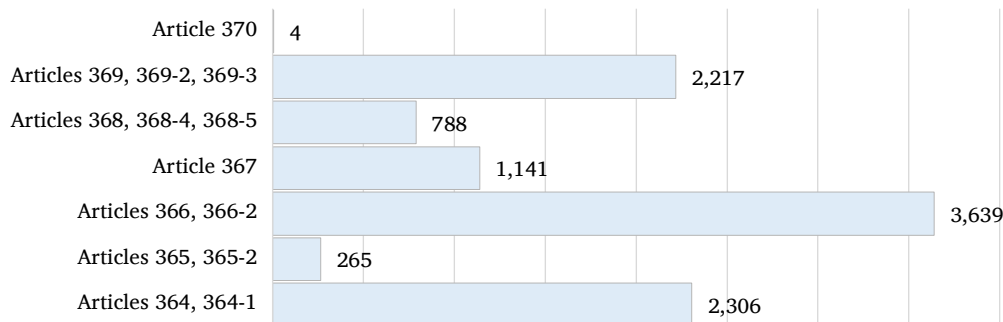


Figure 1. Number of registered criminal offences under Articles 364-370 of the Criminal Code of Ukraine¹ in 2023

Source: created by the authors of this study based on Statistics on the work of the prosecutor's office (2024)

The Ukrainian legislation, specifically in the provisions of Article 36 of the Criminal Procedure Code of Ukraine², has vested the prosecutor with a wide range of powers, making the latter the key person responsible for the results of the pre-trial investigation. The prosecutor not only organises and directs the investigation process, but also determines its key priorities by coordinating the actions of the investigating authorities. They oversee the legality of all stages of criminal proceedings at the pre-trial stage, including by making significant procedural decisions that substantially affect the final outcome of the investigation. Furthermore, the prosecutor is responsible for observing

the rights and freedoms of all participants in the criminal proceedings, ensuring that the investigation is conducted with maximum speed, objectivity, and comprehensiveness (Articles 2 and 36 of the CPC³). Such oversight is intended not only to ensure the efficiency of criminal proceedings, but also to strengthen confidence in justice by ensuring fair protection of the rights of each party. At the same time, the practice of reviewing disciplinary complaints against prosecutors demonstrates cases of violation of the requirements of departmental acts, criminal and criminal procedural legislation in the exercise of procedural guidance in white-collar criminal proceedings (Table 1).

Table 1. Generalisation of departmental practice of violations of the legislation by prosecutors in the exercise of procedural guidance in white-collar criminal proceedings

No.	Decision No.	Summary	Decisions of the Qualification and Disciplinary Commission of Prosecutors
1	No. 59dp-2 ⁴	In early December 2020, Prosecutor R.I. Voronka, who was providing procedural guidance in criminal proceedings No. (confidential information), at the request of PERSON_2 agreed to assist his associate PERSON_1 in establishing the circumstances of the investigation. At the end of January 2021, R.I. Voronka had an intention to receive an undue benefit from PERSON_1 and PERSON_2, and in July 2021, R.I. Voronka received USD 2 thousand from PERSON_2	The Commission found that R.I. Voronka had intentionally committed a disciplinary offence under items 5 and 6 of part one of Article 43 of the Law No. 1697-VII ⁵ , discrediting the title of prosecutor, raising doubts about his objectivity, impartiality, and independence, and systematically grossly violating the rules of prosecutorial ethics. R.I. Voronka was subjected to a disciplinary sanction in the form of dismissal from the prosecutor's office

¹ Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

² Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

³ Ibidem, 2012.

⁴ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 59dp-22 "On Imposing a Disciplinary Sanction on R. Voronka, Prosecutor of the First Department of Procedural Guidance of the Department of Procedural Guidance in Criminal Proceedings of Investigators of the Territorial Department of the State Bureau of Investigation of the Lviv Regional Prosecutor's Office". (2022, May). Retrieved from <https://kdkp.gov.ua/decision/2022/05/25/2241>.

⁵ Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1697-18#Text>.

Table 1. Continued

No.	Decision No.	Summary	Decisions of the Qualification and Disciplinary Commission of Prosecutors
2	No. 58dp-22 ¹	Prosecutors I.V. Pryschepa and H.E. Kravtsov, having sufficient experience, failed to perform their duties properly by concluding a plea agreement that did not meet the requirements of the law and the interests of society. I.V. Pryschepa failed to inform the court of the circumstances that indicated the illegality of the agreement, while H.E. Kravtsov failed to prevent its submission to the court. This resulted in the failure to perform the tasks of the criminal proceedings, and while the case was reviewed repeatedly, it did not eliminate the consequences of the violation.	Prosecutors I.V. Pryschepa and H.E. Kravtsov violated Article 75 of the Criminal Code of Ukraine ² , Articles 470, 472 of the CPC of Ukraine and item 7 of Section V of Procedure No. 51 by committing disciplinary offences under item 1 of part one of Article 43 of the Law of Ukraine No. 1697-VII ³ , which indicates improper performance of their official duties. Each of them received a disciplinary sanction in the form of a reprimand.
3	No. 167dp-23 ⁴	Prosecutor S.V. Syvak violated the requirements of part one of Article 28 and part two of Article 283 of the CPC of Ukraine ⁵ by approving indictments in criminal proceedings and sending them to court outside the pre-trial investigation period, which led to a violation of the suspects' right to a hearing within a reasonable time or to closure of the case. This resulted in the closure of the cases by the Liubar and Berdychiv courts based on item 10 of part one of Article 284 of the CPC of Ukraine ⁶ , which rendered the consideration of the issue of criminal liability impossible. Despite the expiry of the investigation period, the prosecutor unreasonably objected to the closure of the proceedings and filed appeals, which is contrary to the requirements of the legislation.	After a comprehensive analysis of the materials of the disciplinary proceedings and considering the procedural independence of the prosecutor, the Commission reached an agreed conclusion that the revealed violations of the law indicate that prosecutor S.V. Syvak committed a disciplinary offence related to improper performance of official duties, liability for which is stipulated by item 1 of part one of Article 43 of the Law of Ukraine "On the Prosecutor's Office" ⁷ . The prosecutor was subjected to a disciplinary sanction in the form of a reprimand.

Source: compiled by the authors

When considering the specific features of prosecutors' procedural guidance during the investigation of white-collar crime, the decisions of the Qualification and Disciplinary Commission of Prosecutors can be used to conclude on the existence of major violations in their actions that adversely affect the effectiveness of pre-trial investigation. In the case of prosecutor R.I. Voronka, this was a gross violation of ethics and obtaining undue advantage, which discredits the prosecutor's office. Prosecutors I.V. Pryschepa and H.E. Kravtsov committed disciplinary offences by failing to properly perform their official duties and permitting the conclusion of an agreement contrary to the law and the public interest⁸. Prosecutor S.V. Syvak, in turn, violated the terms of the pre-trial investigation, which led to a violation of the suspects' rights to hear cases within a reasonable

time and the closure of proceedings⁹. These cases demonstrate the significance of prosecutors' proper performance of their duties, compliance with the legislation and ethical standards to ensure effective investigation of crimes in the field of official activity. Pursuant to part 2 of Article 36 of the Criminal Procedure Code of Ukraine¹⁰, the prosecutor has broad powers that enable them to actively influence the course of the investigation and its outcomes, including both assisting and obstructing the investigation.

The prosecutor, having a strong influence on the pre-trial investigation process, supervises the collection of evidence, including material (money, clothing, other items) and ideal (testimony) traces of the crime. At the same time, there are risks that the prosecutor may use their powers to manipulate the investigation, including delaying or distorting

¹ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 58dp-22 "On Imposing Disciplinary Sanctions on the Deputy Head of the Zhytomyr District Prosecutor's Office of Zhytomyr Region H.E. Kravtsov and Prosecutor of the Zhytomyr District Prosecutor's Office of Zhytomyr Region I.V. Pryschepa". (2022, May). Retrieved from <https://kdkp.gov.ua/decision/2022/05/25/2240>.

² Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

³ Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1697-18#Text>.

⁴ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 167dp-23 "On Imposing a Disciplinary Sanction on the Deputy Head of the Chudniv District Prosecutor's Office of Zhytomyr Region S. Syvak". (2023, August). Retrieved from <https://kdkp.gov.ua/decision/2023/08/24/4188>.

⁵ Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

⁶ *Ibidem*, 2012.

⁷ Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1697-18#Text>.

⁸ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 58dp-22 "On Imposing Disciplinary Sanctions on the Deputy Head of the Zhytomyr District Prosecutor's Office of Zhytomyr Region H.E. Kravtsov and Prosecutor of the Zhytomyr District Prosecutor's Office of Zhytomyr Region I.V. Pryschepa". (2022, May). Retrieved from <https://kdkp.gov.ua/decision/2022/05/25/2240>.

⁹ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 167dp-23 "On Imposing a Disciplinary Sanction on the Deputy Head of the Chudniv District Prosecutor's Office of Zhytomyr Region S. Syvak". (2023, August). Retrieved from <https://kdkp.gov.ua/decision/2023/08/24/4188>.

¹⁰ Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

the facts, which will adversely affect the quality of the evidence base. Thus, during the VIII Conference on Criminal Law and Procedure organised by the Ukrainian Bar Association (Judges of the HACC..., 2021), Oleksandra Yanovska, a judge of the Criminal Court of Cassation of the Supreme Court, stressed the need to respond to the problem of querulousness (excessive propensity to file lawsuits), as well as to cases of abuse of the right to appeal to the court by both the defence and the prosecution. Specifically, it was emphasised that frequent absences of lawyers and prosecutors from court hearings, abuse of the right to a trial, manipulation of the facts of the case and arguments presented in the contested decisions require the courts to develop effective mechanisms to respond adequately to such situations. From the materials of the Decision of the Qualification and Disciplinary Commission of Prosecutors No. 56dp-24 "On Imposing a Disciplinary Sanction on Prosecutor D.V. Bondar of the Fastiv District Prosecutor's Office of Kyiv Region"¹, it follows that the prosecutor, while holding the position of a prosecutor, grossly violated professional ethics, namely, he allowed unlawful off-duty relations with persons who had a private interest in criminal cases where he was a senior prosecutor, and received personal benefits for the use of his official powers. It should also be understood that due to the temporary expansion of the powers of the prosecutor's office under martial law, the procedural guidance of the prosecutor during the investigation of criminal offences in the field of official activity is of particular concern. Specifically, under certain conditions, the head of the relevant prosecutor's office is empowered to act as an investigating judge, as prescribed by item 2 of part one of Article 615 of the CPC of Ukraine². Despite the expansion of powers, the prosecutor is obliged to follow Article 206 of the CPC, which guarantees the protection of individual rights. At the same time, it is still possible to appeal against the prosecutor's actions under Chapter 26 of the CPC, which ensures judicial control and protection of individual rights, avoiding the inadmissibility of evidence (Article 87 of the CPC of Ukraine).

The analysis of the ideal and material traces of a crime is critical for establishing the objective truth and bringing the perpetrators to justice. In cases of white-collar crime, the process of proof has its specific features. To fully understand the mechanism of the criminal act, the investigator, prosecutor, investigating judge, and the court must establish whether the

official breached their duties related to their official position and by what actions this person caused substantial damage to the rights, freedoms, and interests of citizens, state, public, or legal entities. These features are conditioned by the specifics of the subjects of such crimes and the objective characteristics of the actions defined in Articles 364-370 of the Criminal Code of Ukraine³.

Procedural guidance by a prosecutor in the United States of America in the investigation of white-collar crime is marked by distinctive features that reflect the specifics of the country's legal system and the nature of such crimes. In the United States, white-collar crime investigations are conducted at both the federal and state levels. Federal prosecutors working for the US Department of Justice investigate violations of federal laws. At the same time, state prosecutors, known as district attorneys (What is a DA, 2024), are responsible for initiating criminal proceedings based on the discovery of non-compliance with local legislation. This division of functions creates a comprehensive legal framework for the investigation of white-collar crime. In the United States, prosecutors are actively involved in pre-trial investigations, working closely with law enforcement agencies such as the Federal Bureau of Investigation, the Department of Homeland Security, and other specialised agencies. They not only supervise the investigation, but also provide legal advice to investigators, assist in the collection of evidence and the formation of charges.

Many prosecutor's offices have specialised units that investigate corruption and other white-collar crimes. For example, the U.S. Department of Justice has a Public Integrity Section (PIN) (2024) that specialises in detecting white-collar crime at the federal level. The US whistleblower protection system also plays a major role in investigating white-collar crime. Laws, such as the Whistleblower Protection Act⁴, provide protection for individuals who report corruption and other misconduct in the workplace. Prosecutors often use information provided by whistleblowers as key evidence in their cases. One of the unique features of the US legal system is the use of a grand jury to assess whether the evidence is sufficient to bring charges. Prosecutors present evidence to the grand jury, which decides whether to bring charges (Types of juries, 2024). This provides an extra level of scrutiny of the validity of the investigation and charges. In the United States, prosecutors are actively using plea agreements (Plea Bargaining, 2024) with witnesses

¹ Decision of the Qualification and Disciplinary Commission of Prosecutors No. 56dp-24 "On Imposing a Disciplinary Sanction on Prosecutor D.V. Bondar of the Fastiv District Prosecutor's Office of Kyiv Region". (2024, April). Retrieved from <https://kdkp.gov.ua/decision/2024/04/24/4411>.

² Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

³ Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

⁴ Whistleblower Protection Act. (1989, July). Retrieved from https://whistleblower.house.gov/sites/evo-subsites/whistleblower.house.gov/files/wysiwyg_uploaded/Whistleblower_Protection_Act_Fact_Sheet.pdf.

and suspects who agree to help the investigation in exchange for a reduced sentence. This enables a more efficient collection of evidence and identification of complex corruption schemes. An alternative method of enforcement is deferred prosecution agreements (DPAs) under the Defence Production Act of 1950¹, which is a crucial tool in the fight against economic crimes. Prosecutors use these agreements to determine the extent of punishment and rehabilitation, satisfying the prosecution's principles. Companies can avoid criminal charges if they meet the agreed conditions, which helps to reduce negative consequences and promote changes in corporate behaviour.

Law enforcement authorities in the United States can significantly influence the corporate sector using criminal liability mechanisms, which contributes to the development of an effective corporate culture in the fight against corruption. The procedural guidance of the prosecutor in the investigation of white-collar crime in the United States is characterised by a strong level of integration and cooperation between various law enforcement agencies. This includes the involvement of specialised units, such as federal investigative agencies, in conducting investigations, gathering evidence, conducting searches, and interviewing suspects and witnesses. Grand juries are used to review evidence and make decisions on charges, which helps to ensure the objectivity and comprehensiveness of investigations. Cooperation agreements allow for leniency in exchange for the provision of valuable information or cooperation with the investigation. These elements contribute to the effective detection of white-collar crime, thereby ensuring that law and order is upheld in the corporate sector.

In Brazil, the procedural guidance provided by prosecutors in the context of investigating white-collar crime also has its specific features, reflecting both national legal traditions and modern technological approaches to fighting corruption. For instance, Brazil is actively using artificial intelligence tools (AI-ACT) developed to detect and prevent corruption in the public sector. Most of the AI-ACTs in Brazil (Menezes, 2024) are related to monitoring public spending and auditing public procurement. Prosecutors use these tools to automate procedures and increase transparency in public finances, enabling them to detect violations more effectively. The type of corruption tackled by AI-ACT depends on who develops and uses the tools. In the case of top-down initiatives, the focal point of each tool is linked to official

government roles and the law enforcement agencies that implement them. This ensures clear management and control of the anti-corruption process. Bottom-up initiatives in Brazil have a broader focus and include crowdsourcing information from the public about delays in the construction of schools and other infrastructure projects. Technologically proficient civil servants and the public are engaged in the fight against corruption using digital data and modern technologies. The preference given to artificial intelligence tools demonstrates the active involvement of civil servants and the public in the use of digital data to fight corruption. Improvements in the quality and availability of technology, as well as a large amount of open and publicly available data, are driving the fight against corruption in Brazil. Thus, the procedural guidance provided by prosecutors in the investigation of white-collar crime in Brazil is marked by the active use of modern technologies, including artificial intelligence tools, which increases transparency and efficiency of public administration. One of the notable achievements of the recent anti-corruption reforms in Bulgaria was the transfer of high-profile corruption cases from local district courts and prosecutors' offices to the Specialised Criminal Court and the Specialised Prosecutor's Office. According to Article 35, item 3 of the Law on Confiscation of Illegally Acquired Property², these bodies have special competence to deal with the most severe criminal offences.

The transfer of cases to the Specialised Criminal Court helped to overcome local dependencies that often arose in district courts, especially in cases of corruption among local officials. This greatly reduced corruption risks among judges and increased the efficiency of investigations. Legislation established bodies specialising in the most severe cases, including organised crime and terrorism, as well as high-profile corruption cases (Vassileva, 2022). This contributed to the development of a consistent judicial practice and accelerated the criminal procedure. According to the provisions of Directive of the European Parliament and of the Council No. 2014/42/EU³, the improvement of legal regulation in the field of securing and confiscation of illegally obtained property has led to the expansion of the possibilities for confiscation of assets and the introduction of effective mechanisms for managing seized property until its confiscation.

The procedural rules set out in Articles 72 and 72a of the Criminal Procedural Code of Bulgaria⁴ (seizure of property) guarantee the proper enforcement

¹ Defense Production Act. (1950, September). Retrieved from <https://sgp.fas.org/crs/natsec/R43767.pdf>.

² Law of Bulgaria "On Confiscation of Illegally Acquired Property". (2018, January). Retrieved from <https://lex.bg/en/laws/ldoc/2137180227>.

³ Directive of the European Parliament and of the Council No. 2014/42/EU "On the Freezing and Confiscation of Instrumentalities and Proceeds of Crime in the European Union". (2014, April). Retrieved from <https://eur-lex.europa.eu/eli/dir/2014/42/oj>.

⁴ Criminal Procedure Code of Bulgaria. (2019, November). Retrieved from [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2019\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2019)034-e).

of property sanctions, including fines and confiscation. Thus, the Bulgarian practices in prosecutorial procedural guidance in white-collar crime investigations highlight the significance of specialised institutions, improved legal frameworks, and effective coordination between multiple agencies for the successful fight against corruption. At the stage of investigating white-collar crime in Hungary, both the prosecutor and the court may be responsible for the task. This process involves several key aspects that are regulated in detail by Hungarian criminal procedural legislation.

Firstly, the prosecutor in Hungary plays a key role in the pre-trial investigation. The prosecutor coordinates the activities of the investigating authorities, provides legal counselling, and supervises compliance with the law during the investigation. The prosecutor can initiate necessary investigative actions, such as interrogations, searches, or seizure of documents, and decide on the further development of the case. Secondly, in cases where the investigation reveals the need for further expertise or specialised checks, the investigating authority may engage the court. The court may be involved in making decisions that are not within the competence of the prosecutor, including issuing search or arrest warrants, approving requests for technical expertise, and other procedural acts. Thus, the tasks performed during the investigation may include the use of undercover means, as set out in section 214(4)(f) of the Act No. XC on Criminal Procedures of Hungary¹. The use of such means requires the authorisation of the prosecutor and must be approved by a judge. If the investigating authority considers it necessary to carry out a procedural action or make a decision within the powers of the prosecutor's office or the court, the responsible head of the investigating authority shall submit a respective proposal to the court. The prosecutor's office supervises the legality of the investigation, controlling the compliance of the procedures of the investigating authorities with the law. It is entitled to cancel unlawful decisions, demand the elimination of offences, consider applications for legal defence, and take other measures. The prosecutor not only oversees, but also directly manages the investigation, taking all necessary supervisory measures, including direct orders to the investigating authorities to perform or prohibit certain procedural actions, change the decisions of the investigating authorities, or demand their implementation. Pursuant to the Law on Confiscation of Illegally Acquired Property², the prosecutor is entitled to give instructions directly during the investigation, entrusting the investigating authorities

with the performance of concrete procedural actions and requiring the counter-terrorism and crime prevention authorities to carry out the relevant procedures. Thus, the procedural guidance exercised by the public prosecutor in Hungary in the investigation of white-collar crime offences includes comprehensive oversight and management, which ensures the legality and effectiveness of the investigation. If specific needs are identified during the investigation, the prosecutor and the court can act together to ensure the effectiveness of the investigation process. Hungarian legislation clearly delineates the responsibilities and functions between these bodies to maximise their effectiveness in combating white-collar crime.

For Ukraine, it is crucial to consider international practices in prosecutorial oversight of white-collar crime investigations, adapting them to the national context and needs. For instance, the grand jury system, which is widely used in the United States of America, provides an added level of verification and independence in the assessment of evidence and decision-making. While this approach can ensure objectivity and fairness in procedural guidance, it may be challenging to adapt for Ukraine due to its centralised justice model, which involves strong governmental influence on decision-making. In Ukraine, prosecutors often work within a strict chain of command, which may limit their independence in making procedural decisions. Furthermore, the introduction of the grand jury system would require substantial changes in legislation and law enforcement practice, as this institution is not typical for the Ukrainian legal system, which is based on other principles of pre-trial investigation and criminal proceedings. At the same time, Brazil's approach to using AI-ACT to automate and monitor processes can substantially increase the transparency and efficiency of investigations. Specifically, the use of artificial intelligence to automate routine tasks and monitoring can help to process information faster and reduce corruption. Furthermore, crowdsourcing of information can strengthen public control over corruption by ensuring greater public participation in the fight against misconduct.

Thus, the adaptation of the procedural powers of the prosecutor in Ukraine in the investigation of white-collar crimes requires the consideration of the specifics of the crisis circumstances. To ensure the effectiveness and transparency of investigations in crisis situations, it is equally essential to ensure control over the quality and outcomes of investigations. This may include independent oversight, monitoring of processes, and the establishment of mechanisms to

¹ Law of Hungary No. XC "On Criminal Procedures of Hungary". (2017, February). Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/18617>.

² Law of Bulgaria "On Confiscation of Illegally Acquired Property". (2018, January). Retrieved from <https://lex.bg/en/laws/ldoc/2137180227>.

detect and prevent corruption and abuse. The training of prosecutors should include elements specifically geared towards working in crisis situations. This may include trainings, seminars, and other forms of professional development to help them adapt to new conditions and requirements. The measures taken in this area to improve the skills of law enforcement officers, including prosecutors, in investigating white-collar and corruption crimes are critical to ensuring the effectiveness of the fight against crime. For example, the training course “Procedural management and support of public prosecution in criminal proceedings on the facts of committing official and corruption criminal offences” (2024) was held from 23 to 25 April 2024. Therewith, the use of international practices may contribute to the improvement of national practice. Thus, the adaptation of procedural guidelines requires a comprehensive approach that combines international practices with national specifics and the unique challenges of the crisis.

■ Discussion

The principal tasks of the prosecutor in the procedural supervision of the pre-trial investigation include overseeing the legality of the actions of investigators, ensuring that the investigation follows the requirements of the criminal procedural legislation, and coordinating the work of law enforcement agencies.

The role of the prosecutor at the initial stages of the criminal procedure is key to determining their further position during the trial. K. Kremens (2020), and K. Kremens & W. Jasiński (2024) addressed the fact that the relationship between the prosecutor's office and public authorities can substantially affect the course of investigations, especially in politically sensitive cases. However, this issue is still complex, as the influence of state authorities is not always transparent. Critics of this dependence point out that even with formal independence, the prosecutor's office may be under pressure from political factors, which adversely affects its performance and causes distrust in society. On the other hand, countries with stronger democratic institutions demonstrate a greater level of prosecutorial independence, which helps to avoid political manipulation of investigations. In this context, the role of the prosecutor's office in Ukraine requires careful analysis, as the national system often faces comparable challenges, especially in cases involving white-collar and corruption offences.

The actions of the prosecutor during criminal investigations are also conditioned by subordination to senior managers. V. Mitsilegas (2021) and E.A. Gonzalez-Ocantos *et al.* (2023) argue that procedural guidance means the absolute power of the prosecutor in criminal proceedings, which is confirmed by the fact that the prosecutor usually does not create procedural documents on their own but coordinates

them. At the same time, G. Ferguson (2022) and R. Flasher *et al.* (2022) emphasised that procedural guidance covers the management of concrete criminal cases, while supervision of covert operational activities concerns a variety of criminal proceedings and investigative cases. However, the phrase ‘resolution of other matters according to the law during criminal proceedings’ is not sufficiently concretised. This concept may cover aspects of the work of prosecutors that were previously attributed to their powers to supervise the observance of laws during pre-trial investigations. This issue has not yet been clearly regulated in Ukrainian legislation. The findings of the studies show that procedural guidance should be considered as a specific and multifaceted element of criminal procedural management by the prosecutor, which includes the organisation of pre-trial investigation through a wide range of legal powers.

Studies conducted by Z. van Der Wal (2021) and A.S. Prakoso & A. Richard (2024), J. Krštenic & S. Karovic (2024) indicate that the current system of prosecutor's powers may excessively limit the investigator's autonomy. The researchers propose to review these powers, reducing them or reorienting them in favour of the head of the pre-trial investigation body, to ensure greater independence in the procedural management of the investigation. A. Hermanto & B. Riyadi (2020), and V. Vari (2023) pointed out that excessive discretionary powers of prosecutors can lead to abuse, which can contribute to corruption in the prosecution service. The researchers believe that discretionary powers in state institutions should be limited and monitored by external agencies to ensure checks and balances between state institutions and the public sector.

The specific feature of the Bulgarian system, where the decision of the appellate prosecutor is final and cannot be appealed by others, raises a series of issues. For instance, V. Terziev *et al.* (2020a; 2020b) noted the paradoxical situation where administrative managers cannot interfere with the work of subordinate prosecutors, although they formally have supervisory powers. Such a structure may limit the effectiveness of supervision of prosecutors and lead to a lack of accountability at higher levels of management. Compared to other countries where supervisors can correct the decisions of their subordinates, the Bulgarian model appears to be too rigid, which may negatively affect transparency and accountability in the justice system. This suggests that, despite the formal autonomy of prosecutors, complications in communication between levels of management may reduce the overall effectiveness of prosecutorial oversight and draw criticism from international experts.

Prosecutorial activity in the investigation of white-collar crimes has certain distinctive features. L. Adiguna (2021) and N. Capus & M. Bozinova (2023)

emphasised that the determination by prosecutors of the real damage caused to the state as a result of corruption offences is an integral part of the investigation, but this approach has its drawbacks. However, focusing on purely financial losses can lead to ignoring other aspects of corruption, such as the systemic degradation of state institutions and loss of public trust. Furthermore, the identification of losses, albeit based on regulations, does not always reflect the full complexity of corruption schemes, which requires not only formal compliance with legal requirements, but also an in-depth analytical approach and cooperation with other agencies. Thus, while the formal framework for prosecutors is important, it may limit the effectiveness of investigations in cases of complex corruption schemes that require innovative approaches and interagency cooperation.

The enforcement agreements that are the subject of studies by Q. Bu (2021) and Z. Guo (2023), have certainly become a valuable tool in the fight against bribery, enabling more efficient handling of such cases, but the question of their universality and effectiveness in other legal systems is still open. While DPAs have shown success in promoting accountability and deterring wrongdoing, the critical point is the extent to which they can deliver real behavioural change for perpetrators, rather than simply avoiding prosecution. In the context of Ukraine, the introduction of DPAs requires adaptation to a legal system that differs from those countries where this tool is already in use. There is a risk that, if not implemented properly, it could lead to increased corruption risks, as it leaves room for avoidance of severe punishment.

On the other hand, technologies like AI-ACT, as highlighted by F. Odilla (2023; 2024), do have considerable potential to increase transparency and fight against misconduct in office, but a critical analysis showed that their implementation is accompanied by substantial challenges. Firstly, the problem of unpreparedness of personnel to work with automated systems may reduce their effectiveness, as even the most advanced algorithms will not bring the expected outcomes without proper human expertise. Secondly, the large amount of data generated by such systems creates the risk of "information overload", which can lead to the ignoring of crucial signals. Despite positive results, such as the recovery of public funds and support for criminal investigations, the success of AI-ACT in the fight against corruption is still an incomplete picture. One of the challenges is the need to develop complementary methods for analysing big data to avoid losing sight of small but meaningful details. Thus, the implementation of both DPA and AI-ACT, while promising considerable benefits, requires careful consideration, adaptation, and improvement in the Ukrainian legal system to avoid potential risks and ensure maximum effectiveness.

Thus, the prosecutor's exercise of procedural guidance during the investigation of criminal offences in the field of official activity is a complex and responsible process that requires extensive professional training and interagency cooperation. Effective management of the investigation of such offences ensures not only justice, but also strengthens public confidence in law enforcement agencies and the judicial system. The management of white-collar crime investigations carries a host of challenges, including possible attempts to obstruct investigations, pressure on investigators and prosecutors, and the need to ensure the highest level of confidentiality and security. To improve procedural management, it is necessary to introduce the latest techniques, improve the qualifications of prosecutors, and ensure effective control over the enforcement of legislation.

■ Conclusions

Under martial law, the state must protect the rights of citizens and effectively counter threats to national security. Temporary expansion of the powers of the prosecutor's office under certain conditions is expedient to ensure law and order. Despite the challenging environment, the prosecutor's office continues to perform its functions, providing procedural guidance to pre-trial investigations according to the Constitution and international law. The principal purpose is to protect human rights and the interests of the state. To ensure the effectiveness of the pre-trial investigation, it is necessary that the prosecutor actively uses their powers to lead this process. The role of the prosecutor includes organising and supervising the procedural activities of the investigator, as well as taking part in the collection and analysis of evidence in criminal proceedings.

The specific features of the work of prosecutors in the context of procedural guidance in the investigation of white-collar crime in Ukraine are manifested through a clear requirement to follow the legal procedures for their appointment and participation in proceedings. In cases of white-collar crimes, there are often situations when prosecutors do not properly perform their official duties, allowing plea bargaining that is contrary to the law and the public interest, violate the terms of pre-trial investigation, which leads to the closure of criminal proceedings and violation of the rights of suspects, and become subjects of corruption offences themselves, which indicates a severe violation of ethical standards and discredits the prosecution service overall. These cases demonstrate the need to increase the responsibility of prosecutors for the proper procedural management of pre-trial investigations and ensuring the observance of the rights and legitimate interests of participants in the criminal procedure. This practice emphasises the special responsibility of prosecutors

in ensuring compliance with procedural rules, which is crucial for the successful conduct of investigations and supporting the prosecution in cases of white-collar crime.

Positive aspects of international practices in procedural guidance demonstrated considerable benefits for improving the efficiency of justice. The American practice of using a grand jury promotes independence in the evaluation of evidence, ensuring greater objectivity in decisions. Brazil's AI-ACT system, which automates the monitoring and management of processes, greatly increases the transparency and efficiency of court proceedings. Bulgaria demonstrates the effectiveness of specialised courts and

prosecutors in reducing corruption risks and improving the quality of justice in sensitive cases. Promising areas for further research include the analysis of prosecutor training programmes in Ukraine and abroad, the impact of judicial practice on procedural guidance, and the institutional and organisational aspects that influence this.

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■ Conflict of Interest

The author of this study declares no conflict of interest.

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Особливості здійснення прокурором процесуального керівництва під час розслідування кримінальних правопорушень у сфері службової діяльності

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■ **Анотація.** Метою цього дослідження було вивчення основних аспектів процесуальних повноважень прокурора в межах досудового розслідування кримінальних правопорушень, передбачених статтями 364–370 Кримінального кодексу України. Для досягнення цієї мети застосовано різноманітні методи, зокрема системно-функціональний, формально-юридичний, логіко-догматичний, моделювання, класифікація, порівняльно-правовий та статистичний методи. Встановлено, що прокурор наділений широкими повноваженнями в процесуальному керівництві досудовим розслідуванням, здійснюючи нагляд за виконанням процесуальних дій і надаючи відповідні вказівки. Акцентовано на необхідності підвищення кваліфікації правоохоронних органів у розслідуванні службових і корупційних злочинів, що є критично важливим для ефективної протидії правопорушенням. Зазначено, що злочини у сфері службової діяльності часто пов'язані із зловживанням службовим становищем для впливу на слідчих та інших учасників кримінального провадження, включаючи прокурорів і керівників органів досудового розслідування. Розглянуто досвід США, Бразилії, Болгарії та Угорщини щодо регулювання та специфіки роботи прокурорів під час розслідування таких правопорушень. Узагальнено, що досвід США з гран-журі може забезпечити додаткову перевірку доказів, досвід Бразилії з AI-АСТ здатен підвищити прозорість процесів, а досвід Болгарії з передання справ до спеціалізованих судів може знизити корупційні ризики. Проте адаптація цих практик в Україні потребуватиме врахування специфіки національної правової системи. Тож практичне значення дослідження полягає в можливості використати його результати для кваліфікованого впровадження міжнародного досвіду в організацію здійснення прокурором процесуального керівництва під час розслідування кримінальних правопорушень у сфері службової діяльності

■ **Ключові слова:** службовий злочин; корупційний злочин; досудове розслідування; неправомірна вигода; наглядова діяльність; вказівка прокурора; штучний інтелект