

КРИМІНАЛЬНИЙ ПРОЦЕС ТА КРИМІНАЛІСТИКА; СУДОВА ЕКСПЕРТИЗА, ОПЕРАТИВНО-РОЗШУКОВА ДІЯЛЬНІСТЬ

DOI: 10.34015/2523-4552.2025.4.21

УДК 343.9:343.6:305-055.2

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THE IMPACT OF DIGITALIZATION PROCESSES ON THE INVESTIGATION AND PREVENTION OF WAR CRIMES AND GENDER-BASED VIOLENCE

The article examines the impact of digitalization processes on the investigation and prevention of war crimes and gender-based violence in Ukraine. Particular attention is paid to the functioning of the Unified Register of Pre-Trial Investigations (URPTI) as a key guarantor mechanism for the protection of human rights within the criminal justice process, determining the moment of initiation of proceedings, jurisdiction, and the scope of procedural rights and obligations of the parties. The study analyzes contemporary digital technologies employed during martial law, including unmanned aerial vehicles, remote photo and video documentation, the use of open-source intelligence (OSINT), and large data sets, which enable the prompt and objective recording of crimes against civilians, cases of sexual and domestic violence, torture, and deportation.

The article highlights issues related to the authenticity of digital evidence, the risks of manipulation, cybersecurity concerns, and the protection of personal data of victims and witnesses, as well as the necessity of ensuring adequate judicial oversight over the entry and verification of data in the URPTI. Special emphasis is placed on the role of digitalization in enhancing the efficiency of criminal prosecution, accelerating the investigation of war crimes, and ensuring uninterrupted access to justice for victims. It is emphasized that digital tools carry not only technical but also strategic significance, reflecting the transparency of law enforcement ac-

tions, the accountability of the state, and its ability to maintain a balance between security and individual rights.

The study takes into account the practice of the European Court of Human Rights regarding the proportionality of rights restrictions in emergency situations and Ukraine's international obligations. The findings underline that digitalization is an important instrument for combating war crimes and gender-based violence, yet it requires the improvement of the legal framework, evidentiary procedures, and mechanisms for protecting the rights of victims under conditions of armed conflict.

Keywords: *martial law, gender-based violence, domestic violence, criminal liability, armed conflict, war conflict, Unified Register of Pre-Trial Investigations, human rights, International Criminal Court, digitalization, digital evidence, artificial intelligence.*

Problem Statement. The introduction of martial law in accordance with Presidential Decree of Ukraine No. 64/2022 has highlighted the issue of ensuring procedural guarantees in criminal proceedings under conditions of restricted constitutional rights. The functioning of the Unified Register of Pre-Trial Investigations (URPTI) becomes particularly significant, as the moment of data entry determines the initiation of proceedings and the scope of judicial oversight, which is critical for responding to war crimes and crimes related to domestic violence.

Maintaining a balance between the effectiveness of criminal prosecution and the protection of human rights is complicated both by potential abuses arising from excessive openness of URPTI data and by the risk of violating the right to defense if the data are excessively restricted. In the context of Ukraine's derogation from certain obligations under Article 15 of the European Convention on Human Rights, any limitations must comply with the principle of strict necessity, as defined by the European Court of Human Rights (ECtHR) case law.

The digitalization of the criminal process, on the one hand, expands the possibilities for documenting war

crimes through access to digital evidence, satellite data, and open sources (OSINT). On the other hand, it generates several challenges: instability of digital platforms, risks of manipulation of digital evidence, difficulties in authenticating such evidence, fragmented data collection by different actors, and threats of personal data leakage of victims and witnesses.

Thus, the effective investigation of wartime crimes requires not only the improvement of URPTI mechanisms but also the establishment of reliable standards for handling digital evidence, enhanced judicial oversight, and ensuring a proportional balance between security interests and the protection of human rights.

Analysis of Research and Publications. The functioning of the URPTI and its guarantor role in protecting human rights is a key topic in contemporary scholarly literature. Studies by M. M. Mykhieienko, V. V. P. Shybiko, R. I. Blahuta, Yu. V. Hutsuliak, and O. M. Dufenuk emphasize that the initiation of a pre-trial investigation is a central stage in the realization of the right to judicial protection, while the works of Yu. P. Alenin, V. V. Lysenko, I. V. Hlovyuk, and N. V. Hlynska explore the issues of electronic document manage-

ment and the digitalization of the criminal process.

Together, these studies form a doctrine that views the URPTI as an institutional guarantor of human rights and procedural fairness. At the same time, the impact of digitalization on the investigation of war crimes remains insufficiently studied, and unresolved issues include the legal nature of the data entered, the limits of control over investigators, procedural guarantees for victims, and the adaptation of ECtHR practices to wartime conditions.

Objective. This study presents a legal-scientific examination of the Unified Register of Pre-Trial Investigations (URPTI) as an instrument for safeguarding human rights under martial law. The research encompasses the legal nature and functions of the URPTI, an analysis of the specifics of initiating pre-trial investigations under Articles 214 and 615 of the Criminal Procedure Code of Ukraine, and an assessment of the proportionality of rights restrictions in accordance with the practice of the European Court of Human Rights (ECtHR). The focus is on the risks of violating procedural guarantees during data entry into the URPTI, the protection of personal data, and issues of judicial oversight.

Special emphasis is placed on the impact of digitalization on the documentation and investigation of war crimes: the use of digital evidence, open-source data, and information platforms simultaneously expands the capabilities for recording crimes while generating new challenges related to evidence authentication, information security, and standardization of evidentiary procedures.

Presentation of the Main Material. The Unified Register of Pre-

Trial Investigations (URPTI) is a key component of the electronic infrastructure of criminal justice and functions as a procedural trigger: the moment data are entered marks the initiation of criminal proceedings, determines jurisdiction, and activates the rights of the parties. The introduction of the register under Article 214 of the Criminal Procedure Code of Ukraine ensured the implementation of the principles of legal certainty, transparency, and judicial oversight. Under martial law, its significance has increased due to the need for rapid response to war crimes and the rise in offenses, particularly those related to domestic violence.

The URPTI has a dual nature: it guarantees both the inevitability of criminal prosecution and protection against arbitrary state interference in private life. The duty of an investigator or prosecutor to promptly enter information into the register constitutes a key guarantee of access to justice, enshrined in Article 55 of the Constitution of Ukraine and confirmed by the practice of the Constitutional Court.

During martial law, Article 615 of the Criminal Procedure Code of Ukraine allows for simplified procedural mechanisms, expanded discretion of pre-trial investigation authorities, and reduced formalism, including temporary delegation of a judge's powers to the prosecutor, remote evidence recording, and simplified notification of suspicion. These mechanisms aim to ensure rapid response to crimes committed on a large scale during hostilities and to facilitate the swift documentation of war crimes, which is crucial for their legal qualification and interaction with international institutions.

At the same time, the simplified procedure does not override the principles of legality and proportionality and generates risks of abuse, selectivity, and manipulation during data entry into the URPTI, especially in the absence of adequate oversight. This may lead to concealment or delay of investigations, particularly concerning offenses committed by military personnel or law enforcement officers.

The registration of domestic violence cases during wartime is especially problematic: its increased prevalence combines with limited access of victims to the police and delays in data entry into the URPTI, depriving victims of effective protection and distorting official statistics.

Failure to properly record domestic violence incidents during martial law contravenes Ukraine's obligations under the Istanbul Convention, which requires states to provide a prompt, accessible, and secure mechanism for recording reports of violence even under emergency conditions. In the practice of the European Court of Human Rights, particularly in *Opuz v. Turkey* (2009) and *Talpis v. Italy* (2017), it is emphasized that the state bears responsibility not only for responding to the act of violence but also for establishing an effective system for its registration and prevention [1; 2].

Article 615 of the Criminal Procedure Code of Ukraine serves as a necessary mechanism for adapting the criminal process to wartime conditions; however, it requires a clearer balance between procedural efficiency and the protection of human rights. While it provides for simplified proceedings under extreme circumstances, the provision creates risks of excessive

expansion of investigators' and prosecutors' powers. Therefore, it is advisable to legislatively clarify the limits of applying simplified procedures, strengthen independent oversight of data entry into the Unified Register of Pre-Trial Investigations (URPTI), and mandate the recording of cases of violence against civilians and within families as priorities for immediate investigation.

In this context, it is important to consider the practice of the European Court of Human Rights (ECtHR), which sets standards for permissible limitations of procedural guarantees and emphasizes that the right to an effective investigation under Articles 2, 3, and 8 of the Convention remains in force even during war or states of emergency. In *Lawless v. Ireland* (1961) and *Brannigan and McBride v. the United Kingdom* (1993), the Court recognized that a state may apply derogations from the Convention, but it remains obliged to preserve the minimum procedural safeguards necessary to prevent arbitrariness and abuse of power [3; 4].

The entry of data into the Unified Register of Pre-Trial Investigations (URPTI) and its verification is not merely an internal procedure but a positive obligation of the state arising from Ukraine's international commitments. In cases of war crimes, the European Court of Human Rights (ECtHR) emphasizes the need not only to record the crime but also to ensure independent and effective oversight of the investigation.

Ukrainian judicial practice is also shifting from formal data entry into the URPTI toward guaranteeing genuine access to justice. The entry of information is regarded as a key safeguard

for the exercise of other procedural rights – participation in investigative actions, challenging inaction, or claiming compensation.

Timely registration of criminal offenses is directly linked to the right to an effective remedy under Article 13 of the Convention, which imposes a duty on the state to ensure effective procedures for considering complaints regarding violations of human rights in the context of criminal prosecution [5].

At the national level, the legal nature of this obligation has been clarified in numerous decisions of the Supreme Court. In particular, in the ruling of 17 May 2023 in case No. 607/20877/19, the Court emphasized that, according to Part 1 of Article 214 of the Criminal Procedure Code of Ukraine, an investigator or prosecutor is required to enter information into the Unified Register of Pre-Trial Investigations (URPTI) no later than 24 hours from the moment of receiving a statement or notification of a criminal offense. Failure to meet this deadline is qualified as inaction, which may be appealed in accordance with Article 303 of the Criminal Procedure Code [7].

The Grand Chamber of the Supreme Court, in its generalizations, also noted that refusing to accept or register a criminal complaint, or delaying its entry into the URPTI, constitutes a violation of the right of access to justice and contradicts the principle of the rule of law [8]. This position aligns with the conclusions of the European Court of Human Rights (ECtHR), which indicates that the absence of an effective mechanism for responding to crime reports constitutes a violation of Article 13 of the Convention.

This approach is particularly significant during martial law. The Supreme Court stated that the legal consequences of temporary occupation arise from the moment of actual occupation, regardless of its official recognition. Accordingly, human rights and freedoms apply to all citizens, including residents of temporarily occupied territories, ensuring uninterrupted access to effective legal remedies (Article 13 ECHR), including the right to file a complaint about a crime and have it registered in the URPTI [9].

The state's obligation to ensure the acceptance and registration of statements in the URPTI within 24 hours directly follows from Part 1 of Article 214 of the Criminal Procedure Code and has been repeatedly confirmed by the practice of the Criminal Cassation Court of the Supreme Court [10].

Regarding appeals, following the Constitutional Court's decision of 17 June 2020 No. 4-r(II)/2020, the Supreme Court clarified that decisions of an investigating judge on complaints about the failure to enter information into the URPTI are subject to appellate review, as the previous prohibition was deemed unconstitutional [11]. This guarantees the actuality and effectiveness of the legal remedy. Thus, modern judicial practice forms a new paradigm of perceiving the URPTI – from a technical registry of procedural actions to an institutional guarantee of human rights protection, ensuring a balance between state authority and the procedural rights of citizens.

This position aligns with the established practice of the European Court of Human Rights (ECtHR) in *Kurt v. Turkey* (1998) and *M.C. v. Bulgaria*

(2003), where the Court emphasized the positive obligation of the state to ensure the effective investigation of cases of violence or disappearances, even when the investigation is complicated by armed conflict or an unstable security situation [12; 13]. Therefore, the mere fact of the proper and timely registration of a crime in the URPTI constitutes the first criterion for the state's compliance with international standards of fair investigation.

Gradually, a new trend is emerging in Ukraine – a shift from the bureaucratic model of “registration formalism” to a model of trust, transparency, and accountability, where the primary goal is the protection of the individual rather than statistical reporting. During martial law, timely entry of reports into the URPTI becomes particularly critical: delays or ignoring reports lead to loss of evidence and re-victimization, especially in cases of sexual and domestic violence, torture, or unlawful detention. The scale of crimes during the full-scale war further complicates the situation: since 24 February 2022, over 130,000 criminal proceedings related to war crimes have been entered into the URPTI, creating an unprecedented burden on the criminal justice system [14].

The mass nature of war-related offenses requires not only prompt action but also procedural legality: shelling of civilian objects, torture, sexual violence, and deportation of children necessitate meticulous documentation and public oversight. Excessive concentration of investigative powers in military administrations may lead to opacity and limit citizens' access to justice, while misclassification of violent acts contradicts the Istanbul

Convention, which mandates the criminalization of all forms of gender-based violence and immediate state response.

Thus, in contemporary conditions, the URPTI becomes a strategic indicator of the quality of state response, accountability of authorities, and the balance between security and human rights. Transitioning from formal registration to the real guarantee of access to justice requires comprehensive modernization of the registry, including digitalization, interagency coordination, and protection of personal data, ensuring the continuity of criminal proceedings under wartime conditions.

In Poland, the Information System of the Prosecutor's Office (SIP “LIBRA”) and the Central Database CBD-SIP, as well as PROK-SYS and the External Portal for Case Material Review, have been implemented, providing electronic information circulation and remote access for participants to digital pre-trial investigation materials. This enhances process transparency and facilitates oversight by higher supervisory authorities [15].

In the Federal Republic of Germany, digital transformation of the judiciary is considered a key direction for modernizing public administration. It is implemented through the creation of a unified integrated system, Gemeinsames Fachverfahren für die Justiz (GeFa) – a joint inter-federal solution for courts and prosecutor's offices [16]. This system aims to standardize all processes for handling criminal and civil cases, ensure unified electronic document circulation, secure data storage, and facilitate interaction between justice authorities at the national level.

GeFa covers over one hundred thousand users in courts and prosecutor's offices across all federal states of Germany. It operates based on a modern IT architecture with cloud elements and the Agile/SAFe methodology, ensuring operational updates, scalability, and high data security. The project implements electronic case files (e-Akte), an electronic document submission system, mechanisms for electronic communication between parties, and the ability to participate remotely in hearings via videoconference.

The digitalization of the German judiciary aims to overcome the previous fragmentation, where each federal state used its own information solutions. GeFa has become a platform creating a unified digital space for data exchange between courts, prosecutor's offices, and other participants, enhancing transparency and accountability of procedures, ensuring effective control over procedural deadlines, and protecting the rights of persons involved in proceedings. Thus, Germany is gradually forming an integrated digital chain of trust between the citizen and the justice system, while maintaining high standards of personal data protection and information security.

In the United States of America, the National Crime Information Center (NCIC) system, established under the auspices of the Federal Bureau of Investigation (FBI), serves as the foundational information platform of the national criminal justice system [17]. It operates in accordance with the standards of the Department of Justice and the Criminal Justice Information Services (CJIS) Division regulations, which define the procedures for the

collection, processing, and storage of forensic information.

The NCIC represents a multi-level electronic database that ensures centralized accounting of individuals suspected or convicted of criminal offenses, missing persons, stolen property, firearms, and vehicles. Access to the system is restricted to authorized entities – federal, state, and local law enforcement agencies, as well as judicial and prosecutorial institutions. Every user login, modification, or deletion of a record is accompanied by an independent audit system, enabling full traceability of actions and preventing unauthorized interference or misuse of personal data.

According to the CJIS Security Policy, NCIC is part of an integrated data exchange ecosystem between various criminal justice bodies, operating under the principles of “need to know” and “right to access.” This approach not only guarantees the protection of personal information from improper use for political or commercial purposes but also ensures a high level of evidentiary reliability of the information used in judicial proceedings. The NCIC system is considered a model example of how digital data processing technologies can enhance legality and accountability in state institutions within the criminal justice sphere.

In Ukraine, under conditions of martial law, investigative authorities extensively use quadcopters to document crime scenes. The use of unmanned aerial vehicles helps “solve another important problem during the inspection of a crime scene under extraordinary conditions: to provide the opportunity for high-quality and rapid photo and video recording of the

crime scene environment” [18, p. 236]. Besides improving image quality, this technology allows for a complete and objective representation of the location of objects within the inspected area, determining their interrelationships and spatial arrangements.

The use of advanced technical means for crime scene documentation minimizes inaccuracies in recording and eliminates the so-called “human factor.” The practice of employing laser 3D scanners during crime scene inspections enables capturing millions of points of a real environment, thereby creating an accurate model that provides a complete, detailed, and objective depiction of the trace pattern and crime scene conditions with high precision [19, p. 304].

Overall, the analysis of scientific works by both foreign and Ukrainian scholars provides ample grounds to assert that the impact of digitalization on the investigation of war crimes in Ukraine has both positive and negative aspects. Among the positive effects of digitalization are:

1. Increased efficiency and accuracy of fact recording – the use of digital platforms, unmanned aerial vehicles, satellite imagery, video, and photographic evidence allows for the rapid documentation of crimes and reduces the loss of evidence.

2. Access to large datasets and OSINT – analysis of open sources, social media, media outlets, and digital traces helps track war crimes, identify perpetrators, and establish connections between events.

3. Improved documentation and evidence storage – electronic registers and databases (including the Unified Register of Pre-Trial Investigations) ensure centralized

record-keeping and enable monitoring of investigations.

4. Interagency coordination and rapid information access – digital tools allow various state bodies to exchange data in real time.

However, the challenges and risks associated with digitalization in investigating war crimes include:

1. Authenticity and legal validity of digital evidence – there is a risk of manipulation, falsification, or the use of deepfake technologies, complicating the verification of materials in court.

2. Cybersecurity and protection of personal data – victims and witnesses are at risk of data breaches, while state systems face potential cyberattacks.

3. Fragmentation and lack of standardization in data collection – different agencies may collect and store digital evidence inconsistently, complicating integration and analysis.

4. Need for legislative and procedural improvements – clear standards for digital evidence, judicial oversight, and rules for data access are required, particularly for war crimes and domestic violence cases.

Comparison with Ukrainian practice indicates that the national model of the Unified Register of Pre-Trial Investigations only partially implements the standards of transparency, reliability, and accountability achieved by foreign analogues. Despite having a legal framework and a formally unified electronic structure, the operation of Register of Pre-Trial Investigations during martial law has revealed several systemic problems that significantly reduce its guarantee potential in protecting human rights.

Primarily, there is excessive centralization of access to the register within the Office of the Prosecutor General, limiting external oversight and public accountability. Additionally, the absence of a backup or alternative mechanism for recording crime reports in case of technical failures or system damage creates a risk of information loss, which is critical in regions experiencing active hostilities. These challenges indicate the need for deeper modernization of Register of Pre-Trial Investigations according to principles successfully implemented in other democratic states.

Another significant problem is the insufficient integration of Register of Pre-Trial Investigations with military administration databases, judicial registers, and war crimes tracking systems, which prevents comprehensive monitoring of investigations. A separate concern is the weak protection of personal data of victims, especially of sexual violence survivors, for whom disclosure could lead to re-traumatization.

To enhance human rights guarantees and improve the effectiveness of Register of Pre-Trial Investigations, several measures are advisable:

1. Legally enshrine the obligation of investigative bodies in the Criminal Procedure Code to provide electronic confirmation of a registered report with a unique access code for the applicant.

2. Expand the powers of the investigative judge at the stage of monitoring the entry of information into ЄРДП to respond promptly to cases of inaction by law enforcement.

3. Upgrade the Regulations on maintaining ЄРДП, including automatic

synchronization with registers of war crimes, domestic violence, and judicial decisions.

4. Ensure participation of the Verkhovna Rada Commissioner for Human Rights and civil society organizations in independent audits of registry access, creating additional safeguards against abuse.

Compared with European models, the Ukrainian ЄРДП conceptually aligns with the general principles of electronic criminal justice, yet its functionality remains insufficiently integrated and controlled. The absence of external monitoring, audit reports, and electronic notification mechanisms for victims significantly limits system effectiveness and undermines public trust.

At the current stage of criminal process development, it is advisable to implement the following instruments:

1. Independent monitoring of ЄРДП activities, conducted in cooperation with the Verkhovna Rada Commissioner for Human Rights.

2. Mandatory annual audit reports verifying the correctness of information entry, user access, and personal data protection.

3. Electronic notification of victims about the registration of reports, the progress of proceedings, and procedural decisions.

4. A unified digital complaints platform, enabling citizens to verify the entry of information into ЄРДП and submit complaints in cases of inaction by investigators or prosecutors.

Implementing these measures would facilitate a transition from the “register as a technical database” model to the “register as a justice system” model, in which every procedural action is controllable, digitally

documented, legally meaningful, and subject to public and judicial oversight. In this model, ЄПДП becomes a tool for state accountability to citizens, where transparency, reliability, and timeliness of information entry are key indicators of the quality of justice. This means that the register serves not only a registration or statistical function but also forms part of the mechanism for realizing the constitutional right to a fair trial and an effective legal remedy.

Conclusions. Thus, under conditions of armed conflict, the Unified Register of Pre-Trial Investigations is transforming from a technical tool for recording crimes into a key element of the human rights guarantees system, ensuring transparency, accountability, and oversight of the actions of pre-trial investigation bodies. The effective functioning of ЄПДП determines the state's ability to maintain a balance between national security needs and the obligation to respect human rights and

freedoms, even amid active armed conflict.

Enhancing the openness of the Unified Register of Pre-Trial Investigations, strengthening judicial and public oversight, implementing digital solutions, and harmonizing national legislation with European standards of electronic criminal justice are essential conditions for upholding the rule of law, restoring citizens' trust in the legal system, and reinforcing the democratic foundations of the state, even under the extraordinary circumstances of wartime.

At the same time, digitalization exerts a dual impact on the investigation of war crimes: it significantly enhances the capacity to investigate such crimes, while simultaneously necessitating the development of new procedures, standards of evidence, and judicial control mechanisms capable of ensuring the reliability, authenticity, and security of digital evidence in criminal proceedings.

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Вплив процесів цифровізації на доказування і запобігання воєнним злочинам та гендерно зумовленому насильству

У статті досліджується вплив процесів цифровізації на доказування та запобігання воєнним злочинам і гендерно зумовленому насильству в Україні. Особлива увага приділяється функціонуванню Єдиного реєстру досудових розслідувань (ЄРДР) як ключового гарантійного механізму забезпечення прав людини у кримінальному процесі, який визначає момент початку провадження, підслідність і межі процесуальних прав та обов'язків сторін. Аналізу підлягають сучасні цифрові технології, що застосовуються під час воєнного стану, включно з безпілотними літальними апаратами, дистанційною фото- та відеофіксацією, використанням відкритих джерел інформації (OSINT) та великих масивів даних, які дозволяють оперативно та об'єктивно документувати злочини проти цивільного населення, випадки сексуального та домашнього насильства, катування та депортації.

У статті висвітлюються проблеми автентичності цифрових доказів, ризики їх маніпуляцій, питання кібербезпеки та захисту персональних даних потерпілих і свідків, а також необхідність забезпечення належного судового контролю за внесенням і перевіркою даних у ЄРДР. Особливий акцент зроблено на ролі цифровізації у підвищенні ефективності кримінального переслідування, прискоренні розслідування воєнних злочинів та забезпеченні безперервного доступу потерпілих до правосуддя. Підкреслюється, що цифрові інструменти мають не лише технічне, а й стратегічне значення, адже відображають рівень прозорості дій правоохоронних органів, ступінь підзвітності держави та здатність забезпечити баланс між безпекою та правами особи.

Дослідження враховує практику Європейського суду з прав людини щодо пропорційності обмежень прав у надзвичайних ситуаціях і міжнародні зобов'язання України. Результати підкреслюють, що цифровізація є важливим інструментом протидії воєнним злочинам та гендерно зумовленому насильству, однак потребує вдосконалення нормативно-правової бази, процедур доказування та механізмів захисту прав потерпілих у воєнних умовах.

Ключові слова: воєнний стан, гендерно зумовлене насильство, домашнє насильство, кримінальна відповідальність, збройний конфлікт, воєнний конфлікт, ЄРДР, кримінальна відповідальність, права людини, Міжнародний кримінальний суд, цифровізація, цифрові докази, штучний інтелект.