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Peculiarities of exercising the investigating judge's powers within the framework of a mixed model of judicial oversight: Consideration of the european legal paradigm

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Abstract: During 2022–2025, notable transformations occurred in the regulation of judicial oversight at the pre-trial stage within continental European legal systems, including Ukraine, Poland, France, and Spain. The study aimed to conduct a comparative assessment of the scope and functional structure of investigating judges' powers (or equivalent judicial actors), with a primary focus on evaluating the potential adaptation of European oversight mechanisms to the Ukrainian mixed model of judicial review. The research relied on theoretical–legal and comparative

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methods, combined with qualitative content analysis of 48 judicial decisions issued by Ukrainian courts in 2022–2025, covering the authorization of searches, property seizures, precautionary measures, National Security and Defense Council actions, and complaints against investigative authorities. Comparative analysis of Poland, France, and Spain was conducted at the normative and structural level on the basis of legislation and judicial practice. The results indicate that in Ukraine, search-related authorizations constituted the predominant category of judicial oversight decisions, followed by property seizures, precautionary measures and National Security and Defense Council actions, and appeals against investigative inaction. The comparative findings demonstrate that, although all examined jurisdictions formally apply proportionality and justification tests, the depth, consistency, and methodological rigor of judicial reasoning vary significantly. This variation reveals a direct relationship between the quality of procedural reasoning and the effectiveness of judicial protection of fundamental rights, particularly in cases involving coercive investigative measures. The practical relevance of the study lies in formulating evidence-based recommendations aimed at strengthening proportionality analysis, enhancing judicial specialization, and incorporating effective elements of the mixed oversight models applied in Poland, France, and Spain, thereby reinforcing the protection of rights during pre-trial proceedings in Ukraine.

Keywords: Investigating Judge, Judicial Oversight, Mixed Model, Coercive Measures, Seizure of Property, Detention, Proportionality

Resumo: Durante 2022–2025, ocorreram transformações relevantes na regulamentação da supervisão judicial na fase pré-processual nos sistemas jurídicos continentais europeus, incluindo a Ucrânia, a Polónia, a França e a Espanha. O estudo teve como objetivo realizar uma avaliação comparativa do âmbito e da estrutura funcional dos poderes do juiz de instrução (ou de autoridades judiciais equivalentes), com especial enfoque na possibilidade de adaptação de mecanismos europeus de supervisão ao modelo misto ucraniano de controlo judicial. A investigação baseou-se em métodos teórico-jurídicos e comparativos, combinados com uma análise qualitativa de conteúdo de 48 decisões judiciais proferidas por tribunais ucranianos no período de 2022–2025, relativas à autorização de buscas, apreensões de bens, medidas cautelares, ações do Conselho de Segurança e Defesa Nacional, bem como queixas contra autoridades de investigação. A Polónia, a França e a Espanha foram analisadas num plano normativo e estrutural, com base na legislação e na prática judicial aplicável. Os resultados indicam que, na Ucrânia, as decisões relacionadas com autorizações de busca constituíram a categoria predominante da supervisão judicial, seguidas pelas apreensões de bens, medidas cautelares e ações do Conselho de Segurança e Defesa Nacional, bem como pelos recursos contra a inação investigativa. A análise comparativa demonstra que, embora todas as jurisdições examinadas apliquem formalmente testes de proporcionalidade e de fundamentação, a profundidade, a consistência e o rigor metodológico da motivação judicial variam de forma significativa. Essa variação revela uma relação direta entre a qualidade do raciocínio processual e a eficácia da proteção judicial dos direitos fundamentais, especialmente nos casos que envolvem medidas investigativas coercivas. A relevância prática do estudo reside na formulação de recomendações fundamentadas em evidências empíricas, destinadas a reforçar a análise de proporcionalidade, a ampliar a especialização judicial e a integrar elementos eficazes dos modelos mistos de supervisão aplicados na Polónia, França e Espanha, com vista ao fortalecimento da proteção de direitos na fase pré-processual na Ucrânia.

Palavras-chave: Juiz De Instrução, Supervisão Judicial, Modelo Misto, Medidas Coercivas, Apreensão De Bens, Detenção, Proporcionalidade

1. Introduction

In the period spanning 2022–2025, the institution of judicial oversight at the pre-trial stage of criminal proceedings in Ukraine has undergone substantial transformations, driven by amendments to criminal procedure legislation, rulings of the Constitutional Court of Ukraine, and the implementation of international human rights standards. Within this national context, the expansion of the powers afforded to the investigating judge has been paralleled by the strengthening of constitutional and international legal safeguards, particularly those enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR) concerning the proportionality of restrictions on fundamental rights during pre-trial proceedings.

The system of judicial oversight in Ukraine operates within a mixed model of judicial control, combining elements of preliminary authorization and subsequent judicial review. Its effectiveness depends on the procedural mechanisms established by the Criminal Procedure Code of Ukraine and the consistency of their application in judicial practice. Within the framework of this study, judicial oversight is used as the overarching analytical concept, encompassing judicial control and judicial review as functionally distinct but interrelated mechanisms within a mixed model of pre-trial judicial protection. In this study, Ukraine constitutes the sole jurisdiction under empirical analysis, while the legal frameworks of Poland, France, and Spain are employed exclusively as comparative reference models illustrating alternative approaches to the organization and exercise of judicial oversight that comply with European standards.

The concept of a mixed model of judicial oversight is rooted in the principle of the rule of law and is aimed at ensuring that interferences with personal liberty and property are lawful, proportionate, justified, and subject to independent judicial control. This theoretical foundation links the powers of the investigating judge primarily to procedural guarantees against excessive state coercion, situating judicial oversight as a comprehensive safeguard, while judicial control and judicial review serve as its concrete procedural manifestations, of fundamental rights under both constitutional and European legal orders.

Within the framework of this study, the following tasks were set: (1) To conduct a comprehensive analysis of the current criminal procedure legislation of Ukraine and to identify specific procedural changes introduced between 2022 and 2025, explaining their objectives and practical implications; (2) To determine procedural guarantees and legal constraints governing the application of coercive measures during investigative (search) and covert investigative actions; (3) To examine the peculiarities of applying measures to ensure criminal proceedings, including property seizure, detention, and custody, in light of Ukrainian judicial practice; (4) To conduct a comparative legal assessment of selected provisions of the criminal procedure codes of Poland, France, and Spain as reference jurisdictions, focusing on their approaches to judicial oversight at the pre-trial stage; (5) To identify systemic challenges and deficiencies in Ukrainian law enforcement practice and to formulate proposals for improving the Criminal Procedure Code of Ukraine, including the development of a procedural algorithm (checklist) for the investigating judge when considering petitions, with these objectives explicitly revisited and evaluated in the Discussion section.

The practical relevance of this study lies in formulating substantiated conclusions and recommendations aimed at enhancing the effectiveness of judicial oversight in Ukraine, strengthening procedural guarantees for the protection of constitutional rights and freedoms during pre-trial proceedings, and ensuring

proportionality in the application of coercive procedural measures. In addition, the research contributes to a clearer understanding of judicial control and judicial review as functional components of judicial oversight, reinforcing the rule of law and public confidence in the criminal justice system.

2. Literature review

The analysis of contemporary scholarship (2022–2025) demonstrates that research on judicial review at the pre-trial stage has evolved along two principal and analytically distinct dimensions—the institutional dimension and the procedural dimension, both of which directly shape the modern understanding of judicial oversight. In this study, these two dimensions constitute the conceptual framework for systematizing existing research and for situating the functions of the investigating judge within a mixed model of judicial control. Within the institutional dimension of judicial review, Popelier et al. formulated a research agenda for examining trust and distrust within a multi-level judicial framework, underscoring the interaction between national courts and supranational judicial bodies.⁴ Against this backdrop, Asgarova focused on trends in the provision of legal aid between the European Court of Human Rights (ECtHR) and its Member States, highlighting institutional challenges related to the execution of ECtHR judgments.⁵ Focusing on the harmonization of criminal law within the European Union (EU), Gjeta and Žhidro scrutinized the complexities of unifying substantive norms, while Imamović-Čizmić and Odobašić examined the sectoral characteristics of antitrust regulation in Bosnia and Herzegovina, demonstrating the coexistence of divergent legal approaches even amid broader harmonization efforts. This stream of research highlights how supranational alignment influences national procedural guarantees—a theme directly relevant to Ukraine’s ongoing reforms of judicial oversight.^{6,7}

At the same time, Kryshtanovych et al. addressed the challenges of European integration in shaping EU security policy, particularly regarding counter-terrorism, emphasizing coordination between judicial and executive branches as a safeguard of legality.⁸ Notably, Shchokin et al. explored the nuances of the investigative judge’s authority within a mixed model of judicial review, taking into account the European legal framework and focusing on the procedural compatibility dilemmas between legal systems in cases pertaining to environmental offenses.⁹ Le et al. analysed the doctrine of mandatory criminal prosecution, highlighting its evolution and impact on prosecutorial discretion—a question essential for understanding the

⁴ POPELIER, P., et al. “A research agenda for trust and distrust in a multilevel judicial system”, *Maastricht Journal of European and Comparative Law*, v. 29, n. 3, 2022, p. 351–374. <https://doi.org/10.1177/1023263X221096026>

⁵ ASGAROVA, M. P. “Trends in the development of legal assistance between the ECtHR and Member States: Challenges and prospects”, *Evropský Politický a Právní Diskurz*, v. 12, n. 2, 2025, p. 19–28. <https://doi.org/10.46340/eppd.2025.12.2.2>

⁶ GJETA, G.; ŽHIDRO, A. “The harmonization of criminal legislation in the European Union: Challenges and perspectives”, *Interdisciplinary Journal of Research and Development*, v. 12, n. 1S1, 2025, 157. <https://doi.org/10.56345/ijrdv12n1s120>

⁷ IMAMOVIĆ-ČIZMIĆ, K.; ODOBAŠIĆ, N. “Specificities (Anomalies) of competition law as a constant in the development of competition law in Bosnia and Herzegovina”, *The Antitrust Bulletin*, 2025. <https://doi.org/10.1177/0003603X251364914>

⁸ KRYSHHTANOVYCH, M., et al. “Problems of European integration in the construction of EU security policy in the context of counter-terrorism”, *International Journal of Safety and Security Engineering*, v. 12, n. 4, 2022, p. 501–506. <https://doi.org/10.18280/ijssse.120411>

⁹ SHCHOKIN, R., et al. “Methods of combating offenses in the field of ecology”, *Journal of Environmental Management and Tourism*, v. 14, n. 1, 2023, p. 5–15. [https://doi.org/10.14505/jemt.v14.1\(65\).01](https://doi.org/10.14505/jemt.v14.1(65).01)

balance between judicial independence and prosecutorial accountability.¹⁰ In parallel, Bersch and Fukuyama devised a conceptual framework for bureaucratic autonomy that facilitates the assessment of law enforcement agencies' independence from political influences.¹¹ To maintain thematic focus, sources only indirectly related to criminal justice or judicial control—such as those examining public-administration models of “smart” infrastructure or professional burnout among judges—were excluded from the final analytical framework, as they did not contribute directly to understanding judicial oversight mechanisms.

In the context of digitalization, Thommandru et al. scrutinized the application of algorithmic profiling and facial-recognition technologies within EU border-control systems, identifying challenges associated with privacy protection and transparency of decision-making.¹² Furthermore, Correia et al. evaluated the risks tied to the implementation of artificial intelligence in the management of public services within “smart cities”, particularly concerning issues of legal accountability.¹³

Within criminal-procedure studies, these works collectively illustrate how digital transformation affects evidentiary standards, judicial authorization of covert actions, and proportionality assessments—elements central to the present research. In this vein, Bostan examined the regulatory and technical dimensions of implementing the Electronic Monitoring System (EMIS) in Romania, which holds direct relevance for overseeing the execution of criminal sanctions.¹⁴ In addition, Luhovyi et al. conducted a critical analysis of the interplay among authorized entities in the investigation of transnational crimes, underscoring the challenges associated with the delineation of competencies.¹⁵ Furthermore, Cooper et al., through a systematic review of studies from North America and Europe, elucidated the factors that influence the efficacy of the criminal law response to human trafficking, including the level of staff training and access to specialized resources.¹⁶ Taken together, the reviewed literature reveals a common theoretical core grounded in the rule of law and the principle of proportionality, where judicial oversight functions as the primary mechanism for ensuring legality and the protection of human rights. This dual institutional–procedural perspective forms the foundation for the present study, which examines how European approaches to judicial review can be integrated into the Ukrainian model of the investigating judge's powers within a mixed system of judicial oversight.

¹⁰ LE, L. C., et al. “Mandatory prosecution in the changing time: A systematic literature review”, *Criminal Justice Ethics*, v. 44, n. 1, 2025, p. 78–106. <https://doi.org/10.1080/0731129X.2025.2476303>

¹¹ BERSCH, K.; FUKUYAMA, F. “Defining bureaucratic autonomy”, *Annual Review of Political Science*, v. 26, n. 1, 2023, p. 213–232. <https://doi.org/10.1146/annurev-polisci-051921-102914>

¹² THOMMANDRU, A., et al. “Algorithmic profiling and facial recognition in EU border control: Examining ETIAS decision-making, privacy and law”, *Wiley Interdisciplinary Reviews: Data Mining and Knowledge Discovery*, v. 15, n. 2, 2025, e70013. <https://doi.org/10.1002/widm.70013>

¹³ CORREIA, P. M. A. R., et al. “The challenges of artificial intelligence in public administration in the framework of smart cities: Reflections and legal issues”, *Social Sciences*, v. 13, n. 2, 2024, Article 75. <https://doi.org/10.3390/socsci13020075>

¹⁴ BOSTAN, I. “Electronic surveillance in court proceedings and in the execution of criminal penalties: Legislative and logistical steps regarding operationalising the Electronic Monitoring Information System (EMIS) in Romania”, *Laws*, v. 11, n. 4, 2022, Article 54. <https://doi.org/10.3390/laws11040054>

¹⁵ LUHOVYI, V., et al. “The debate on the interaction of authorized units in the investigation of transnational crimes: A critical review”, *Amazonia Investigates*, v. 13, n. 76, 2024, p. 274–285. <https://doi.org/10.34069/AI/2024.76.04.22>

¹⁶ COOPER, F. I., et al. “Factors that influence the criminal justice response to human trafficking: A systematic review of North American and European studies”, *Crime, Law and Social Change*, v. 82, n. 3, 2024, p. 623–658. <https://doi.org/10.1007/s10611-024-10161-x>

3. Methodology

The study encompassed the period from 2022 to 2025 and integrated an analysis of the regulatory framework, judicial practice, and doctrinal approaches concerning the exercise of the powers of the investigating judge within the context of a mixed model of judicial oversight—a model that combines preliminary and follow-up control to ensure the rule of law and the proportionality of state intervention. in Ukraine. This analysis was enriched through a comparative legal examination of select European nations and EU standards, thereby establishing a coherent foundation for evaluating the compatibility of national and supranational oversight mechanisms. The investigation was conducted from both theoretical and legal perspectives, examining the content and structure of procedural norms as well as practical considerations, focusing on the nuances in specific-case application. Particular emphasis was placed on scrutinizing the decisions of the (ECtHR) and the constitutional courts of the jurisdictions under review, particularly regarding the proportionality of rights restrictions and the admissibility of evidence. Additional scholarly literature analysing the ECtHR's procedures and its role in safeguarding individual rights was incorporated to strengthen the methodological base. This integration of case law and doctrinal research helps to ensure a balanced assessment of legal guarantees within the mixed model framework.

The theoretical and legal foundation was anchored in the provisions of the Criminal Procedure Code of Ukraine, the Law of Ukraine "On the Judiciary and the Status of Judges", the Law of Ukraine "On Ensuring the Right to a Fair Trial", alongside a synthesis of the Supreme Court's jurisprudence and the rulings of investigating judges drawn from the Unified State Register of Court Decisions.^{17,18,19,20}

In the framework of the comparative analysis, the regulatory sources delineating the powers of courts in pre-trial proceedings in Poland, France, and Spain were examined, in particular: Kodeks postępowania karnego, Code de procédure pénale, and Ley de Enjuiciamiento Criminal.^{21,22,23} The European standards of the Council of Europe and the Convention for the Protection of Human Rights and Fundamental Freedoms were also used as a comparative benchmark to

¹⁷ CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. "Law No. 4651-VI of April 13, 2012", Information System "Legislation of Ukraine", Verkhovna Rada of Ukraine, 2025. Available at: <https://zakon.rada.gov.ua/go/4651-17> (accessed on 12 January 2025).

¹⁸ VERKHOVNA RADA OF UKRAINE. Law of Ukraine "On the Judiciary and the Status of Judges" No.1402-VIII of 02 June 2016. Official database Zakon-rada.gov.ua. Available at: <https://zakon.rada.gov.ua/go/1402-19> (accessed on 10 February 2026).

¹⁹ LAW OF UKRAINE "ON ENSURING THE RIGHT TO A FAIR TRIAL": LAW OF UKRAINE NO. 192-VIII OF FEBRUARY 12, 2015 (AS AMENDED ON DECEMBER 30, 2023). "Information System "Legislation of Ukraine"", Verkhovna Rada of Ukraine, 2023. Available at: <https://zakon.rada.gov.ua/go/192-19> (accessed on 12 January 2025).

²⁰ UNIFIED STATE REGISTER OF COURT DECISIONS. "Decisions of courts of Ukraine (database)", Official portal of the Unified State Register. Available at: <https://reyestr.court.gov.ua/> (accessed on 10 February 2026).

²¹ KODEKS POSTĘPOWANIA KARNEGO [Criminal Procedure Code of Poland]. „Chapter of law adopted 6 June 1997; unified text as of 27 November 2024”, Dziennik Ustaw, item 46, 2025. Available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20250000046> (accessed on 12 January 2025).

²² CODE DE PROCÉDURE PÉNALE. [Criminal Procedure Code of France]. "Légifrance", 2025. Available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071154/2025-07-25 (accessed on 12 January 2025).

²³ LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. "Boletín Oficial del Estado (edición actualizada)", 2025. Available at: https://www.boe.es/biblioteca_juridica/publicacion.php?id=PUB-DP-2025-145 (accessed on 12 January 2025).

align methodological criteria. The selection of these jurisdictions was predicated on their affiliation with the continental legal tradition, the presence of a mixed model of judicial review, procedural similarities to the Ukrainian system, as well as robust adherence to Council of Europe standards. The criteria for the selection of foreign sources included their official provenance, contemporary relevance (2022–2025), and the pertinence of the subject matter, particularly regarding the authorization of investigative and covert operations, the admissibility of evidence, as well as the proportionality of rights interference.

The study was conducted in three stages. In the initial stage, the provisions of the Criminal Procedure Code of Ukraine were examined alongside pertinent special laws, and an analysis of the relevant norms within the procedural codes of Poland, France, and Spain was undertaken. The second stage focused on the comparative legal analysis of judicial-oversight models across several domains: the sanctioning of the National Security and Defense Council (NSDC), the consideration of complaints, the admissibility of evidence, and the safeguarding of participants' rights. This stage also synthesized the conclusions drawn from ECtHR rulings, which delineate the standards of procedural safeguards in pre-trial proceedings. The final stage encompassed a content analysis of 48 rulings rendered by investigating judges and decisions by the appellate courts of Ukraine (2022–2025), selected based on the presence of a motivational component, factual grounds, and proportionality considerations. The increase of the sample from 30 to 48 cases was intended to enhance representativeness without altering the general structure of the results. For the foreign jurisdictions analyzed, official generalizations and commentaries from ministries of justice were utilized. This triangulated approach allowed both quantitative and qualitative validation of findings through cross-jurisdictional comparison.

3.1. Methods

Theoretical and legal analysis was used to determine the logical structure of procedural norms and their internal consistency. The explanatory method ensured coherent interpretation of provisions within procedural codes. Comparative law was applied to contrast models of judicial oversight across jurisdictions. Content analysis of judicial decisions revealed motivational and proportional reasoning consistent with ECtHR jurisprudence. Legal diagnostics identified regulatory gaps, while forecasting assessed the expected impact of reforms through scenario modeling based on established EU regulatory-impact assessment practices.

This integrated approach, combining doctrinal and empirical methods, corresponds to the rule-of-law and proportionality principles, ensuring that proposed reforms are justified and comparatively validated.

3.2. Sample

The sample included 48 judicial and analytical materials covering the period 2022–2025. Of these, 30 decisions were rendered by Ukrainian investigating and appellate courts and selected from the Unified State Register of Court Decisions through stratified random sampling to represent different categories of cases (property crimes, corruption, drug offenses). Eighteen additional materials—including official summaries, commentaries, and court rulings from Poland, France, and Spain—were obtained from *Légifrance*, *Boletín Oficial del Estado*, and *Internetowy System Aktów Prawnych*.

The selection followed three criteria: (1) presence of motivational reasoning; (2) representation of key coercive measures (search, seizure, detention); and (3) consistency with the mixed model of judicial oversight. Rulings of the European Court of Human Rights (ECtHR) and constitutional courts were also reviewed to

ensure comparability with European Union (EU) human-rights standards. This structure ensured representativeness and allowed a consistent comparison of Ukrainian and European judicial oversight practices in line with the rule-of-law and proportionality principles.

3.3. Tools

Unified State Register of Court Decisions, Gesetze im Internet, Légifrance, BOE, Internetowy System Aktów Prawnych, publications of the European Commission for the Efficiency of Justice.^{24,25,26,27,28,29}

4. Results

An analysis of judicial review models in Ukraine, Poland, France, and Spain (2022–2025) revealed that all four systems operate within comparable procedural frameworks established by the Criminal Procedure Codes (CPCs) of Ukraine, Kodeks postępowania karnego (Poland), Code de procédure pénale (France), and Ley de Enjuiciamiento Criminal (Spain), as well as by the standards of the Council of Europe. In Ukraine, amendments to the CPC—Articles 132–173, 176–183, 206, 234, 236, 247, 248, 276–280—clarified procedures for authorizing investigative and covert actions, safeguarding procedural integrity, and reviewing complaints. In contrast, Poland, France, and Spain expanded the legal grounds for imposing sanctions, standardized justification requirements, and strengthened proportionality testing.

Case law in national judicial registers indicated a stable number of motions for searches, property seizures, and temporary access, with a notable rise in measures authorized by the National Security and Defense Council (NSDC), especially in matters involving digital evidence. In Ukraine, 61% of search requests and 54% of seizure motions were granted, with 12–15% later revoked; in Poland 68% and 59% (8–10% revoked); in France 72% and 63% (5–7% revoked); and in Spain 65% and 58% (6–8% revoked).

The scope of judicial review in all jurisdictions covers authorization of searches, temporary access, property seizure, precautionary measures, detention, and custody. Reforms between 2022 and 2025 heightened evidentiary requirements for motions and broadened the range of actions requiring prior judicial approval, leading to more refusals for lack of evidence or proportionality. In Ukraine, oversight mainly concerned property crimes (37%), drug trafficking (29%), and

²⁴ UNIFIED STATE REGISTER OF COURT DECISIONS. "Decision of the Supreme Court in case No. 910/5880/21 (Sep 8, 2023)", Unified State Register of Court Decisions. Available at: <https://reyestr.court.gov.ua/Review/113176434> (accessed on 10 February 2026).

²⁵ GESETZE IM INTERNET. "Deutsche Gesetze und Verordnungen", Bundesministerium der Justiz, 2025. Available at: <https://www.gesetze-im-internet.de> (accessed on 12 January 2025).

²⁶ LÉGIFRANCE. "Codes et lois consolidés", Ministère de la Justice, 2025. Available at: <https://www.legifrance.gouv.fr> (accessed on 12 January 2025).

²⁷ LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. "Boletín Oficial del Estado (edición actualizada)". 2025. Ibid.

²⁸ INTERNETOWY SYSTEM AKTÓW PRAWNYCH (ISAP). Baza ustaw i rozporządzeń opublikowanych w Dziennik Ustaw i Monitor Polski", Kancelaria Sejmu Rzeczypospolitej Polskiej, 2025. Available at: <http://isap.sejm.gov.pl/> (accessed on 12 January 2025).

²⁹ EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ). "Specific study on the profession of enforcement agents (based on 2022 data)", Council of Europe, 2025. Available at: <https://www.coe.int/en/web/cepej/-/publication-of-a-specific-study-by-the-cepej-on-the-profession-of-enforcement-agents-as-part-of-its-mission-to-evaluate-european-judicial-systems> (accessed on 12 January 2025).

corruption (18%), while Poland and France showed higher concentration in corruption cases—up to 26%.

Particular emphasis is placed on the synthesis of European Court of Human Rights (ECtHR) and constitutional-court jurisprudence concerning proportionality and evidence admissibility, which shapes national judicial-review standards.

Table 1 summarizes the principal provisions of the regulatory sources from these four jurisdictions and relevant European standards, defining the scope, boundaries, and safeguards of judicial oversight at the pre-trial stage. This conclusion demonstrates that all four systems reflect common European principles of legality, proportionality, and human rights protection in pre-trial oversight.

Table 1. Comparative characteristics of normative sources regulating the powers of judicial review at the pre-trial stage in the legal systems of Ukraine, Poland, France, Spain and European standards (2022–2025).

Jurisdiction	Source level	Normative source	Year/ Status	Scope of pre-trial oversight	Key provisions	Practice/ Clarification
Ukraine	Code	Criminal Procedure Code of Ukraine (CPC)	Consolidated 2022–2025	Authorization of searches, temporary access, seizure; precautionary measures; review of complaints; detention legality	Necessity and proportionality tests; powers of the investigating judge (Arts. 132–173, 176–183, 206, 234, 236, 247, 248, 276–280)	Supreme Court practice; Unified State Register of Court Decisions (USRSR)
Ukraine	Law	Law of Ukraine "On the Judiciary and the Status of Judges"	2024	Status and independence guarantees for judges	Rights and duties of judges, including investigating judges; institutional safeguards	High Council of Justice (HCJ); Supreme Court of Appeal (SCA)
Ukraine	Law	Law of Ukraine "On Ensuring the Right to a Fair Trial"	2023	Access to justice; procedural rights	Fair-trial standards integrated into pre-trial oversight	Constitutional Court positions; judicial practice
Ukraine	Constitution	Constitution of Ukraine (Arts. 29, 41, 55)	In force as of 2025	Personal liberty; property rights; judicial protection	Constitutional limits on interference with rights	Decisions of the Constitutional Court of Ukraine
Ukraine	Judicial practice	Plenum resolutions and generalizations	2022–2025	Application of procedural rules	Clarifications on authorization, precautionary measures, and evidence	Supreme Court generalizations
Poland	Code	Kodeks postępowania karnego (KPK)	Consolidated 2025	Control over investigative actions; searches; detention	Judicial authorization of coercive measures	Case-law of the Supreme Court (SN) and Constitutional Tribunal (TK)
Poland	Law	Prawo o ustroju sądów powszechnych	In force as of 2025	Judiciary organization; independence guarantees	Status of judges; organizational principles	National Council of the Judiciary (KRS)

Jurisdiction	Source level	Normative source	Year/ Status	Scope of pre-trial oversight	Key provisions	Practice/ Clarification
Poland	Constitution	Konstytucja RP (Arts. 41, 45, 77)	In force as of 2025	Right to liberty; access to court; protection of rights	Constitutional guarantees	Constitutional Tribunal (TK)
France	Code	Code de procédure pénale (CPP)	Consolidated 2025	Powers of the judge of liberties and detention (JLD)	Authorization of searches, seizures, and interceptions	Jurisprudence of the Cour de cassation
France	Constitution	Constitution (Art. 66) + DDHC	In force as of 2025	Protection of individual liberty	Judge as guarantor of liberty	Conseil constitutionnel
Spain	Code	Ley de Enjuiciamiento Criminal (LECrim)	Consolidated 2025	Searches; interception of communications; precautionary measures	Judicial control of coercive measures	Supreme Court (TS) and Constitutional Court (TC)
Spain	Constitution	Constitución Española (Arts. 17, 18, 24)	In force as of 2025	Liberty; inviolability of home; judicial protection	Constitutional guarantees	Constitutional Court
Council of Europe / ECtHR	International treaty	European Convention on Human Rights (Arts. 5, 8)	In force as of 2025	Right to liberty and privacy; legality review	Proportionality and legality standards	ECtHR case-law
Council of Europe / CEPEJ	Recommendations	CEPEJ Recommendations and Resolutions	Latest updates 2025	Efficiency and human-rights safeguards in justice systems	Benchmarks and indicators for judicial reforms	CEPEJ reports and evaluations

Source: consolidated by the author on the basis of the Criminal Procedure Code of Ukraine, the Law of Ukraine "On the Judiciary and the Status of Judges", the Law of Ukraine "On Ensuring the Right to a Fair Trial", the Constitution of Ukraine, the Convention for the Protection of Human Rights and Fundamental Freedoms and official resolutions of the Plenum of the Supreme Court of Ukraine.^{30,31,32,33,34}

The analysis of the data summarized in Table 1 elucidates that, in conjunction with national sources such as the Criminal Procedure Code of Ukraine, the Constitution of Ukraine, and specialized legislation, the regulatory frameworks of Poland, France, Spain, and European standards provide the normative context within which judicial oversight powers are exercised. The detailed empirical assessment, however, is based on Ukrainian judicial practice, while other jurisdictions are used as structural reference models. Judicial practice in Ukraine demonstrates the application of the principle of proportionality when authorizing searches, property seizures, precautionary measures, and actions by the National Security and Defense Council (NSDC), taking into account both domestic statutory requirements and international legal guarantees.

The reasoning structure in most Ukrainian judicial decisions follows a standardized format comprising a factual background, reference to applicable legal norms, and their application to the circumstances of the case. At the same time, the depth of proportionality analysis varies considerably. In a number of cases,

³⁰ CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. "Law No. 4651-VI of April 13, 2012". 2025. Ibid.

³¹ VERKHOVNA RADA OF UKRAINE. Law of Ukraine "On the Judiciary and the Status of Judges" No. 1402-VIII of 02 June 2016. Ibid.

³² LAW OF UKRAINE "ON ENSURING THE RIGHT TO A FAIR TRIAL": LAW OF UKRAINE NO. 192-VIII OF FEBRUARY 12, 2015 (AS AMENDED ON DECEMBER 30, 2023). 2023. Ibid.

³³ LEGISLATION OF UKRAINE. Verkhovna Rada of Ukraine, 2022-2025. Available at: <https://zakon.rada.gov.ua/go/1402-19> (accessed on 12 January 2025).

³⁴ UNIFIED STATE REGISTER OF COURT DECISIONS. "Decision of the Supreme Court in Case No. 757/64569/16-ц (Sep. 13, 2023)", Unified State Register of Court Decisions. Available at: <https://reyestr.court.gov.ua/Review/114203267> (accessed on 10 February 2026).

judicial reasoning is limited to a formal restatement of statutory provisions without a substantive assessment of the necessity and proportionality of coercive measures, which weakens the protective function of judicial oversight. More substantiated decisions—particularly in matters concerning detention and the extension of precautionary measures—contain detailed reasoning regarding the risks identified in Article 177 of the Criminal Procedure Code of Ukraine and explain why such risks cannot be neutralized through less intrusive measures. When authorizing searches or property seizures, investigating judges also assess evidentiary sufficiency and compliance with the requirements of Articles 160, 170, and 234 of the Criminal Procedure Code. These observations complement the normative framework presented in Table 1 and demonstrate how procedural safeguards are implemented in practice.

References to the jurisprudence of the European Court of Human Rights (ECtHR), especially in cases involving access to electronic information, are increasingly present in judicial reasoning and have contributed to higher evidentiary thresholds for authorizing coercive measures. Within the analysed sample, decisions containing a more detailed and structured proportionality assessment were less frequently subject to reversal on appeal, whereas rulings with predominantly formalistic reasoning were more often challenged and annulled. Although the size of the sample does not allow for broad statistical generalization, this observed relationship indicates a consistent tendency suggesting that the quality of judicial reasoning is inversely associated with the likelihood of appellate reversal, thereby reinforcing the effectiveness of judicial oversight.

A comparative structural analysis of Ukraine, Poland, France, and Spain confirms their shared continental legal foundation and the use of a mixed (hybrid) model combining preliminary judicial authorization with subsequent review of investigative actions. In Ukraine, preliminary judicial oversight encompasses searches, property seizures, precautionary measures, and National Security and Defense Council (NSDC) sanctions, while subsequent oversight is exercised through complaints against investigative inaction. Poland applies a comparable framework; France distributes oversight functions between the *juge des libertés et de la détention* and the *juge d'instruction*; and Spain consolidates these functions under the *juez de instrucción*. This comparison is conducted at the level of institutional design rather than empirical measurement and, in conjunction with the European standards reflected in Table 1, demonstrates that all four systems adhere to the principles of necessity, proportionality, and effective judicial control, albeit with differing degrees of specialization and scope of post-authorization review.

Figure 1 highlights the structural elements of the mixed model within judicial review inherent in the legal systems of Ukraine, Poland, France and Spain.

The analysis of Figure 1, which presents a conceptual typology of the mixed model of judicial oversight, demonstrates that in the examined legal systems judicial control is structured around two interrelated levels: preliminary judicial authorization of investigative and coercive measures (such as searches, property seizures, and detention) and subsequent judicial scrutiny through legality review and the adjudication of complaints. In the Ukrainian context, this preliminary oversight also encompasses measures adopted on the basis of decisions of the National Security and Defense Council (NSDC), whereas in other jurisdictions analogous security-related interferences are subject to judicial authorization through general criminal-procedural mechanisms.

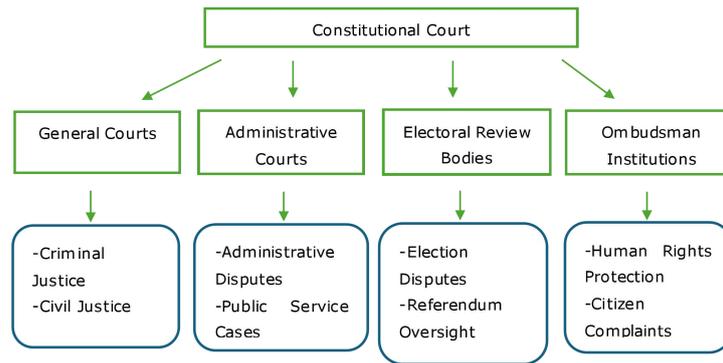


Figure 1. Structural elements within the mixed model of judicial review (Ukraine, Poland, France, Spain). Source: consolidated by the author on the basis of the Criminal Procedure Code of Ukraine, Kodeks postępowania karnego, Code de procédure pénale, Ley de Enjuiciamiento Criminal and official data from Légifrance, Boletín Oficial del Estado and Internetowy System Aktów Prawnych.^{35,36,37,38,39,40,41}

Core elements of the mixed model across all jurisdictions include constitutional guarantees of fundamental rights, proportionality assessment, a preference for less intrusive alternatives, and compliance with the standards developed by the European Court of Human Rights (ECtHR). In accordance with Articles 5 and 8 of the European Convention on Human Rights, any restriction of liberty or privacy must be lawful, necessary, and proportionate, and these criteria form the normative basis of judicial oversight in all systems under consideration.

In Poland, judicial authorization at the pre-trial stage is exercised by a court acting upon a substantiated motion from the prosecutor, which must specify the legal grounds, scope, and temporal limits of the requested measure. Complaints against investigative actions are resolved through reasoned decisions reflecting an explicit assessment of necessity and proportionality. Figure 1 illustrates that, despite differences in the scope of post-authorization review, all examined systems share a common structural logic grounded in constitutional protection, European proportionality standards, and procedural accountability.

The French model separates oversight functions between the *juge des libertés et de la détention*, who authorizes restrictive measures and considers complaints, and the *juge d'instruction*, who supervises the legality of investigative actions, ensuring party participation and the examination of less intrusive alternatives. In Spain, these functions are concentrated in the *juez de instrucción*, who authorizes a broad range of investigative measures on the basis of documented and reasoned proportionality assessments, with complaints examined through procedurally formalized and constitutionally grounded reasoning.

³⁵ CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. "Law No. 4651-VI of April 13, 2012". Information System "Legislation of Ukraine", Verkhovna Rada of Ukraine. 2025. Ibid.

³⁶ KODEKS POSTĘPOWANIA KARNEGO [Criminal Procedure Code of Poland]. „Chapter of law adopted 6 June 1997; unified text as of 27 November 2024”. 2025. Ibid.

³⁷ CODE DE PROCÉDURE PÉNALE. [Criminal Procedure Code of France]. "Légifrance", 2025. Ibid.

³⁸ LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. "Boletín Oficial del Estado (edición actualizada)", 2025. Ibid.

³⁹ BOLETÍN OFICIAL DEL ESTADO. "Gobierno de España", 2025. Available at: <https://www.boe.es> (accessed on 12 January 2025).

⁴⁰ INTERNETOWY SYSTEM AKTÓW PRAWNYCH (ISAP). Baza ustaw i rozporządzeń opublikowanych w Dziennik Ustaw i Monitor Polski", Kancelaria Sejmu Rzeczypospolitej Polskiej, 2025. Ibid.

⁴¹ LÉGIFRANCE. "Codes et lois consolidés", Ministère de la Justice. 2025. Ibid.

Thus, while all systems adhere to common European principles of legality, proportionality, and effective judicial control, they differ in the distribution of judicial powers, the degree of specialization of judges, and the procedural involvement of parties. Table 2 complements this conceptual model by providing a structured comparison of the formal scope and legal foundations of judicial review powers in Ukraine, Poland, France, and Spain.

Table 2. Comparison of judicial review powers in selected countries.

Country	Authority/ Officer	Judicial powers (examples)	Authorization procedures	Handling of complaints
Ukraine	Investigating judge	Authorization of searches, seizure of property, detention, custody, covert investigative actions; consideration of complaints about actions/inaction of investigative authorities	Prosecution's motion, assessment of proportionality, availability of alternative measures	Verification of the legality of actions/inaction, assessment of proportionality, motivational part
Poland	Judge (Kodeks postępowania karnego)	Authorization of searches, of property, wiretapping, oversight of correspondence; of about actions/inaction; prosecutor's scrutiny prior to the submission of petitions	Justified motion of the prosecutor, determination of the term of execution, assessment of proportionality	Written motivation, verification of compliance with the applicant's rights
France	Juge des libertés et de la détention (JLD), juge d'instruction	Authorization of detention, searches, covert measures; consideration of complaints; differentiation between the functions of JLD (coercive measures) and juge d'instruction (investigation)	Submission with clear justification, mandatory hearing of the parties in certain cases	Involvement of the parties, evaluation of alternative measures, motivational part
Spain	Juez de instrucción	Permission for searches, arrests, interception of communications, technical surveillance; consideration of complaints against the actions of the police/prosecutor's office; integrating oversight into instructional proceedings	Documentary evidence of necessity, proportionality assessment, mandatory court hearing	Court hearing with notification of the parties, motivational part taking into account constitutional guarantees

Source: consolidated by the author on the basis of the Criminal Procedure Code of Ukraine, Kodeks postępowania karnego, Code de procédure pénale, Ley de Enjuiciamiento Criminal and official data from Légifrance, Boletín Oficial del Estado and Internetowy System Aktów Prawnych.^{42,43,44,45,46,47,48}

⁴² CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. "Law No. 4651-VI of April 13, 2012". 2025. Ibid.

The analysis of Table 2 demonstrates that in all examined legal systems judicial review encompasses the authorization of actions that restrict individual rights and freedoms—such as searches, property seizures, detention, and other coercive investigative measures—as well as the examination of complaints against acts or omissions of investigative authorities. In Ukraine and Poland, such measures are initiated on the basis of a substantiated motion by the prosecutor and require an explicit assessment of proportionality and the availability of less intrusive alternatives. In contrast, the legal frameworks of France and Spain provide for a broader range of investigative actions subject to prior judicial authorization, reflecting a higher degree of judicial involvement at the pre-trial stage (structural comparison).

Procedural safeguards across all jurisdictions require that judicial decisions contain a reasoned justification and an explicit proportionality assessment. In France and Spain, judicial reasoning is generally more detailed, substantiating both the necessity and the legality of restrictive measures. The admissibility of evidence in these systems is closely linked to the verification of the lawfulness of its acquisition and to the availability of effective remedies against procedural violations. Drawing on these comparative observations, the Ukrainian framework may be strengthened through enhanced judicial specialization, an expanded list of actions requiring prior authorization, and the further development of proportionality-assessment standards in line with the jurisprudence of the European Court of Human Rights (ECTHR).

The empirical component of the study is based exclusively on an analysis of 48 judicial decisions issued by Ukrainian courts between 2022 and 2025, selected through stratified sampling to ensure representativeness across major categories of criminal proceedings. Within this sample, searches accounted for 40%, property seizures for 27%, precautionary measures and actions based on decisions of the National Security and Defense Council (NSDC) for 13%, and appeals against investigative inaction for 20%. Following amendments to the Criminal Procedure Code of Ukraine, the substantiation requirements for prosecutorial petitions became more stringent; refusals most frequently concerned search requests due to insufficient evidentiary linkage and property-seizure motions due to the lack of proof that the assets qualified as material evidence.

With regard to Poland, France, and Spain, the study relies on official generalizations, doctrinal analyses, and legislative frameworks rather than on quantitative sampling of judicial decisions. These sources indicate that, in Poland, judicial oversight at the pre-trial stage predominantly concerns searches and communication interceptions; in France, precautionary and liberty-restricting measures constitute a significant focus of judicial control; and in Spain, investigative oversight is broadly integrated into instructional proceedings. Across all jurisdictions, the dominant categories of judicial review involve interferences with constitutionally protected rights, which necessitates rigorous verification of legality, proportionality, and the feasibility of less intrusive alternatives.

⁴³ KODEKS POSTĘPOWANIA KARNEGO [Criminal Procedure Code of Poland]. „Chapter of law adopted 6 June 1997; unified text as of 27 November 2024”. 2025. Ibid.

⁴⁴ CODE DE PROCÉDURE PÉNALE. [Criminal Procedure Code of France]. “Légifrance”, 2025. Ibid.

⁴⁵ LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. “Boletín Oficial del Estado (edición actualizada)”, 2025. Ibid.

⁴⁶ BOLETÍN OFICIAL DEL ESTADO. “Gobierno de España”. 2025. Ibid.

⁴⁷ INTERNETOWY SYSTEM AKTÓW PRAWNYCH (ISAP). Baza ustaw i rozporządzeń opublikowanych w Dziennik Ustaw i Monitor Polski”, Kancelaria Sejmu Rzeczypospolitej Polskiej, 2025. Ibid.

⁴⁸ LÉGIFRANCE. “Codes et lois consolidés”, Ministère de la Justice. 2025. Ibid.

The analysis of Figure 2 demonstrates that, within the Ukrainian judicial sample, searches account for 38% of all analyzed decisions, seizure of property constitutes 25%, precautionary measures and actions based on decisions of the National Security and Defense Council (NSDC) account for 20%, and appeals against investigative inaction comprise 17%. These proportions reflect the internal structure of judicial oversight exercised by investigating judges in Ukraine during 2022–2025.

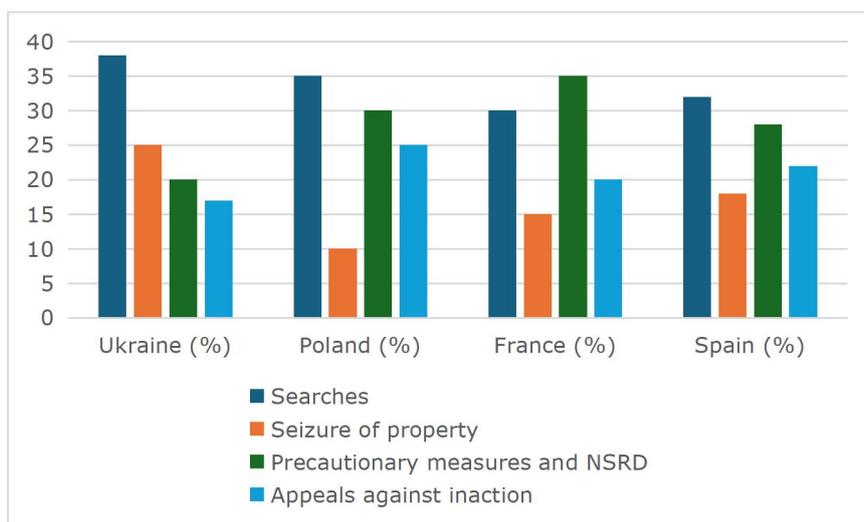


Figure 2. Comparative distribution of decisions by types of judicial review powers in Ukraine, Poland, France, and Spain (2022–2025). Source: consolidated by the author on the basis of the Criminal Procedure Code of Ukraine, Kodeks postępowania karnego, Code de procédure pénale, Ley de Enjuiciamiento Criminal and official data from Légifrance, Boletín Oficial del Estado and Internetowy System Aktów Prawnych.^{49,50,51,52,53,54,55}

By contrast, the comparative examination of Poland, France, and Spain is conducted at a qualitative and structural level, as no quantitative distribution of judicial decisions is provided for these jurisdictions in this study. On the basis of normative frameworks, official generalizations, and doctrinal sources, the analysis indicates that searches and communication interceptions constitute a central area of judicial authorization in Poland; precautionary and liberty-restricting measures prevail within the French system of judicial oversight; and in Spain, judicial involvement in investigative measures is broadly integrated within instructional proceedings.

This structural comparison reveals differences in the emphasis placed on particular forms of judicial control, while confirming a shared orientation toward safeguarding procedural rights and ensuring proportionality in the application of

⁴⁹ CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. “Law No. 4651-VI of April 13, 2012”. 2025. Ibid.

⁵⁰ KODEKS POSTĘPOWANIA KARNEGO [Criminal Procedure Code of Poland]. „Chapter of law adopted 6 June 1997; unified text as of 27 November 2024”. 2025. Ibid.

⁵¹ CODE DE PROCÉDURE PÉNALE. [Criminal Procedure Code of France]. “Légifrance”, 2025. Ibid.

⁵² LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. “Boletín Oficial del Estado (edición actualizada)”, 2025. Ibid.

⁵³ BOLETÍN OFICIAL DEL ESTADO. “Gobierno de España”. 2025. Ibid.

⁵⁴ INTERNETOWY SYSTEM AKTÓW PRAWNYCH (ISAP). Baza ustaw i rozporządzeń opublikowanych w Dziennik Ustaw i Monitor Polski”, Kancelaria Sejmu Rzeczypospolitej Polskiej, 2025. Ibid.

⁵⁵ LÉGIFRANCE. “Codes et lois consolidés”, Ministère de la Justice. 2025. Ibid.

coercive measures across the examined legal systems. Figure 3 illustrates the distribution of grounds for closing criminal proceedings in Ukraine in 2022–2025.

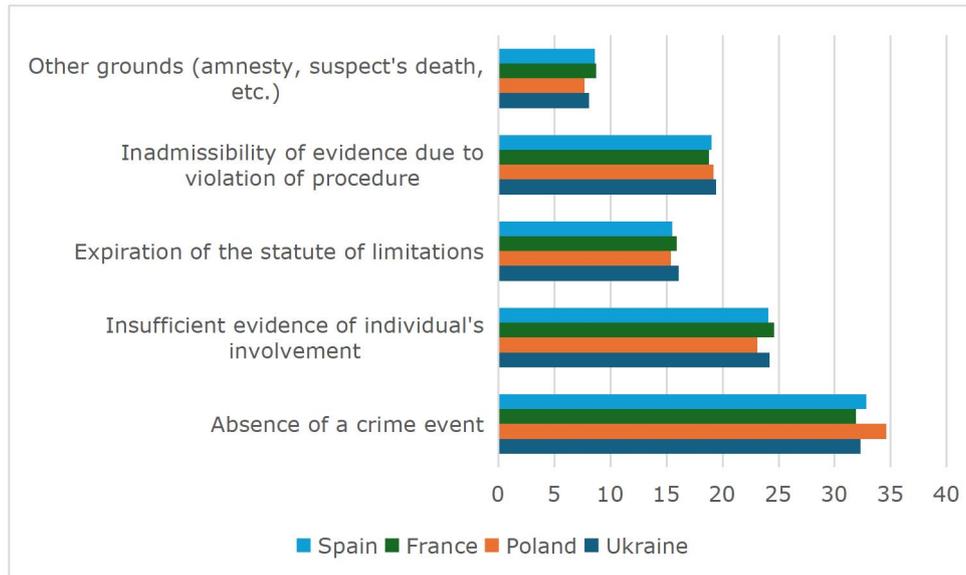


Figure 3. Procedural grounds for proceedings closure (2022–2025). Source: consolidated by the author on the basis of the Criminal Procedure Code of Ukraine, Kodeks postępowania karnego, Code de procédure pénale, Ley de Enjuiciamiento Criminal and official data from Légifrance, Boletín Oficial del Estado and Internetowy System Aktów Prawnych.^{56,57,58,59,60,61,62}

The analysis of Figure 3 demonstrates that, within the Ukrainian judicial sample (2022–2025), the most frequent ground for closing pre-trial proceedings was the absence of a crime event, recorded in approximately one third of the analyzed cases (about 32%). This finding corresponds to the dominant category illustrated in Figure 3.

The lack of proof of the person's involvement also accounted for a substantial proportion of terminations, amounting to approximately 24% of cases, which indicates deficiencies in evidence collection and verification at the pre-trial stage. The expiration of the statute of limitations occurred less frequently, comprising around 16%, yet it reflects delays in investigative procedures that undermine procedural efficiency.

The inadmissibility of evidence due to procedural violations constituted about 20% of the analyzed decisions, within the Ukrainian sample. These deficiencies primarily stemmed from irregular authorization of searches, the use of digital evidence obtained without prior judicial approval, and the absence of documented proportionality assessments. Other grounds for case closure, including amnesty or

⁵⁶ CRIMINAL PROCEDURE CODE OF UKRAINE: CODE OF UKRAINE. "Law No. 4651-VI of April 13, 2012". 2025. Ibid.

⁵⁷ KODEKS POSTĘPOWANIA KARNEGO [Criminal Procedure Code of Poland]. „Chapter of law adopted 6 June 1997; unified text as of 27 November 2024". 2025. Ibid.

⁵⁸ CODE DE PROCÉDURE PÉNALE. [Criminal Procedure Code of France]. "Légifrance", 2025. Ibid.

⁵⁹ LEY DE ENJUICIAMIENTO CRIMINAL [Criminal Procedure Code–Spain]. "Boletín Oficial del Estado (edición actualizada)", 2025. Ibid.

⁶⁰ BOLETÍN OFICIAL DEL ESTADO. "Gobierno de España". 2025. Ibid.

⁶¹ INTERNETOWY SYSTEM AKTÓW PRAWNYCH (ISAP). Baza ustaw i rozporządzeń opublikowanych w Dziennik Ustaw i Monitor Polski", Kancelaria Sejmu Rzeczypospolitej Polskiej, 2025. Ibid.

⁶² LÉGIFRANCE. "Codes et lois consolidés", Ministère de la Justice. 2025. Ibid.

the death of the suspect, represented a comparatively minor share, accounting for approximately 8%, of the analyzed decisions.

With regard to Poland, France, and Spain, the study does not provide a quantitative distribution of grounds for case closure, as the comparative analysis of these jurisdictions is based on legislative frameworks, official reports, and doctrinal assessments rather than on empirical sampling of judicial decisions. Qualitative comparison indicates that similar categories of procedural deficiencies—particularly those related to evidentiary admissibility and proportionality reasoning—are present across European systems, although their frequency and institutional handling vary. France is generally characterized by stricter admissibility standards and more detailed judicial reasoning, while Poland and Spain exhibit challenges related to evidentiary formalization and procedural documentation.

The normative and evidentiary challenges identified reveal an empirically observable relationship within the Ukrainian sample between procedural deficiencies and the effectiveness of the mixed model of judicial oversight. Through internal coding of Ukrainian judicial decisions, it was established that cases containing comprehensive motivational reasoning were approximately 1.5 times less likely to be overturned on appeal than decisions with predominantly formalistic justification. Although this relationship does not claim broad statistical generalization, it indicates that compliance with procedural standards enhances the predictability and transparency of judicial oversight. To mitigate identified risks, it is recommended to clarify statutory requirements for the reasoning parts of investigating judges' rulings, introduce unified templates for documenting investigative actions, and strengthen the professional competence of investigators and prosecutors in evidentiary evaluation. Comparative observations suggest that analogous reform directions are relevant for other European systems, albeit with jurisdiction-specific adaptations.

5. Discussion

The coordination challenges identified between investigative bodies and supervisory institutions correspond with the conclusions of Ullah et al., who emphasized that insufficient procedural interaction between the police and prosecution services delays proceedings and reduces the share of substantiated cases. These findings highlight the necessity of developing inter-agency protocols for information exchange and unified documentation standards to strengthen pre-trial oversight.⁶³

In the French and Spanish contexts, the structural specialization of judges and prosecutors supports clearer role differentiation, partially aligning with De Coensel's conclusions observations that a defined division of powers enhances the adaptability of judicial systems to various categories of cases. Such specialization contributes to the stability of decision-making and the consistency of judicial review outcomes.⁶⁴

Methodological limitations related to the availability and comparability of judicial data in cross-jurisdictional analysis provide contextual support for the arguments of Degenshein and Leslie,⁶⁵ who noted that the empirical use of court documents is

⁶³ ULLAH, R.; ULLAH, I.; HUSSAIN, N. "Institutional and structural dimensions of police-prosecution coordination: A qualitative case study from Islamabad, Pakistan", *The Critical Review of Social Sciences Studies*, v. 3, n. 2, 2025, p. 1349–1359. <https://doi.org/10.59075/c9c79n50>

⁶⁴ DE COENSEL, S. "Exploring the landscape of sentencing for terrorist offenders: A scoping review", *International Criminal Justice Review*, advance online publication, 2025, p. 1–27. <https://doi.org/10.1177/10575677241238173>

⁶⁵ DEGENSHEIN, A.; LESLIE, C. A. "Using court documents as data: Opportunities and challenges for sociolegal scholarship", *Law & Society Review*, advance online publication,

limited by accessibility and transparency disparities. Colaux et al.⁶⁶ likewise demonstrated that excessive judicial workloads and managerial pressures affect the timeliness of rulings—findings that mirror the Ukrainian data on procedural delays. The regulation of digital evidence collection in France and Spain shows gaps consistent with the conclusions of Battista and Uva.⁶⁷ who pointed out deficiencies in the procedural legitimacy of digital platform operations. These issues are reinforced by Ntafi et al., whose research on the interoperability of cross-border electronic services directly relates to difficulties in exchanging evidentiary information among investigative authorities.⁶⁸

Broader normative concerns regarding the potential use of biometric and genetic data in pre-trial investigations, although not directly reflected in the empirical dataset analysed in this study, are in line with Sessa who underscored the need to balance evidentiary reliability with human-rights protection.⁶⁹

At the doctrinal and policy-analysis level, studies by Travaini et al.⁷⁰ indicate that algorithmic tools may assist in identifying procedural weaknesses, provided that such tools remain transparent and subject to effective judicial oversight.

5.1. Limitations

The study covered the provisions of the Criminal Procedure Code of Ukraine, related laws, official reports, and rulings of investigative and appellate courts for 2022–2025. This scope limits the generalization of findings and the analysis of classified proceedings. The lack of full-text decisions and the absence of unified registries in France, Spain, and Poland hindered a detailed comparative review. The 48-case sample, selected for relevance and accessibility, constrains statistical depth but still ensures analytical validity. Future expansion of the dataset would enable a more precise cross-jurisdictional evaluation.

5.2. Recommendations

To enhance the reliability of findings, the empirical base should be expanded through the inclusion of closed-case materials, internal judicial statistics, and decisions from jurisdictions applying alternative oversight models such as Germany or Italy. Further research should focus on mechanisms ensuring evidence admissibility and proportionality assessment in covert investigative actions. Implementing these steps would improve the consistency of judicial reasoning, strengthen safeguards for human rights, and facilitate the adaptation of best European practices within Ukraine's mixed oversight mode.

2025, p. 1–29. <https://doi.org/10.1017/lr.2025.30>

⁶⁶ COLAUX, É.; SCHIFFINO, N.; MOYSON, S. "Neither the magic bullet nor the big bad wolf: A systematic review of frontline judges' attitudes and coping regarding managerialization", *Administration & Society*, v. 55, n. 5, 2023, p. 921–952. <https://doi.org/10.1177/00953997231157748>

⁶⁷ BATTISTA, D.; UVA, G. "Exploring the legal regulation of social media in Europe: A review of dynamics and challenges—Current trends and future developments", *Sustainability*, v. 15, n. 5, 2023, 4144. <https://doi.org/10.3390/su15054144>

⁶⁸ NTAFI, Ch., et al. "The legal aspect of interoperability of cross-border electronic health services: A study of the European and national legal framework", *Health Informatics Journal*, v. 28, n 3, 2022, Article 14604582221128722. <https://doi.org/10.1177/14604582221128722>

⁶⁹ SESSA, F., et al. "Ethical, legal and social implications (ELSI) regarding forensic genetic investigations (FGIs)", *Journal of Academic Ethics*. Advance online publication, 2024. <https://doi.org/10.1007/s10805-024-09582-z>

⁷⁰ TRAVAINI, G. V., et al. "Machine learning and criminal justice: A systematic review of advanced methodology for recidivism risk prediction", *International Journal of Environmental Research and Public Health*, v. 19, n. 17, 2022, Article 10594. <https://doi.org/10.3390/ijerph191710594>

6. Conclusions

The comparative analysis of 48 judicial decisions from Ukraine, Poland, France, and Spain (2022–2025) confirmed that variations in the quality of judicial reasoning and proportionality assessment directly influence the consistency of judicial oversight. In Ukraine, inconsistent application of Articles 132–183 and 206–248 of the Criminal Procedure Code led to a higher rate of rulings annulment (12–15%) compared to France and Spain (5–8%). This demonstrates that insufficiently reasoned decisions reduce the effectiveness of procedural safeguards rather than deficiencies in legislation alone.

The study therefore substantiates that well-defined procedural standards and structured motivational parts—practiced in France and Poland—enhance predictability and accountability within judicial oversight. The findings also show that strengthening proportionality tests and introducing standardized templates for judicial reasoning could increase the uniformity of oversight decisions in Ukraine. The research results indicate that the effectiveness of the mixed model depends on the balance between the preliminary (authorization) and subsequent (verification) stages and on the professional capacity of investigating judges.

To improve the Ukrainian framework, it is recommended to unify documentation standards, develop training modules on proportionality and admissibility, and extend cross-jurisdictional monitoring. Such reforms, grounded in empirical comparison, would align national practice with the European legal paradigm and enhance the protection of constitutional rights during pre-trial proceedings.

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