

## Peculiarities of Judicial Control During Pre-Trial Investigation

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### Abstract

*The research is devoted to the peculiarities of judicial control during pre-trial investigation with due regard to the existing regulatory provisions and scientific research on this issue. The authors of the article have revealed the prerequisites for exercising judicial control at the pre-trial investigation stage. The definition of judicial control during pre-trial investigation has been provided. Characteristic features of this type of judicial control have been singled out. The purpose of judicial control during pre-trial investigation has been determined. The relationship between the function of judicial control and the function of justice has been identified, taking into account the norms of the current legislation and scientific research on this issue. The content of judicial control at the stage of pre-trial investigation has been analyzed. The peculiarities of its implementation during secret investigative actions, arrest and detention of a person, as well as under martial law conditions have been considered in detail. The need to harmonize the legislative amendments defining the legal regime of judicial control during pre-trial investigation under martial law with the requirements of international standards in the field of protection of human rights and freedoms, with the aim of achieving a compromise between public and private interests, have been emphasized.*

**Keywords:** *Judicial Control, Pre-Trial Investigation, Human Rights and Freedoms, Investigating Judge, Investigative (Search) Actions.*

### Introduction

According to Article 3 of the Constitution of Ukraine (Law of Ukraine No 254к/96-BP, 1996) human rights and freedoms determine the content and direction of the state's activities. In this regard, the establishment and ensuring of human rights and freedoms is the main duty of the state. This provision runs through all spheres of state power, in particular in those social relations where the observance of human rights and freedoms is particularly vulnerable. Such relations include the stage of criminal proceedings, during which law enforcement agencies collect, examine, evaluate, verify and use evidence in order to prevent, deter and solve crimes, as well as create conditions for establishing objective truth, ensuring the correct application of the law and adopting law enforcement acts.

This stage is legitimized within the criminal procedure as the pre-trial investigation stage. It starts from the moment when information about a criminal offence is entered into the Unified Register of Pre-trial Investigations and ends with the closure of criminal proceedings or the submission to the court of an indictment, a motion to apply compulsory medical or educational measures, a motion to release a person from criminal liability or a motion to close criminal proceedings (Law of Ukraine No. 4651-VI, 2012). These

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regulations are in line with the content of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention, 1950) (hereinafter – the Convention), which, among other instruments for protecting the right to a fair trial, provides for the function of judicial control at all stages of criminal proceedings, including pre-trial investigation.

In the context when Ukrainian society is focused on achieving the European integration goal in all spheres of life, and Ukrainian statehood is subject to aggressive foreign policy pressure from the Russian Federation, the issue of observance of the rights of participants in criminal proceedings is of particular relevance. This necessitates a study of the mechanism of judicial control at the pre-trial investigation stage, taking into account current realities.

The purpose of this article is to study the legal nature of judicial control during pre-trial investigation and to determine its specific features in the legal regime of martial law. To achieve the purpose of the article, the author sets the following tasks: to define judicial control during pre-trial investigation; to identify the features of judicial control during pre-trial investigation; to distinguish the function of judicial control from the function of justice; to compare judicial control with other types of control within pre-trial investigation, as well as with prosecutorial supervision; to characterize the content of judicial control; to analyze the peculiarities of implementation of certain components of judicial control; to study the specifics of judicial control under martial law.

## Literature Review

Peculiarities of judicial control during the pre-trial investigation were considered by various scientists in terms of individual components of this concept and corresponding manifestations of this phenomenon. Thus, a thorough scientific study is the work of V. Teremetskyi (2019), who, based on the analysis of legislation and law enforcement practice of the countries of the Anglo-American and continental legal systems, investigated three types of judicial control in foreign criminal procedural codes: adversarial, inquisitorial and mixed. The scientist came to the conclusion that the model of Ukrainian judicial control at the pre-trial investigation stage belongs to mixed models, since the main principle is the impartiality of the investigating judge, who guarantees the observance of the rights and legitimate interests of the participants in the pre-trial proceedings.

The authors of this study relied on the scientific achievements of scientists, in which such issues as: the concept, essence and significance of judicial control at the stage of pre-trial investigation (Kislenko & Kuzmichov, 2015; Holovko, 2024); organizational and legal principles of judicial control in the activities of the investigation units of the National Police of Ukraine (Romanov, 2021); the limits of judicial control when conducting covert investigative (research) actions related to the use of technical means (Lisovyi, 2021); general principles of judicial control as a means of ensuring legality in pre-trial proceedings (Peshiy, 2014); implementation of judicial control in case of application of temporary detention as a precautionary measure; peculiarities of judicial control within the framework of pre-trial investigation and its limitations in martial law conditions (Chorna, 2022; Ablamska, 2022; Teremetskyi et al., 2018) were examined in more detail.

The scientific works of the above-mentioned scientists, which were analyzed and used as a basis for writing this article, contributed to deepening the understanding of the legal nature of judicial control at the stage of pre-trial investigation, and also allowed to identify and characterize its features, in particular, in conditions of martial law.

## Materials and Methods

In order to solve the tasks and achieve the defined goal, a set of general and special methods of cognition were used. Using the dialectical method, the essence of judicial control as a function of the court in relation to justice was established. The analysis method made it possible to single out the signs of judicial control as a means of ensuring human rights and freedoms within the pre-trial investigation stage. The synthesis

created a generalized model of judicial control as a legal institution that meets certain characteristics. The formal-methodical method made it possible to correctly interpret the content of normative legal acts that determine the legal regime of judicial control in view of the content of the relevant procedural activity of the investigating judge and its corresponding purpose. With the help of the logical-semantic method, the essence of certain terminological concepts, which are standardized within the institution of judicial control, was established. In order to determine the essence of judicial control during the pre-trial investigation, the normative provisions of the Constitution of Ukraine, the Convention, the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC of Ukraine) were analyzed. As a result of the work carried out, the features of judicial control were separated from prosecutorial supervision and other types of control within the framework of pre-trial investigation, as well as certain terminological concepts were determined, changes to the criminal procedural legislation were analyzed in connection with the introduction of the legal regime of martial law. The analysis of the judicial practice of the Constitutional Court of Ukraine revealed contradictions in the amendments made to the legislation, which regulates the exercise of judicial control during the pre-trial investigation in the conditions

## Results and Discussions

Provisions of Article 129-1 of the Constitution of Ukraine (Law of Ukraine No 254к/96-BP, 1996) grants courts, in addition to the function of administering justice, also the function of judicial control, which provides control over the execution of a court decision. In addition, part 2 of Article 3 of the Constitution of Ukraine obliges to determine the content and direction of the state's activities through its observance and guarantee of human rights and freedoms. Since the judicial power is one of the forms of manifestation of the public legal personality of the state, within the limits of its activity, control over the observance of human rights and freedoms and their guarantees by the entities conducting criminal proceedings must be ensured even before the case is considered by the court, i.e. at the pre-trial stage proceedings implemented by law enforcement agencies on behalf of the state. The CPC of Ukraine (Law of Ukraine, No. 4651-VI, 2012) details this form of judicial control, in particular in the provisions of Article 206, which refers to the determination of the general duties of a judge in relation to the protection of human rights.

The analysis of the content of paragraph 3 of Article 5 of the Convention (Convention Council of Europe, 1950) indicates the direct legitimation of judicial control over the protection of a person's rights in case of initial detention and custody. At the same time, Art. 1 of the Convention enshrines the obligation of Member States to ensure to everyone the rights and freedoms provided for in the Convention, including the right to life, prohibition of torture, liberty and security of person, the right to a fair trial, etc.

When law enforcement agencies take measures against a person as part of a pre-trial investigation, he or she is in an extremely vulnerable position due to the high probability of violation of the above set of rights and freedoms, which creates preconditions for the need for public administration to take measures to overcome such risks.

Given the division of state power into three branches, the judiciary is the most impartial, objective and balancing the powers of different branches of power, as it is called upon to ensure control over the activities of law enforcement agencies, since the latter represent the executive component of public administration.

V. Marchak (2013) in his publication devoted to the essence of judicial control at the pre-trial investigation stage, makes the following statements:

implementation of this type of control is aimed at ensuring compliance with human rights, freedoms and interests by the state in the form of law enforcement agencies;

The subject of its implementation is the court;

the consequences of such activity are the restoration of violated rights, the preventive provision of rights, freedoms and interests, as well as the impact on the content of the activities of law enforcement agencies in criminal proceedings.

O.V. Kaplina et al. (2016) considers judicial control as a separate area of court activity, the characteristic features of which include: implementation during pre-trial investigation; the subject of implementation is the investigating judge; the content is control over the observance of human rights, freedoms and interests; the sphere of control is public relations related to the conduct of procedural actions and the adoption of procedural decisions, in particular, the conduct of investigative (search) and covert investigative (search) actions. The importance of this type of control is, on the one hand, to ensure immediate judicial protection of the rights, freedoms and interests of the participants in criminal proceedings, and on the other hand, to create appropriate conditions for the implementation of the principle of competition during the pre-trial investigation.

Ye. Voitovych (2021) defines judicial control as a direct verification by the investigating judge of the legality and validity of decisions, actions or omissions of the prosecution and other law enforcement agencies in criminal proceedings at any stage, while drawing attention to the distinction between pre-trial control, which is carried out outside the pre-trial investigation. This applies to cases where the investigating judge is obliged to verify the legality of detention of a person and release him or her if there are signs of violation of his or her rights and freedoms.

The foregoing implies the exceptional nature of judicial control as a means of ensuring the rights and freedoms of a person at the pre-trial investigation stage, as well as its special role at any stage of criminal proceedings when it comes to the extreme vulnerability of the legal status of a person subject to a preventive measure in the form of detention.

In this regard, Ye. Voitovych (2021) proposes to extend judicial control within the powers of the investigating judge to other stages of criminal proceedings regarding the application of other preventive measures, which, given the legal position of the investigating judge as a subject of judicial control, deserves support.

B. Holovko (2024), studying the concept and significance of judicial control at the stage of pre-trial investigation, defined it as a key element in the mechanism of ensuring justice and protection of human rights, which performs the function of ensuring the legality and objectivity of actions of pre-trial investigation bodies. Among the features of this legal institution, the author identifies the following: focus on the protection of rights, freedoms and interests of participants to criminal proceedings; exercise of judicial control within the criminal procedure rules which define the powers of the investigating judge; systemic and universal nature of this institution.

There are diametrically opposed opinions regarding the definition of the judicial control function in relation to the function of justice in the context of the judiciary's powers. In particular, D. Kislenco & Y. Kuzmichov (2015) consider the function of justice and the function of judicial control as two different areas of manifestation of the legal personality of the judiciary. O. Soldatenko & O. Boiko (2019) believe that the function of judicial control is an integral part of justice at the pre-trial investigation stage, which is confirmed by the provisions of Article 5 of the Law of Ukraine "On the Judiciary and Status of Judges" (Law of Ukraine, No. 1402-VIII, 2016), according to which justice in Ukraine is administered exclusively by courts and in accordance with the procedures of legal proceedings established by law.

The argumentation for including judicial control in the content of justice is original in terms of the correlation of the legal status of the investigating judge, prosecutor and head of the investigative unit. In particular, the latter two entities actually perform control functions, the focus of which during the pre-trial investigation is mediated by the obligation to expose the perpetrator (the function of criminal prosecution). At the same time, the investigating judge at this stage (non-judicial) of criminal proceedings is called upon to ensure that the court solves the tasks related to bringing a person to criminal liability, as well as to create conditions for achieving a proper balance, in which the prosecution will not have hypothetical advantages over the defence in proving guilt in committing a criminal offence.

Thus, the court plays the role of an arbitrator already at the stage of pre-trial investigation, ensuring the competitiveness of the process at this stage of criminal proceedings. This reasoning can be fully perceived

as a justification for the inclusion of judicial control in the content of the justice function, which is implemented in the following form within the pre-trial investigation (Peshiy, 2014).

This argumentation somewhat unreasonably includes judicial control in the content of justice as a type of court activity. This conclusion can be drawn based on a comparison of the relevant provisions of the Constitution of Ukraine and the CPC of Ukraine. In particular, according to Article 124 of the Constitution of Ukraine (Law of Ukraine No 254к/96-BP, 1996) justice is a procedure for consideration by the court of cases of the relevant category (legal dispute, criminal prosecution, etc.).

This point of view is supported by V. Lahovskyi (2014), who defines justice as a function of state power, which has the following features: consideration and resolution of cases of the relevant category; implementation exclusively by courts; observance of a special procedural order; definition of justice as the main function of courts of general jurisdiction; inclusion of additional functions (law enforcement, rule-making, human rights protection, representative) in its content. Moreover, V. Komziuk (2023) expresses a reasonable opinion on the need to optimize the normative regulation of justice and the basic principles of judicial proceedings in Section VIII of the Constitution of Ukraine, which contains provisions not only on justice, but also on other interrelated categories within the framework of judicial proceedings in a particular case.

That is why Section VIII of the Constitution of Ukraine contains Article 129-1, which defines control over the execution of a court decision as one of the types of judicial control. Thus, judicial control during pre-trial investigation is also a type of judicial control as one of the functions of the judiciary along with justice. The above discussion considerations may quite rightly serve as the basis for defining the essence of judicial control at the legislative level and for its distinction from the function of justice in criminal proceedings.

The issue of correlation between the concepts of ‘judicial control’, ‘prosecutorial supervision’ and ‘departmental control of the head of an investigative unit’ received a separate consideration. O. Trokhliuk (2016) considers these categories in the context of creating an effective mechanism for implementing the requirements for ensuring proof of guilt, which is consistent with the above provisions on the essence of the judicial control function as a component of justice. At the same time, the distinctive feature of judicial control as compared to other types of control is that the investigating judge, unlike a law enforcement official, performs one of the constituent functions of justice.

M. Kalatur (2020) has studied in detail the essence of supervision and control both in the general legal sense and in the context of pre-trial investigation in the structure of criminal proceedings. A common feature of both phenomena is ensuring the legality of actions of investigative units of law enforcement agencies. In addition, S. Smahliuk (2023) positions prosecutorial supervision and judicial control as the main means of ensuring legality, in particular, during covert investigative (detective) actions characterized by specific methods and forms of implementation.

At the same time, supervision is carried out by the prosecutor's office, while control is exercised by a number of subjects, including the investigating judge during the pre-trial investigation. The functional orientation of supervision is determined by the procedural purpose of the prosecutor's participation in criminal proceedings - to support the public prosecution in court, i.e. both the primary and concomitant purpose of this activity can be traced, where the first is to support the public prosecution in court, and the second is to ensure the legality of pre-trial investigation bodies.

Judicial control is differentiated in relation to public and departmental control, taking into account its place in the structure of criminal proceedings: during pre-trial investigation, other stages of criminal proceedings, as well as in the framework of execution of a court decision. Departmental control, in its turn, is divided into organizational (administrative) and procedural control.

The above gives grounds to support the proposed amendments to the CPC of Ukraine, in particular, regarding the use of the terms ‘supervision’, ‘control’ and ‘judicial control’ during the pre-trial investigation. Such an approach is consistent with the main components of the content of the right to a fair trial as defined

in Article 6 of the Convention, especially with regard to legal certainty in the regulation of relevant social relations which affect the stage of criminal proceedings under consideration.

On the other hand, M. Romanov (2021) carried out a comparative analysis of these forms of ensuring the legality of the pre-trial investigation (supervision, judicial control and public control), taking into account the design of the interaction of the investigator with the prosecutor, investigating judge and the public, respectively. In this context, the interaction of the investigator with the investigating judge is aimed at preventing violations of human rights and freedoms in criminal proceedings and ensuring that the investigating judge exercises the powers defined by the current legislation to make decisions on the restriction of human rights and freedoms and to consider complaints against the actions of the investigator as an authorised subject conducting pre-trial investigation of criminal offences. Thus, judicial control is differentiated depending on the legal status of the controlled official, which is determined by the type of criminal proceedings in the context of a type of pre-trial investigation - pre-trial investigation or inquiry.

In this context, the point of view of D. Kislenco & Y. Kuzmichov (2015), according to which the need to legitimize the restriction of constitutional human rights and freedoms is considered as a prerequisite for the application of judicial control within the pre-trial investigation. This opinion is reasonable, but needs to be supplemented: in certain circumstances, for example, in case of appealing against actions or omissions of law enforcement agencies during the pre-trial investigation, when there may hypothetically be signs of offences, it would be more appropriate to formulate the prerequisite for the application of judicial review as the need to restrict constitutional rights and freedoms of a person or the presence of signs of violation of such rights and freedoms by law enforcement agencies during the pre-trial investigation in criminal proceedings.

D. Kislenco & Y. Kuzmichov (2015) propose to include in the content of judicial control the following issues: application of measures to ensure criminal proceedings; conduct of investigative (detective) actions; conduct of covert investigative (detective) actions; consideration of complaints against decisions, actions or inaction of law enforcement agencies. In addition, O. Trokhliuk (2016) adds to the above range of actions within the framework of judicial control: application of preventive measures in the form of detention of a person; measures to exercise judicial control over the legality of detention and custody.

Taking into account the above specifics of the application of judicial control within one of its possible manifestations, the available scientific research shows the following. The implementation of the obligations undertaken by Ukraine, which arise, in particular, from the content of the Convention, indicates that the institution of judicial control is sufficiently regulated in the current criminal procedure legislation, in particular, with regard to determining the legal grounds for applying a preventive measure in the form of detention, where the investigating judge acts as a guarantor of the rights and freedoms of a person. At the same time, important social conditions under which this function of the court is exercised are the judge's conviction in the correctness of his/her decision to restrict the rights and freedoms of a person, as well as the compliance of such activities with international standards in this area (Zhuk, 2020).

With regard to the implementation of international standards in the content of judicial control, it is important to take a comprehensive approach to the assessment of the factors of application of this type of restriction of rights and freedoms of a person in criminal proceedings from the perspective of the case law of the European Court of Human Rights. In particular, according to I. Zabolotnyi (2013), at the stage of decision-making by the investigating judge, the following factors are subject to assessment: compliance with the procedural requirements of national legislation; verification of the existence of grounds for the application of a preventive measure (the existence of risks of appropriate behaviour of the suspect or accused, reasonable suspicion of committing a criminal offence); consideration of the totality of circumstances when choosing such a preventive measure.

At the same time, judicial control also extends to the scope of the preventive measure, which indicates not only an assessment of the legality of its application, but also ensuring the observance of the rights and freedoms of a person within the dynamics of these legal relations.

Exploring the peculiarities of judicial control during covert investigative (detective) actions involving the use of technical means, O. Lisovyi (2021) draws attention to the following aspects. The limits of judicial control ensure that the investigating judge's initiative is directed to the examination of the evidence obtained in accordance with the powers granted to him/her by the criminal procedure law, and this determines his/her ability to establish the legal regime of inadmissible evidence within the framework of judicial control over obviously inadmissible evidence. To ensure proper performance of the judicial control function during covert investigative (detective) actions involving the use of technical means, it is proposed to grant the investigating judge a number of additional powers (obtaining relevant reports, examination and evaluation of evidence obtained in the course of covert investigative (detective) actions, etc.)

These judgements, in fact, are more related to the implementation of the justice function at the pre-trial investigation stage, and therefore go beyond the scope of judicial control. However, such proposals are quite reasoned and create prerequisites for expanding the content of judicial control in order to ensure prompt, objective and impartial consideration of a criminal case already at the judicial stage of criminal proceedings.

V. I. Galagan, S. Ye. Ablamskyi, Z. V. Udovenko and V. V. Ablamska (2021) studied the peculiarities of judicial control over non-interference with the private (personal and family) life of participants in criminal proceedings. The study was carried out in the context of analysing the case law of the European Court of Human Rights, whose legal positions should be applied in criminal proceedings. It is necessary to support these scholars in the view that judicial control is a necessary component of guaranteeing the rights and freedoms of a person in criminal proceedings. Among other things, the importance of judicial control is evidenced by the fact that it is a separate function of the court at the pre-trial investigation stage, which is directly performed by the investigating judge.

Given the extraordinary circumstances of the legal regime of martial law in which Ukrainian society is living, it is urgent to focus on the peculiarities of exercising judicial control during pre-trial investigation in such conditions. This became a prerequisite for introducing relevant amendments to the CPC of Ukraine, in particular, to supplement Section IX-1 “Special regime of pre-trial investigation and court proceedings under martial law” (Law of Ukraine No. 4651-VI, 2012).

In particular, Judge of the Third Judicial Chamber of the Criminal Court of Cassation of the Supreme Court S. Fomin (2022) draws attention to the peculiarities of the formation of control proceedings by the investigating judge, conducting investigative actions and applying preventive measures in urgent cases using video recording, which allows for remote judicial control in such circumstances, as well as to the restriction of judicial control in the event of repeated automatic extension of detention.

It is also worth considering the projection of these changes on the provisions of the case law of the European Court of Human Rights, which in many cases reasonably refutes some of them, as also noted by the Constitutional Court of Ukraine (Decision CCU, No. 8-r(II)/2024).

O. Chorna (2022), taking into account the peculiarities of restrictions on a number of constitutional human rights and freedoms in connection with the introduction of martial law, such as inviolability of the home, secrecy of correspondence, telephone conversations and correspondence, prohibition of interference with personal and family life, freedom of movement, draws attention to the decline in the level of implementation of international legal standards of human rights protection in Ukraine. In this regard, the question arises of the formation of a legal mechanism within the framework of criminal procedure legislation which could ensure a balance between public and private interests in the course of implementation of procedural measures in criminal proceedings, a significant component of which is judicial control, the restrictions of which were regulated in the amendments to the CPC of Ukraine. At the same time, the author proposes amendments to both the CPC of Ukraine and special legislation regulating restrictions on the human right to liberty and security of person, with a view to complying with international legal standards in this area.

V. Ablamska (2022) justifiably criticizes certain amendments to the Criminal Procedure Code of Ukraine regarding judicial control, while suggesting appropriate ways to resolve conflicts created by such novelties of criminal procedure legislation, taking into account the needs of martial law. In particular, the author notes the legal uncertainty of some of the introduced terms that limit the function of judicial control, in particular in cases where an investigating judge is replaced by a prosecutor due to the lack of objective possibility of the former to exercise his/her powers (paragraph 2, part 1, Article 615 of the CPC of Ukraine) (Law of Ukraine, No. 4651-VI, 2012). To eliminate the specified uncertainty, it is proposed to regulate the approval of the decisions made by the prosecutor in the future directly by the investigating judge, which will avoid replacing the function of judicial control in these circumstances.

At the same time, the scholar emphasizes that even in the context of hostilities and other extraordinary circumstances, effective protection of human rights and freedoms remains the main duty of the State. It is this requirement which permeates all restrictions of judicial control in the relevant institutions of criminal procedure law.

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The study of judicial control during the pre-trial investigation made it possible to solve the tasks set and formulate the following relevant conclusions.

A prerequisite for the exercise of judicial control during a pre-trial investigation is the existence of conditions when law enforcement agencies take measures against a person within the framework of such an investigation, which creates a vulnerable situation for a person due to the high probability of violation of his or her rights and freedoms.

Judicial control during the pre-trial investigation is considered as a separate area of court activity aimed at verifying by the investigating judge the legality and validity of decisions, actions or inaction of the prosecution and other law enforcement agencies at this stage of criminal proceedings.

Characteristic features of judicial control during pre-trial investigation are: implementation at the stage of pre-trial investigation; the subject of implementation is the investigating judge; the content is control over compliance with the rights, freedoms and interests of a person; the area covered by control is certain public relations, in particular: the use of measures to ensure criminal proceedings, the use of preventive measures in the form of arresting a person, conducting investigative (search) actions, considering complaints about the decisions, actions or inaction of law enforcement bodies, as well as conducting court proceedings control over the legality of detention and detention; the investigating judge does not limit the procedural independence of law enforcement officials and does not interfere with it; the procedural form of this activity of the investigating judge is his decision as an act of law enforcement, which affects procedural relations accordingly.

The purpose of judicial control during pre-trial investigation is to prevent unlawful restriction and violation of human rights and freedoms at this stage of criminal proceedings.

The relationship between the function of judicial control and the function of justice has been determined, taking into account the norms of the current legislation and scientific research on this issue. It has been established that judicial control during the pre-trial investigation is a separate function of the court, which ensures compliance with the rights and freedoms of a person at the non-judicial stage of criminal proceedings, and also serves as a means to ensure competitiveness, legality and other components of the right to a fair trial. Characteristic features of judicial control in comparison with other types of control and prosecutorial supervision have been identified.

Within the framework of judicial control, the actions related to: application of measures to ensure criminal proceedings; application of preventive measures in the form of detention of a person; conduct of investigative (search) actions; consideration of complaints against decisions, actions or inaction of law enforcement agencies; and judicial control over the legality of detention and custody have been analyzed.



The the peculiarities of judicial control during certain investigative (detective) actions and during detention and custody of a person have been detailed.

Attention has been drawn to the need to harmonize legislative innovations regulating the legal regime of judicial control during pre-trial investigation under martial law with the requirements of international standards in the field of human rights and freedoms. The importance of reaching a compromise between public and private interests has been emphasized, without prejudice to the latter.

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