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**PROCEDURAL FEATURES CONDUCT OF PRE-TRIAL
INVESTIGATION IN CRIMINAL PROCEEDINGS UNDER SIGNS OF A
CRIMINAL OFFENSE PROVIDED FOR IN ART. 111¹ OF THE
CRIMINAL CODE OF UKRAINE «COLLABORATION ACTIVITY»**

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The problem of combating crime remains one of the main tasks of our state. In connection with the armed aggression of the Russian Federation and the full-scale war ongoing in Ukraine, the number of crimes related to the commission of collaborative activities, which undermine the national security of the state, pose a threat to state sovereignty, territorial integrity, and the constitutional order, has increased.

The Law of Ukraine dated March 3, 2022 No. 2108-IX "On Amendments to Certain Legislative Acts of Ukraine Regarding Establishing Criminal Liability for Collaborative Activities" [4] added Article 111¹ "Collaborative Activities" to the Criminal Code of Ukraine. It should be noted that according to the provisions of Part 5 of Art. 49 of the Criminal Code of Ukraine to criminal offenses against the foundations of national security of Ukraine, provided for in articles 109-114¹, as well as criminal offenses against the peace and security of humanity, which are covered by articles 437-439, and Part 1 of Art. 442 of the Criminal Code of Ukraine, the terms of limitations do not apply.

As for now, mass media reports on a large number of criminal proceedings opened by law enforcement agencies under Articles 111 (Treason), 111¹ (Collaborative activity), 111² (Assistance to an aggressor state) of the Criminal Code of Ukraine. At the same time, in some places, the same act during the investigation is qualified under several articles.

It is already possible to predict that there will be appeals to the ECHR and negative decisions on these complaints, which will entail reputational losses for Ukraine. That is why there is a need for flawless investigation of crimes, without significant violations of individuals' rights [1] .

Under the procedural leadership of the Kramatorsk District Prosecutor's Office, the pre-trial investigation was completed and an indictment was sent to the court against the man for carrying out collaborative activities (Part 1 of Article

111¹ of the Criminal Code of Ukraine). The pre-trial investigation established that on March 25, 2022, a resident of Kramatorsk recorded a video on his mobile phone in which he denied the armed aggression of the Russian Federation against Ukraine and publicly called on citizens to support the illegal decisions and actions of the aggressor state. Later, he posted the recording on his own page on the social media account in TikTok. This was the first indictment sent to the court for committing collaborative activities (Article 111¹ of the Criminal Code of Ukraine). 151 criminal proceedings have already been registered in 15 days [3].

In confirmation of the above, we note that the issue of ensuring a proper procedural investigation of the corresponding category of criminal proceedings is extremely important during the pre-trial investigation. The current Criminal Procedure Code of Ukraine states that the pre-trial investigation of criminal proceedings on the grounds of a criminal offense provided for in Art. 111¹ of the Criminal Code of Ukraine "Collaborative activity" is carried out by conducting a special pre-trial investigation [2].

It should be noted that the challenges faced by Ukraine against the backdrop of negative social and political events in 2014 became a serious test for many social and legal institutions, and caused an emergency transformation of state policy in the field of improving legal regulation of the fight against crime. Loss of control over certain territories of Ukraine, the absence of legitimate law enforcement agencies, disorganization of social relations, mass abuse of the rights of suspects and accused persons and their deliberate hiding from the authorities in inaccessible territories, the absence or ineffectiveness of treaties with some countries on mutual assistance in criminal matters persecution of offenders, danger to life and health of persons who carried out criminal proceedings or participated in them, a number of other negative factors formed atypical conditions in which the criminal procedural legislation in force at that time, which was developed for the needs of peacetime, turned out to be ineffective for achieving the goals of criminal proceedings.

In the conditions of a permanent social and economic crisis, the growth of unemployment and the decline of the material level of citizens, the impossibility of meeting the basic needs of a large part of the population by legal means, the continuation of the conflict in the east of the country (the illegal spread of weapons, ammunition and explosives, the increase in the social and domestic unrest of the people affected by the consequences armed conflict and psychological tension), the loss of social control and some miscalculations that were made during the reform of the law enforcement and judicial system led to the fact that in 2019 in Ukraine, criminal offenses for which a special pre-trial investigation was carried out were not recorded and were not sent to court, in 2020, 21 criminal offenses were registered, all persons were served with notices of suspicion, 19 were sent to court with indictments, in 2021, 142 criminal offenses were registered, for which all persons were also served with notices of suspicion and 137 of who are sent to court with an indictment. In the 4 months of the current year, 1 criminal offense was registered for which a person was served with a notice of suspicion, until now the final procedural decision has not been made.

Thus, from the given data, it can be seen that the law enforcement system of Ukraine as a whole almost does not use the opportunity provided by the Criminal Procedure Code of Ukraine - to conduct a special pre-trial investigation, even in the conditions of martial law, when the list of criminal offenses for which a special pre-trial investigation is allowed was expanded. Such an insignificant number of criminal proceedings indicates the presence of significant gaps in the regulation of the special pre-trial investigation procedure and the lack of practice of its application.

The aforementioned caused the need for urgent adaptation of the legislation to conduct a special pre-trial investigation of criminal offenses "in absentia".

Implementation of a complex of normative and legal acts during 2014-2020 aimed at regulating the procedure of implementation "in absentia" certainly provided a number of positive results. At the same time, the urgency and objectively determined haste to introduce normative changes and additions led to fragmentation and functional failure due to the incompleteness of legal regulation, violation of the organic integrity of individual criminal procedural legal relations. So, for example, the condition on international search blocks the possibility of starting a special pre-trial investigation of criminal offenses.

In view of the above, the issue of developing a theoretical basis and improving the criminal procedural legislation in terms of its adaptation to the needs of a special pre-trial investigation (in absentia) of criminal offenses remains extremely relevant today.

Currently, the research of problematic aspects of the special pre-trial investigation of relevant criminal offenses in domestic criminal procedural science still remains at an insufficient level. The conducted analysis of regulatory legal acts and national practice gives reasons to state the relevance of the relevant issues, as well as the need from procedural science to find qualitatively new approaches to understanding special pre-trial investigation of criminal offenses, in the development of conceptual, scientifically based approaches to its regulatory support.

We believe that the issue of proper procedural support of a special pre-trial investigation requires additional study and further discussion by scientists.

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