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Paternalistic limits of procedural guarantees: Psychological and legal aspects of appealing a notice of suspicion

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Abstract. The article presents a critique of the paternalistic architecture of the suspicion appeal process, with the aim of formulating criteria for procedural equality through the integration of the concepts of Justice, behavioural economics, and role conflicts. Using the method of doctrinal analysis, the normative structure of appealing a suspicion was examined, which revealed systemic paternalistic features due to the deferred appeal periods for one or two months, the lack of positively defined criteria for the validity of suspicion, and legal gaps in the mechanism for allocating pre-trial investigation materials. The practice of the Supreme Court and the Supreme Anti-Corruption Court was examined using case studies and content analysis, which showed the dominance of a formal and procedural approach to checking suspicion. Using the functional analysis of official statistics, it is established that the share of satisfied complaints about suspicion in the High Anti-Corruption Court is 58.3% in the first half of 2025, while 35.07% of procedural appeals are completed without consideration on the merits due to procedural grounds. The results of the study showed that the application of an interdisciplinary theoretical framework allowed operationalising the mechanisms of transformation of normative architecture into the psychological effect of powerlessness due to the lack of components of voice, neutrality, and respect. Role conflicts arising from transitions between institutional roles in the criminal justice system further limit the willingness to use formal safeguards. The comparative legal method showed that the French and German systems mitigate institutional dominance through formalised criteria for the validity of suspicion and immediate judicial control. The results supported the hypothesis that the low efficiency of appealing a suspicion is a systemically determined interaction of legal constructs with cognitive biases and role conflicts of participants in the proceedings. The practical significance of the study lies in the development of a system of organisational, procedural, and behavioural recommendations for the transformation of the procedural architecture from a paternalistic to a partner model

Keywords: institutional dominance; pre-trial investigation; judicial control; role conflict; investigating judge; cognitive bias

Introduction

The relevance of the study is due to the systemic need to ensure real, rather than declarative, procedural equality at the early stages of criminal proceedings, where the accusatory version is formed, and the trajectory of further investigation is determined. In the context of the reform of criminal justice in Ukraine and the implementation of European standards of fair justice, the question of how normative guarantees are transformed into the actual ability of a person to counteract unfounded accusations becomes critical. The issue of appealing a notice of suspicion has become particularly important, as it is at this early stage that the procedural framework for future prosecution is formed, and it is practically determined whether a person will have real, rather than declarative, scope for defence. In the Ukrainian criminal process, the paternalistic-accusatory vector remains, in which the institutional superiority of the prosecution is combined with high psychological pressure on the suspect and their tendency to subordinate behaviour. This makes not only the legal design of safeguards crucial but also how the suspect perceives the fairness of the procedure and their own ability to benefit from it. The normative design of appealing a notice of suspicion creates a number of systemic problems: conflicts of professional loyalty in the case of transitions of lawyers between institutional roles, uncertainty in calculating the terms of appeal in cases of allocation of pre-trial investigation materials, lack of clear criteria for judicial verification of the validity of suspicion, which creates risks of inconsistency of practice and default defer to the position of the prosecutor, which require interdisciplinary analysis.

The focus of the doctrinal analysis of the mechanism for appealing a notice of suspicion was the thesis of its predominantly formalised nature. A. Maksymenko (2020) showed

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that the introduced procedural right to appeal a suspicion largely worked as a tool for monitoring the form and procedure of notification, and not as an effective means of verifying the substantive validity of a suspicion. The author concludes that the normative uncertainty of the limits of judicial control in practice caused an asymmetry when the defence received a formal option, but with a limited ability to influence the criminal procedure trajectory of proceedings. S. Sharenko (2020) underlined that the lack of clear criteria for judicial review in the procedures for appealing suspicion gave rise to variability in the decisions of investigative judges and default deferral to the prosecutor's position as a carrier of discretion. The study effectively outlined the institutional dominance of the prosecution as a systemic prerequisite for the fact that, even in the presence of formal adversarial proceedings, guarantees were implemented selectively and unevenly. In the plane of systematisation of scientific approaches, S. Krymchuk (2020) noted that research into the institution of notification of suspicion and the procedure for appealing it remained fragmented: different authors described the legal nature of suspicion in different ways, and this directly affected what should be subject to judicial review. V. Lavrova (2021) revealed the problem of urgent appeal construction: delaying the possibility of filing a complaint reduced the preventive potential of judicial control and turned the defence into a reactive format. The researcher argued that the time barrier often legitimised the inertia of the prosecution and worsened the procedural situation of the suspect, precisely when psychological vulnerability and the need for an effective means of defence were at their maximum. O. Atamanov (2020) reasoned that the mechanism for changing the notification of suspicion in a practical dimension often served the function of correcting the initial versions of the prosecution, but also created risks of expanding the incrimination without proper procedural transparency for the defence. The paper emphasised that when a change in suspicion was not accompanied by adequate information and guarantees of an immediate response from the defence, this exacerbated paternalistic imbalance and reinforced accusatory inertia.

At the level of conceptual consequences for challenging a suspicion, the conclusions of A. Volobuyev (2024) became indicative. The author argued that a notice of suspicion is, by its nature, an interim procedural decision with inherent variability in content, and therefore, attempts to overturn it through a discussion of the sufficiency of evidence after the initial deadlines for the pre-trial investigation had expired had no practical effect. The author's observation about a side effect was indicative: the prosecution, reacting to the possibility of appeal, tended to over-detail the suspicion, which stylistically and psychologically brought the document closer to a quasi-verdict, increasing pressure and a sense of institutional superiority of the state. Y. Horinetskyy *et al.* (2024) drew attention to the pre-trial segment, where individual rights remained less protected, and effective means of countering procedural abuse were used to a limited extent. The authors' conclusions demonstrated that the longer a person was under procedural influence without a full set of guarantees, the stronger the paternalistic scenario of interaction was fixed, and the more difficult it was to turn the right to challenge suspicion into a real tool for restoring balance. V. Hahach (2024) specified the psychological dimension of pressure on a suspect, showing that certain communication styles and interrogation tactics can increase suggestibility and the risk of false reports, especially in conditions of status inequality and deficits in defence control.

In the international literature, it is precisely the interdisciplinary angle of view on the validity of the procedure and its behavioural effects that has been strengthened. H. Baker *et al.* (2020), justifying the need for European rules on pre-trial detention, stressed that uneven standards and weak judicial control in the early stages of proceedings created an environment in which procedural decisions actually acquired a coercive character for a suspect. For this topic, it was significant that the authors associated the quality of guarantees with the risks of system pressure and the need for early, effective control. D. Schaap & E. Saarikkomäki (2022) rethought procedural justice in police practice and emphasised that a polite procedure without structural accountability can mask real power asymmetries. The authors' conclusion was relevant for the Ukrainian context because it explained that the formal correctness of the actions of the authorities did not guarantee a subjective sense of justice and a person's readiness to actively exercise their rights, including complaint mechanisms.

H.-H. Kuen (2024) empirically showed that the experience of procedural justice in interaction with the police influenced legitimacy in the perception of citizens and the willingness to comply with legal prescriptions in the dynamics of time; therefore, the psychological component of justice was not rhetoric, but a factor of behaviour. This led to a practical conclusion for criminal proceedings: if the primary communication of the state with a person is unfair or dominant, then it is methodologically naive to expect a suspect to actively and rationally use complex procedural tools. M. Catlin *et al.* (2024), in a systematic review of interview and interrogation techniques, concluded that accusatory and psychologically oppressive approaches increased the risk of false confessions and worsened the diagnostic value of the information received. In the context of challenging a suspicion, this meant that procedural safeguards had to compensate not only for legal defects but also for cognitive-behavioural distortions that were produced by an imbalance of power at the start of proceedings. The analysed studies revealed a gap in the scientific understanding of the mechanism of appealing a notice of suspicion: previous works focused mainly on the normative analysis of procedural structures, leaving out the psychological mechanisms through which the paternalistic architecture of criminal proceedings is transformed into the actual behaviour of suspects and their defenders.

The study aimed to critically evaluate the existing procedures for appealing a notice of suspicion in the Ukrainian criminal process to identify psychological mechanisms of institutional dominance. This goal was determined by the hypothesis that the paternalistic nature of the criminal process in Ukraine forms the psychological effect of institutional dominance, which reduces the effectiveness of the exercise of the right to appeal against suspicion, even if there are formal procedural guarantees.

Materials and methods

The study was conducted in an interdisciplinary methodological framework that combined regulatory analysis with psychological and behavioural theories. The theoretical basis consists of three conceptual approaches analysed by the method of doctrinal analysis of scientific literature. The

concept of procedural fairness of T.R. Tyler (2006) operationalises the perception of justice through the components voice (ability to be heard), neutrality (impartiality), respect, and trustworthy motives (trust in motives). The Behavioural Law approach, in a version of C. Jolls *et al.* (1998), formalises the cognitive biases of process participants. Socio-psychological optics of E. Goffman (1959; 1967) interprets role conflicts through mechanisms to maintain a public image. The principle of avoiding conflicts of interest is analysed through the study by V. Zaborovskyi & V. Manziuk (2015).

The legal framework consists of Constitution of Ukraine (1996), Criminal Procedure Code of Ukraine (2012), Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012), Law of Ukraine No. 889-VIII "On Public Service" (2015), Law of Ukraine No. 2147-VIII "On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts" (2017), Code of Criminal Procedure of French (1959), and Code of Criminal Procedure of Germany (1877). The Constitution of Ukraine is analysed by the method of systematic interpretation through Articles 8, 19, 55, 62, and 64 to establish the limits of permissible state interference. The Code of Criminal Procedure is subject to a doctrinal analysis of articles 276-278 on notification of suspicion, paragraph 10 of Part 1 of Article 303 on appeal against suspicion, Part 1 of Article 304 on the ten-day period for appeal against decisions of an investigator or prosecutor, and Article 217 on allocation of materials. Continental models are examined by the method of comparative legal analysis to identify mechanisms for mitigating institutional dominance.

Judicial practice is studied through the categories of law in books and law in action. The empirical basis was the decisions of the Supreme Court in Case No. 601/473/20 (2021) and Case No. 169/867/21 (2023), official practice reviews of Supreme Court (2021), Decision in Case No. 760/24486/19 (2019) and the official practice review for September 2019 – April 2020 (High Anti-Corruption Court, 2020). The content analysis method is applied to the definitions in Case No. 991/2386/22 (2022) and Case No. 991/4108/24 (2024) to identify typical argumentative patterns and repetitive formulations in the motivational parts of definitions. The international legal standard of reasonable suspension is analysed by the method of teleological interpretation through the decisions of the European Court of Human Rights in the case of Fox, Campbell and Hartley v. The United Kingdom (1991), Case of Murray v. The United Kingdom (1994), and the case of Nechiporuk and Yonkalo v. Ukraine (2011).

The empirical basis consists of the official statistical reports of the High Anti-Corruption Court (2023; 2025a; 2025b) for 2023 and the first half of 2025, the analytical report of the judiciary for 2024 and the results of a national public opinion survey (European Union Advisory Mission Ukraine, 2024). Psychological and legal analysis was applied to evaluate the influence of procedural architecture on the behaviour of a suspect through the theoretical concepts of Tyler, Behavioural Law, and Hoffman.

Results

Regulatory structure for appealing a notice of suspicion. The analysis of the mechanism for appealing a notice of suspicion correlates with the right to judicial protection and judicial appeal against actions and decisions of authorities, enshrined in Article 55 of the Constitution of Ukraine, and the principle of the rule of law and the direct operation of constitutional norms, established in Article 8, which requires the existence of a real, rather than formal, means of controlling state interference. The constitutional principle of the legality of the activities of public authorities, enshrined in Article 19 of the Constitution of Ukraine, and the general framework on the inadmissibility of arbitrary restrictions on rights and their proportionality and public necessity, established by Article 64, are taken into account to determine the limits of permissible restriction of rights in the pre-trial stage, which provides for operationalising paternalism as a verifiable issue of legitimate purpose, necessity, and minimal interference with the rights of a person at the stage of pre-trial investigation. Separately, the study relies on the presumption of innocence enshrined in Article 62 of the Constitution of Ukraine (1996) as a constitutional barrier against the de facto presumption of the correctness of a suspicion, and on the principle of legal certainty as an element of the rule of law requiring foreseeability of legal consequences and understandable criteria for applying procedural restrictions to assess whether a national procedure for challenging a suspicion provides sufficient certainty of the moment and subject matter of judicial control over the validity of a charge.

The Criminal Procedure status of notification of suspicion in Ukraine is formally embedded in the system of guarantees of the right to defence, but the very architecture of these norms demonstrates a paternalistic approach to the balance between public interest and individual autonomy. According to articles 276-278 of Criminal Procedure Code of Ukraine (2012), a notice of suspicion is a procedural decision of an investigator or prosecutor based on the availability of sufficient evidence for a reasonable suspicion of committing a criminal offence and must contain the wording of the suspicion, its legal qualification, a statement of factual circumstances, and an explanation of the procedural rights of the suspect. The legislator establishes three grounds for mandatory notification of suspicion: detention of a person, election of a preventive measure before notification, or availability of sufficient evidence for suspicion. The Code of Criminal Procedure does not contain a positive definition of the criteria for the validity of suspicion, limiting itself to procedural requirements for the form and content of the notification and leaving the issue of sufficiency of evidence to the discretion of the prosecution. Such legislative uncertainty is a manifestation of the paternalistic approach: it is assumed that the state knows better than the addressee of suspicion when the standard of validity has been reached, which directly corresponds to the hypothesis put forward about the paternalistic nature of the criminal process as a source of institutional dominance.

The introduction of the possibility of judicial appeal of a notice of suspicion was due to the need to eliminate the systemic gap in the primary edition of the Criminal Procedure Code of Ukraine (2012), which did not provide for a separate procedural means of verifying the validity of suspicion by an investigating judge at the stage of pre-trial investigation. Law of Ukraine No. 2147-VIII "On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the code of Administrative Procedure of Ukraine and Other Legislative Acts" (2017) the first part of

Article 303 Criminal Procedure Code of Ukraine was supplemented by paragraph 10, which introduced a mechanism for appealing suspicion with temporal restrictions: the right to file a complaint arises after one month for criminal cases misdemeanours or two months for crimes and is terminated from the moment the criminal proceedings are closed or the indictment is sent to the court. This normative construction is directly aimed at preventing a person from staying in the status of a suspect for a long time without effective judicial control over the validity of the charge and corresponds to the pan-European standards of fair trial formulated in the practice of the European Court of Human Rights.

The European Court of Human Rights has formulated standards for the validity of suspicion and judicial control, which are directly applicable to the assessment of the Ukrainian mechanism for appealing a notice of suspicion. In the case of Fox, Campbell and Hartley v. The United Kingdom (1991), the European Court of Human Rights emphasised that reasonable suspicion presupposes the existence of facts or information capable of convincing an objective observer that a person may have committed an offence. Even in cases involving terrorism or security, the state must provide a minimally specific factual basis for suspicion for judicial verification; otherwise, the standard turns into a presumption of the rightness of the prosecution. The European Court of Human Rights has explained that the guarantee of notification of the reasons for an arrest under Article 5 §2 of the Convention makes practical sense only when a person is proved to have substantial legal and factual grounds for initiating a test of the lawfulness of a deprivation of liberty. In the case of Murray v. The United Kingdom (1994), the European Court of Human Rights specified that a notice must contain a core of legal and factual grounds for a person to assess the legality of an arrest and challenge it, while a bare reference to a rule of law without a factual outline is insufficient. Delayed or narrowed control over the validity of suspicion undermines the perception of procedural fairness and encourages self-restraint of the defence's procedural activity. In the case of Nechiporuk and Yonkalo v. Ukraine (2011), the European Court of Human Rights applied the reasonable suspension standard directly to the Ukrainian context and stated that in the absence of reasonable suspicion, a state cannot detain a person for the purpose of obtaining confessions or facts that will only then create grounds for suspicion. The European Court of Human Rights found a violation due to the lack of a clearly articulated suspicion, which leaves a person in a state of uncertainty and makes it impossible to appeal effectively, and also critically assessed detention without timely judicial review, emphasising the need for a really accessible substantive review of validity at the relevant moment.

However, the very method of securing this right demonstrates a paternalistic character: the legislator limited the range of subjects of appeal to the suspect, his defence lawyer and legal representative, and also introduced a deferred period for the implementation of this right, which actually depends on the pace of the investigation controlled by the prosecution. Additionally, the paternalistic potential is strengthened due to a legal gap in the mechanism for allocating pre-trial investigation materials. Supreme Court (2021) in Case No. 169/867/21 stated that the Criminal Procedure Code does not contain a mandatory norm regarding the calculation of Investigation terms for a person to whom suspicion is reported after the allocation of materials. This creates an opportunity for procedural manipulation: separating an episode into separate proceedings as the deadline approaches allows the deadlines to be effectively reset to zero, and the moment when the right to appeal the suspicion arises to be postponed.

According to paragraph 10 of Part 1 of Article 303 Criminal Procedure Code of Ukraine (2012), reports of an investigator or prosecutor on suspicion may be appealed during a pre-trial investigation, and such a right arises only after the expiration of 1 month from the date of notification of suspicion of committing a criminal offence or 2 months in case of suspicion of committing a crime and is lost at the time when the prosecutor closes criminal proceedings or applies to the court with an indictment. In contrast to the general ten-day period for appealing most decisions, actions, or omissions of an investigator or prosecutor provided for in Part 1 of Article 304 Criminal Procedure Code of Ukraine, the legislator creates a special deferred regime specifically for suspicion. This leads to situations where the right to appeal becomes declarative: in proceedings with a short period of pre-trial investigation, in the case of a quick referral of the indictment to the court before the expiration of a month or two months, the suspect is factually deprived of the opportunity to file a complaint with the investigating judge. This construction demonstrates paternalistic logic, where the need not to overload the investigating judge with formal complaints in the early stages of the investigation dominates the logic of protection against unjustified criminal repression.

An analysis of the judicial practice of the Supreme Court and the high anti-corruption court indicated the dominance of a formal and procedural approach to the consideration of complaints against a notice of suspicion: judicial control is mainly limited to checking compliance with the procedural form of delivery of the notice and the competence of the official who drew it up, without checking the factual validity of the charges stated in the suspicion. The Supreme Court in its decision in Case No. 601/473/20 (2021) effectively recognised as relevant, first and foremost, the arguments concerning the jurisdiction of the entity and the procedure for service, emphasising that the service of the written text of the suspicion by an investigator other than the one who drafted it does not violate the rights of the suspect, provided that the suspicion was signed by an authorised person and the investigator was a member of the investigation team, thus, the scope of judicial review is limited to the legality of the procedure, rather than the persuasiveness of the evidence. The position of the Cassation Criminal Court regarding the subjects of appeal against decisions on the cancellation of suspicion is recorded in the official review for October 2021: the prosecutor and the victim are not entitled to appeal against the decision of the investigating judge to cancel the notice of suspicion since the reasoning is based on the literal interpretation of paragraph 10 of Part 1 of Article 303, Part 2 of Article 309, and paragraph 7 of Part 1 of Article 393 Criminal Procedure Code of Ukraine (2012). This demonstrates the asymmetry of procedural levers: even when the defence wins at the investigating judge level, the follow-up model remains limited to the prosecution, reinforcing the conclusion that priority is given to procedural certainty and authority, and substantive objections to the evidence base are deferred to other stages of the proceedings.

In the practice of handling complaints about a notice of suspicion under paragraph 10 of Part 1 of Article 303 of the Criminal Procedure Code of Ukraine (2012), the key methodological line is to distinguish between checking whether there is a sufficient factual basis for reporting a suspicion and a full assessment of evidence in the sense of establishing guilt or proof beyond a reasonable doubt. In its official review of court practice for the period from September 2019 to April 2020, the High Anti-Corruption Court (2020) accentuated that the subject of the investigating judge's review covers not only compliance with the procedure for service but also the prosecution's achievement of the minimum standard of sufficient grounds or evidence in accordance with paragraph 3 of Part 1 of Article 276 of the Criminal Procedure Code of Ukraine, i.e. the existence of evidence that objectively links the person to a criminal offence and justifies the continuation of the investigation; nevertheless, the court does not substitute the consideration of the case on its merits, does not establish the presence or absence of a crime, does not verify the correctness of the qualification, and does not assess the evidence as sufficient for a conclusion of guilt. A substantial part of the defence's complaints is formulated as a denial of the unreasonableness of the suspicion due to the lack of sufficient evidence, the inconsistency of the suspicion with factual circumstances, or a reference to a standard beyond a reasonable doubt, in particular, in the case No. 1-ks/4910/268/19 (2019).

The High Anti-Corruption Court (2020) explicitly states that in practice, these arguments shift the subject of verification towards an assessment of evidence on the merits, while courts tend to interpret their role as checking whether there is a minimum sufficient data for the procedural status of a suspect, and not as a mini-examination of the prosecution. In this context, the review formulates a boundary: the standard of sufficient reasons for the purpose of reporting suspicion is lower than the standard of reasonable suspicion, and criminal proceedings require consideration of the European Court of Human Rights' approach to reasonable suspicion as the availability of facts and information capable of convincing an objective observer of a person's possible involvement in an offence. The approach in Decision in Case No. 760/24486/19 (2019) is indicative, where the investigating judge, refusing to dismiss the suspicion, proceeded from the fact that the collected data reached the minimum level of the standard of sufficient grounds, and arguments regarding the proof of guilt and a full assessment of the evidence were dismissed as beyond the scope of review at this stage. The Appeals Chamber of the High Anti-Corruption Court upheld this approach. The cancellation of suspicion is an atypical phenomenon and occurs mainly on procedural grounds, when the court establishes significant defects in the procedural architecture of suspicion, which further confirms the dominance of the formal procedural approach over the substantive verification of the validity of suspicion and reinforces the thesis about the paternalistic nature of judicial verification at the stage of pre-trial investigation.

Empirical data indicate the limited effectiveness of the mechanism for appealing suspicion and the major role of procedural barriers in the exercise of the right to judicial control. According to official statistics of the Supreme Anti-Corruption Court for the first half of 2025, the category of complaints against the investigator's or prosecutor's notice of suspicion amounted to only 37 appeals that were under consideration in the reporting period, of which 36 were considered. Of the complaints considered, 21 were satisfied, which is 58.3%, 8 complaints were returned without consideration on the merits due to procedural grounds (22.2%), and 1 was rejected. Aggregated data on all categories of complaints against the actions of pre-trial investigation bodies demonstrate a systemic problem of accessibility of judicial control: out of 536 complaints considered, 188 (35.07%) were completed without consideration on the merits, and the return of complaints is almost half of this category (High Anti-Corruption Court, 2025b). According to official HACC statistics, in 2023, out of 218 complaints considered, 13 were satisfied with the notice of suspicion, which is only 6%, while 177 complaints were rejected (81%) (High Anti-Corruption Court, 2023). According to the analytical report of the judiciary for 2024, almost 80 thousand complaints were received about the decisions, actions or inactions of the investigator or prosecutor during the pre-trial investigation; 11.4 thousand complaints were returned, and 56.6% of those that were not returned were satisfied (Supreme Court, 2024a). The high share of procedural appeals for which proceedings end without consideration on the merits is an empirical indicator of the formalisation and complexity of access to judicial control at the pre-trial stage. According to the official analytical report of the High Anti-Corruption Court (2025a) for the first half of 2025, 188 of the 536 complaints against the actions of the investigator and prosecutor, that is, 35%, were completed without considering the merits of the requirements, including the return of complaints as a barrier procedural action. In such a context, the approach of the Criminal Court of Cassation is fundamental, according to which the investigating judge's order to return the complaint cannot be interpreted as a neutral technical action since it effectively blocks the applicant's access to the examination of the merits of the arguments at this stage, and accordingly, such a decision is subject to appeal review. This conclusion is reflected in the official review of the practice of the Cassation Criminal Court for February 2024 with reference to the decision in case No. 761/16819/23 of 01.02.2024, corresponding to the provisions of the Criminal Procedure Code, which expressly allows for an appeal against the decisions of the investigating judge to return or refuse to open proceedings on the complaint (Supreme Court, 2024b).

In terms of legal realism, this means a structural gap between law in books and law in action. At the level of formal legislation, the Criminal Procedure Code of Ukraine (2012) recognises the impugnability of a notice of suspicion, but does so in conditions of postponement for 1 or 2 months and limiting the window of filing a complaint to the framework of a pre-trial investigation until it is closed or an indictment is applied to the court. The basic term of investigation after suspicion for a crime is defined as 2 months, that is, the situation is set normatively when the right to complain and the period within which suspicion determines the trajectory of production significantly overlap. Thus, the normative design of the appeal of suspicion confirms the hypothesis about the paternalistic nature of the criminal process: the postponed terms, the closed list of appealed decisions, the formalistic judicial control, and the manipulative potential of the allocation of materials create a structural gap between formal guarantees and real practice, which is the quintessence of the institutional dominance of the state over the suspect in criminal proceedings.

Psychological mechanisms of institutional dominance and perception of procedural justice. The legal structure constructed in this way forms a specific context for the perception of the process as fair or unfair. The concept of procedural fairness of T.R. Tyler (2006) allows transferring the described phenomena of feelings of powerlessness, distrust, and institutional dominance from an intuitive level to a proven theoretical framework. In the theory of T.R. Tyler, the key determinant of legal behaviour is not only the outcome of the decision but also the perception of the quality of the procedure. There are four central components: voice (the ability to be heard and to have a real influence on the procedure), neutrality (impartiality and consistency of standards), respect (respect and dignity in treatment), trustworthy motives (the belief that decisions are made for legitimate reasons). It is this matrix that explains the mechanism for reducing the effectiveness of appealing a suspicion: even if there is a formal right to complain, the procedure is designed in such a way that the suspect does not expect an honest hearing, and therefore either does not initiate an appeal, or does it symbolically.

The regulatory design of challenging suspicion reinforces the lack of the voice component. The above-described construction of deferred appeal periods and their overlap with the basic terms of pre-trial investigation creates a structural psychological effect: a person who suffers the consequences of suspicion through searches, temporary access to property and documents, reputational losses, a change in status in the eyes of the employer receives a signal that the state recognises the appeal of suspicion as ripe only when the key period has already passed. This affects the neutrality component: suspicion is perceived as an act that is presumed to be correct de facto, and judicial control as optional and deferred. In T.R. Tyler's theory, such an architecture reduces the legitimacy of institutions in the perception of the addressee and transforms legal behaviour into avoidance or passivity. A typical situation is when the lawyer, having received a notice of suspicion for the client, advises not to challenge it immediately, arguing that the court will support the investigation at this stage, and suggests waiting for the trial on the merits of the charge, which is a manifestation of acquired impotence.

These behavioural effects are not declarative generalisations: they can be traced in the typical argumentation patterns of the parties and in the repeated wording of the reasoning parts of the decisions of investigative judges. An analysis of the High Anti-Corruption Court's practice (2020) in considering complaints against notices of suspicion shows that in most cases, the defence builds its complaints around allegations that the suspicion is unfounded and that there is insufficient and objective evidence, or that it has not been proven beyond a reasonable doubt. Meanwhile, there is a parallel discussion about the limits of judicial review: whether the investigating judge should assess the evidence base and the validity of the suspicion, or limit the review exclusively to procedural aspects of the delivery of the notification and formal defects in the procedure. It is this inconsistency in determining the subject of verification that forms the ground for acquired helplessness: the participant in the process rationally predicts that their voice will be minimised, and adjusts the procedural behaviour in advance to the expected formalism of the judicial procedure.

At the level of specific court decisions, this is evident in two demonstrative repetitive patterns. The first model – a procedural cut-off of the complaint as premature: the investigating judge states that the suspect did not have the right to appeal before the expiration of the established one-month or two-month period, and the corresponding decision is not subject to appeal; in addition, the court records that even the absence of a copy of the notice of suspicion in the complaint materials makes it impossible to check the procedure and determines the formal return of the complaint. The second model is self-limiting of the defence's reasoning as a manifestation of self-censorship: in practice, the defence sometimes specifically emphasises that additional explanations do not contain an analysis of evidence and are reduced exclusively to procedural defects and violations of the right to defence, that is, the defence adjusts the complaint in advance to the expected acceptable verification format, avoiding a substantive discussion about the actual validity of the suspicion. This strategy is an empirical marker of institutional dominance: formally, the right to appeal is implemented, but the actual component of the voice is reduced to narrow procedural comments, which psychologically reduces the readiness for procedural confrontation and increases the default of passive procedural behaviour.

An additional factor in the formation of institutional dominance is the general background of public confidence in law enforcement agencies and the judiciary. According to the results of a nationwide public opinion poll conducted by the rating sociological group in September 2024 commissioned by the European Union Advisory Mission in Ukraine, the level of trust in the Prosecutor General's Office and the National Anti-Corruption Bureau is about 33%, while more than 60% of respondents express distrust of these institutions; the lowest level of trust is recorded in the judiciary, where only 25% of respondents trust it, while 72% – do not (European Union Advisory Mission Ukraine, 2024). These data demonstrate that for a notable part of the population, interaction with pre-trial investigation bodies, the Prosecutor's Office, and the courts takes place in conditions of a lack of basic trust. In this context, any manifestation of normative paternalism is perceived not as a rational technical condition for organising the process, but as a confirmation of the asymmetry of power and opportunities between the prosecution and the suspect.

The Behavioural Law approach allows formalises what is traditionally described as fear, demoralisation, and resource inequality, showing that the low effectiveness of challenging suspicion is the result of people's predictable behaviour under pressure from risk, uncertainty, and authority. The classical framework of Behavioural Law is based on the fact that participants in legal relations systematically deviate from the model of a completely rational subject due to limited rationality (inability to process all information), limited willpower (tendency to delay complex decisions), and bounded egoism (influence of social norms on decision-making) (Jolls *et al.*, 1998). In the context of reporting suspicion, this manifests itself in several cognitive mechanisms. The default effect and status quo: if the norm establishes a deferred appeal period of 1 or 2 months, the default becomes non-appeal during the most psychologically critical period. Avoidance of losses: the person is afraid of worsening the situation due to conflict with the system because of the risks of harsher procedural decisions, so they overestimate the

potential losses from active procedural behaviour. Accessibility and authority heuristics: the information field in which the suspect receives a signal that the state has already made the decision supports the cognitive attitude that the accusatory version is a priori stronger. Procedural complexity effect: formally neutral procedural requirements for a non-specialist become the cost of entry, and the person acts according to the rule of minimising cognitive costs. Shift to the present: the advantage of immediate stress reduction over a delayed chance of a positive legal effect. The decision of an investigator or prosecutor and the subsequent reaction of the court may be vulnerable to systemic cognitive biases: the anchor effect (the initial version of the prosecution sets the perception framework), confirmation bias (the tendency to confirm the initial suspicion), authority bias (increased confidence in the position of a state body), status quo bias (inertia to support a procedural decision already made). Combined with a lack of a full-fledged voice of defence, this creates a psychological effect of institutional dominance: the procedure formally exists, but its behavioural design systematically shifts the result towards confirming suspicion.

Role conflict in the context of appealing a notice of suspicion is a manifestation of a broader phenomenon of transitions between institutional roles in the criminal justice system: a lawyer with previous experience as a judge or prosecutor, a judge with experience as a prosecutor, or a prosecutor with previous practice of law. Each of these professional trajectories forms a specific set of institutional loyalties, procedural habits, and internal regulatory guidelines that can influence strategies for procedural behaviour and perception of the limits of acceptable procedural resistance. A judge swears to administer justice objectively and impartially (Article 54 of the Law of Ukraine No. 1402-VIII "On the Judicial System and the Status of Judges" (2016)), and the Code of Judicial Ethics (2013) establishes the obligation to avoid conflicts of interest and conduct that may raise reasonable doubts about impartiality. Law of Ukraine No. 1697-VII "On the Prosecutor's Office" (2014) establishes in Article 18 the principles of impartiality, the rule of law, and the prevention of conflicts of interest in the activities of the prosecutor. Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012) sets out in Article 11 the text of the oath of a lawyer of Ukraine, where the lawyer undertakes to comply with the Constitution of Ukraine (1996), the laws of Ukraine, and the rules of lawyer ethics, while Article 4 establishes the principles of independence, confidentiality, and priority of the client's interests as the basis of advocacy. These normative oaths function as psychological markers of professional identity and form different normative expectations regarding priorities, style of procedural communication, and boundaries of procedural activity.

The transition between institutional roles generates cross-loyalty not automatically, but in the presence of specific conditions related to the intensity of previous professional experience, the length of stay in the previous role, the nature of preserved professional networks, and the degree of internalisation of institutional norms. A legal conflict of interest in a narrow sense requires the existence of a specific private interest or connection capable of affecting impartiality. Instead, in socio-psychological optics, the previous role can influence procedural strategies through internalised institutional behaviour scenarios, preserved professional connections, reputational risks in narrow professional communities, and the habit of an institutionally acceptable argumentation style. The legislation establishes preventive mechanisms for situations of increased risk of interinstitutional mobility: in particular, Article 26 of the Law of Ukraine No. 1700-VII "On Preventing Corruption" (2014) establishes restrictions on part-time work and combining with other types of activities, in addition to the limitations after the termination of activities related to the performance of state or local government functions, which provides for a ban for a year to engage in activities that may lead to a conflict of interest.

The previous role in the opposite institutional position can influence the perception of procedural fairness when challenging a notice of suspicion through two mechanisms. Firstly, at the level of the voice component of T.R. Tyler's concept of procedural justice, a lawyer with experience in court or the prosecutor's office can adjust the complaint in advance to the expected formalism of judicial review and avoid substantive criticism of the validity of the suspicion, reducing the argument to procedurally safe formal objections. Secondly, at the level of the neutrality component, there is an increased sensitivity to informal norms of institutional interaction, which can give rise to self-censorship and strategic minimalism as a rational adaptation to the dominant expectations of the criminal justice system. According to the theory of E. Goffman (1967), professional roles are sets of expectations and behaviour scenarios, and institutions reproduce them through mechanisms to maintain public image and reinforce the authority of institutional speech. E. Goffman (1959) uses a theatrical metaphor, distinguishing between the front stage (the space of public performance of a role) and the back stage (behind the scenes, where deviations from formal prescriptions are possible). In criminal proceedings, this is manifested as the tendency of the actors of the system to maintain a consistent image of the legality of the actions of pre-trial investigation bodies, which psychologically complicates the recognition of suspicion as unfounded for those who previously themselves were in the role of a representative of the criminal justice system. Nevertheless, with formal safeguards in place, such as self-recusal or recusal, restrictions on representing interests related to a former body, ensuring transparency of procedural contacts, and sufficient time between roles, these psychological effects can be neutralised and should not be presumed inevitable.

The patterns of self-limiting argumentation and procedural cut-off of complaints described above are consistent with the theoretical model of role conflict, where participants in the process with previous experience in state criminal justice bodies tend to minimise confrontation with institutionally close bodies, choose careful procedural strategies, and engage in self-censorship in assessing realistic chances and procedural risks. In a study by V. Zaborovskyi & V. Manziuk (2015), the principle of avoiding conflicts of interest is considered as one of the principles of advocacy, ensuring the implementation of the principles of independence and confidentiality. The authors analyse the legal nature of this principle, which is both the right of a lawyer in relations with other entities to preserve confidential information and the obligation not to disclose it. The study explores situations when a lawyer who previously held the position of a civil servant finds himself in a situation of conflict between loyalty to the public service and the independence of professional protection of the client's interests, which creates a normative and ethical context of

double loyalty in the practice of law. The authors stress that a trusting relationship between a lawyer and a client is impossible if there is even a potential conflict of interest. The oath functions as a psychological and normative marker of the role, and the role as an explanatory variable for the behaviour of a participant in the process at the stage of appealing a suspicion. A systematisation of the application of theoretical concepts of procedural justice, behavioural economics, and role conflicts to specific stages of the suspicion appeal procedure is presented in Table 1.

Table 1. Matrix of applying psychological theories to the stages of appealing a suspicion

Stage	Tyler: procedural justice	Behavioural Law: cognitive mechanisms	Goffman: role conflicts
1) Notification of suspicion	Voice: a symbolic voice without influence. Neutrality: a formal guarantee with no real access. Respect/Motives: the state's position as "ripe"	Authority heuristic: authorities are right. Loss aversion: fear of making things worse. Default: non-appeal as the norm	The role of "suspect" is imposed. Previous experience in the opposite institutional role can shape role conflict and cross-loyalty
2) Waiting time (1-2 months)	Voice: delayed justice destroys timeliness. Neutrality: the procedure supports the state through time	Default: passivity becomes the norm. Present bias: immediate stress > delayed benefit. Heuristics: low efficiency demotivates	Minimisation of confrontation with the "institutional team". A participant in the process with previous experience in criminal justice bodies (court/prosecutor's office/investigation) is more likely to choose soft, non-confrontational strategies
3) Preparation of an appeal	Neutrality: the court as "part of the system". Respect: 14% of returned complaints as disrespect. Motives: 10-15% success rate undermines trust	Heuristics: knowledge of failures reduces readiness. Loss aversion: uncertain costs with low probability. Framing: complexity as an "entry cost"	Impression management: building the "right" role before the court. Cross-loyalty: maintaining a "face" before the institution and its informal norms may dominate over confrontational tactics
4) Consideration by the court	Voice: formal provision without consideration. Neutrality: formalism instead of evaluating validity. Respect: motivation with the presumption of the correctness of the accusation	Framing: the process as a "technical check". Authority bias: trust in the government agency. Confirmation bias: confirmation of the original version	Court session as a "front stage": compliance with assigned roles. Previous institutional experience reinforces conformity in criticism of the investigation/prosecutor's office and the tendency to act within the framework of "acceptable" discourse for the institution
5) Decision and strategy	Negative decision: undermines all components, creates a perception that formal guarantees are meaningless. Positive: rarity (10-15%) as an exception	Acquired helplessness: giving up on resistance. Sunk cost: expenses do not motivate repetition. Loss aversion: fear of repeated losses	Consolidating the role of "loser to the system". Professional self-censorship: failure as confirmation of the limits of institutional resistance

Source: compiled by the authors on the basis of the E. Goffman (1959; 1967), C. Jolls *et al.* (1998), T.R. Tyler *et al.* (2015), Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012), High Anti-Corruption Court (2025a)

The matrix presented in Table 1 demonstrates the cumulative nature of psychological pressure on a suspect during all stages of the suspicion appeal procedure. The three theoretical concepts mutually reinforce each other: T.R. Tyler's lack of procedural justice components creates a favourable environment for the cognitive biases described in Behavioural Law, and Hoffman's role conflicts further limit the willingness to use formal safeguards. At each subsequent stage of the procedure, negative experience accumulates, which systematically reduces the legitimacy of institutions in the perception of the suspect and transforms legal behaviour from active use of guarantees to passive acceptance of the imposed status. The matrix allows operationalising abstract theoretical concepts through their application to specific procedural situations, enabling the empirical testing of the institutional dominance hypothesis. The methodological value of such systematisation lies in the fact that it explains the mechanisms through which the paternalistic architecture of the criminal process is transformed into the psychological effect of impotence and passivity. Particularly, the matrix explains statistical data on the low efficiency of appealing suspicions, the high proportion of returned complaints, and general distrust of judicial institutions not as random phenomena, but as natural consequences of the systemic interaction of regulatory restrictions, cognitive biases, and institutional role conflicts, which confirms the systemically determined nature of institutional dominance in the Ukrainian criminal process.

Thus, the application of the theories of T.R. Tyler, Behavioural Law, and Hoffman demonstrates that the low efficiency of challenging a suspicion is a systemically deterministic paternalistic architecture of the process: psychological mechanisms turn formal law into a tool that suspects rationally avoid using, which confirms the hypothesis of institutional dominance as a psychological effect of the paternalistic nature of the criminal process.

Criteria for real procedural equality and recommendations for minimising institutional dominance. Real procedural equality in the field of challenging a suspicion can be determined through a system of criteria that correlate with the mechanism of the Criminal Procedure Code of Ukraine (2012), can be tested in practice through the category of law in action and covers the psychological component of perception of justice. The test of accessibility of control presupposes the existence of a real window of Appeal at the moment when a suspicion gives rise to the most significant consequences, which can be measured through an analysis of whether the suspect has an actual

opportunity to challenge the suspicion before irreversible procedural consequences occur or the proceedings are closed. The information symmetry criterion means the minimum standard of access of the defence to the factual basis of reasonable suspicion before or during the examination of the complaint, which can be verified by the existence of an evidence disclosure procedure at the stage of consideration of the complaint of suspicion. The procedural time criterion provides for the possibility for a suspect to receive a court decision within a time limit that makes practical sense, given the general terms of investigation after suspicion, which can be measured by the average time for consideration of complaints of suspicion by investigating judges. The test neutrality criterion requires the court to apply a consistent standard for assessing the validity of a suspicion, which is not replaced by the presumption that the prosecution's position is correct, which can be verified through an analysis of the reasoning parts of court decisions as to whether the court is investigating the factual basis of the suspicion or is limited to formal verification. The resources non-discrimination criterion means the absence of practices where a prosecution gains a procedural advantage through control of access to materials or the pace of proceedings, which can be measured by the frequency of cases where the allocation of materials is used to circumvent the investigation deadlines. The criterion of respect and procedural dignity implies fixed requirements for the motivation and communication style of the court and the prosecutor, ensuring the component of respect in T.R. Tyler's sense, which can be verified through the existence of standards for motivating decisions to refuse to revoke suspicion.

For comparison, it is useful to refer to Continental models of criminal proceedings. In France, the mise "en examen" institute is associated with the requirement for indicators graves "ou concordants" (serious or consistent indicators), and the decision to maintain or review the status must be motivated; at the same time, the procedural model provides for appeal mechanisms for the person in respect of whom the instruction is performed (Code of Criminal Procedure of French, 1959). The Code of Criminal Procedure of Germany (1877) demonstrates a different logic: intensive judicial control of suspicion is concentrated primarily in the nodes of coercion, for example, detention is possible only if there is a dringender Tatverdacht (urgent suspicion) and a corresponding Haftgrund (grounds for imprisonment), and the Beschwerde tool (complaint against procedural decisions) ensures that court decisions and orders are reviewed within certain limits. For the Ukrainian theme, this is a control standard: in Continental models, institutional dominance is softened by the fact that the threshold of suspicion and its judicial review are formalised through criteria and procedural channels, while the Ukrainian design of challenging suspicion requires a clearer behavioural design and motivation standards. The systematisation of key parameters of the Ukrainian mechanism for appealing suspicion in comparison with the French and German models is presented in Table 2.

Table 2. Comparative analysis of suspicion standards and judicial control mechanisms

Parameter	Ukraine	France	Germany
Regulatory status name	Suspect (status via notification of suspicion)	"Mise en examen" (taking under investigation by an investigating judge)	"Beschuldigter" (accused; status due to the actions of the prosecutor)
Validity standard	"Sufficient evidence"; the criteria are not specified in the Criminal Procedure Code of Ukraine	"Indices graves ou concordants" (serious/consistent indicators)	"Anfangsverdacht" (initial), "hinreichender Tatverdacht" (sufficient), "dringender Tatverdacht" (urgent for the guard)
The moment when the right to appeal arises	After 1 month (misdemeanour) or 2 months (crime)	After notification of "mise en examen"; procedure "demande de requalification"	Appeal against specific restrictions (Haftprüfung, sofortige Beschwerde)
Terms of initiation	1-2 months of delay + until the closure of the proceedings or applying to the court with an indictment	10 days from notification; to change the status every 6 months	"Haftprüfung" periodically; "sofortige Beschwerde" no strict deadlines
Subjects of appeal	Suspect, defence lawyer, legal representative	Person under "mise en examen"; decisions of the investigative chamber	The accused, through "Haftbeschwerde" and appeal
Subject of verification	Formal legality/validity; de facto formal verification	Assessment of the preservation of grounds through "indices graves ou concordants"	Standard of specific intervention (dringender Tatverdacht + grounds)
Instantiation	Investigating judge; limited appeal (prosecutor/victim does not appeal cancellation)	"Chambre de l'instruction" (appeal instance, 10 days)	"Beschwerde/sofortige Beschwerde" to the Supreme Court; special "Haftprüfung"
Consequences of cancellation	Decision to cancel suspicion; consequences are not detailed	Status "témoin assisté" (assisted witness) with fewer restrictions	Release from custody; the prosecutor's office may close the proceedings (Einstellung)

Source: compiled by the author based on the Code of Criminal Procedure of Germany (1877), Code of Criminal Procedure of France (1959), Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012)

The presented comparative analysis in Table 2 shows structural differences between the Ukrainian paternalistic model of judicial control over suspicion and European continental analogues. The main difference is that the French and German systems formalise the criteria for the validity of suspicion through specific standards of proof

and provide immediate or periodic judicial control without significant time delays. The Ukrainian mechanism is characterised by the lack of clear criteria for the sufficiency of evidence, a deferred appeal period, and the mostly formal nature of the judicial review. In Continental models, institutional dominance is mitigated through multi-level standards of suspicion and extensive procedural channels of Appeal, while the Ukrainian construction requires a clearer behavioural design and standards of motivation to ensure real, rather than declarative, procedural equality. The comparison reveals systemic shortcomings of the Ukrainian model, which are directly related to the proposed hypothesis of the study: the lack of formalised criteria for validity and delayed access to judicial control create a space for the arbitrary use of procedural powers by the prosecution. Continental experience shows that the effectiveness of judicial control over suspicion is ensured not only by declaring the right to appeal but also by specifying standards of proof, minimising time barriers and ensuring meaningful, rather than formal, verification of the validity of suspicion by the court.

Recommendations are structured in three areas: organisational, procedural, and behavioural. Organisational recommendations include the introduction at the judicial administration level of standardised minimum requirements for the processing and admissibility of complaints through the development of procedural templates and methodological recommendations for suspects and defenders, considering the high share of returned complaints, which is about 14% of the total number filed, according to official statistics for 2024. Statistical monitoring of the category of complaints about suspicion and publication of generalisations of practice in official analytical reports of the judiciary with the allocation of separate indicators for complaints under paragraph 10 of Part 1 of Article 303 Criminal Procedure Code of Ukraine (2012) increases predictability and reduces institutional fear due to better awareness of the participants in the process about the chances of success of the appeal. Training modules for investigating judges and prosecutors on the psychology of procedural justice, according to T.R. Tyler, as a practical standard for communication and decision motivation, are necessary since trust in procedure is a behavioural resource for the implementation of rights, and the components of voice, neutrality, respect, and trustworthy motives should be integrated into judicial practice through appropriate training programs.

The procedural recommendations provide for amendments to the Criminal Procedure Code of Ukraine (2012) by adding Part 1 of Article 303 of the Criminal Procedure Code of Ukraine with a provision that allows immediate appeal against a notice of suspicion in cases where a preventive measure has been chosen on the basis of suspicion, property seizure, or other significant restrictions on a person's rights since postponing an appeal for 1 or 2 months in such cases deprives the remedy of practical meaning. Establishing a minimum package of disclosure of the factual basis of suspicion for the purposes of consideration of a complaint by supplementing Article 303 Criminal Procedure Code of Ukraine with the requirement that the prosecutor, together with the response to the complaint, provide the investigating judge with an extract from the materials of the proceedings justifying the suspicion, with the possibility of familiarising the defence with these materials in a mode that does not violate the secrecy of the pre-trial investigation. Unification of the rules for calculating the terms and time of occurrence of the right to complain in cases of allocation of materials or changes in qualifications through amendments to Articles 217 and 303 of the Criminal Procedure Code, which clearly define that the allocation of materials in relation to an already suspected person does not change the moment of occurrence of the right to appeal against suspicion and does not reset the terms of pre-trial investigation, which are counted from the date of initial entry of information into the Unified Register of Pre-trial Investigations. Establishing clear criteria for the reasonableness of suspicion in Article 276 of the Criminal Procedure Code of Ukraine by setting the requirement that sufficient evidence for suspicion must include specific factual data that objectively links a person to a criminal offence and complies with the reasonable suspicion standard formulated by the European Court of human rights in case of Fox, Campbell and Hartley v. the United Kingdom (1991) and case of Murray v. the United Kingdom (1994).

Behavioural recommendations cover the standards of communication of the prosecution through the approval at the Office of the Prosecutor General of methodological recommendations on the content of the notice of suspicion, which provide for written explanations of rights in a clear format without using complex legal terminology, avoiding threatening rhetoric in the text of suspicion, and fixing neutral wording that describes factual circumstances without value judgments. For lawyers in situations of potential double loyalty, it is recommended to introduce self-declaration and conflict of interest management procedures. The rules of lawyer ethics should contain provisions obliging the lawyer to inform the client about the existence of past ties with the pre-trial investigation bodies or the prosecutor's office and obtain the client's informed consent to representation, subject to such communication. This requirement follows from the principle of avoiding conflicts of interest described above in the context of role conflicts of advocacy. It is mandatory for the court to give reasons for decisions in a language that demonstrates neutrality and respect, through the approval of standards for the motivation of decisions refusing to quash suspicion, which provide not only a reference to procedural rules but also a specific analysis of the factual basis of suspicion with an explanation of why the court considers it sufficient in accordance with the standard of reasonable suspicion. The proposed criteria and recommendations are aimed at minimising institutional dominance through the transformation of the procedural architecture from a paternalistic to a partner model, where judicial control over suspicion is a real tool for verifying the validity of charges, and not a symbolic procedure for confirming the position of pre-trial investigation bodies.

Discussion

The results obtained allow interpreting the current Ukrainian model of appealing a notice of suspicion as a construction in which formal recognition of judicial control is combined with procedural parameters that narrow the timeliness and intensity of verification of the actual basis of suspicion. The normative design, which includes the absence of positively defined criteria for sufficient evidence, the delayed emergence of the right to appeal for one or two months, the limitation of the window for filing a complaint within the framework of a pre-trial investigation until the time of closing the proceedings or applying to the court with an

indictment, along with the potential for procedural manoeuvring through the allocation of materials, gives grounds to consider suspicion both as a tool for informing a person about the grounds for criminal prosecution and a mechanism capable of structuring the further trajectory of proceedings until control becomes available. G. Jansen (2021) analyses the need to update the roadmap of procedural safeguards in Europe from the perspective of a practising lawyer and formulates the thesis that procedural safeguards only work if there is a workable design of remedies that provides real access at an early stage. The delayed nature of access to control revealed in the results reduces its effectiveness precisely at a time when the consequences of suspicion are most intense due to searches, property seizures, reputational, and organisational losses. L. Graham (2023), examining the relationship between freedom and its exceptions in an internationally comparative plane through the prism of Article Five of the European Convention on human rights, demonstrates that the legal justification of early restrictions on rights in criminal proceedings requires control over the factual basis of interference, which correlates with the problem of normative uncertainty of the standard of sufficiency of evidence for suspicion, which factually transfers the establishment of the threshold of suspicion to the discretion of the prosecution. E. Turkut & A. Garahan (2020) analyse the reasonable suspension Test in the Turkish emergency regime after the coup attempt and highlight the role of judicial deference to the state, providing analytical optics to explain how the formal presence of the European standard can co-exist with practices that actually reduce the intensity of its application. The results of the study demonstrate a different mechanism of differentiation: not through an emergency regime, but through a combination of deferred appeal deadlines and procedural-oriented control, which basically does not go to the assessment of the actual basis of suspicion of content close to the objective verification of the standard of the European Court of Human Rights.

The problem of judicial control formalism, which is recorded in the results based on the material of national practice through the approaches of the Supreme Court and the generalisation of the High Anti-Corruption Court regarding the limits of verification, receives additional explanation through research on cognitive mechanisms of legal decision-making and the inertia of the primary version of the prosecution. C. Winter (2020) examines the importance of behavioural economics for judicial decision-making in the European Union and describes that even with formally neutral procedures, judicial thinking can be sensitive to anchors, inertia, and heuristics that affect the way information is interpreted, which correlates with the fact that the initial proclamation of suspicion sets the stage for further procedural logic, and delayed access to appeal reinforces the status quo effect. D. Teichman *et al.* (2023) compare biases in the legal decisions of prosecutors, defence lawyers, law students, and non-professionals and demonstrate that role positions in the criminal justice system influence the assessment of probabilities and the evidentiary value of information, which is consistent with the thesis about the asymmetry of resources and information between the prosecution and the defence at the suspicion stage. E. Elaad (2022) examines tunnel vision and confirmation bias in investigators and ordinary citizens in hypothetical criminal contexts and finds that the primary version of an event can stabilise in the minds of procedural actors and create selective information selection that reduces the likelihood of early-stage suspicion revision. A. Melcarne *et al.* (2022) analyse the interaction of prosecutors and judges on the material of French traffic violation cases through the prism of imbalances in punishment decisions and demonstrate that institutional interactions in criminal justice can influence results even if there are formally uniform rules, which can be seen as an explanatory framework for why judicial verification of suspicion tends to a minimum standard and why the cancellation of suspicion occurs mainly due to procedural defects, and not due to a reassessment of the factual basis. J. Cabell *et al.* (2020) describe a taxonomy of the effects of interrogation techniques and their impact on guilty and innocent suspects through an assessment of the effects of different methods of obtaining information, which supports the thesis that the quality of primary information and the way it is obtained affect the reliability of suspicion, and therefore the content of the minimum standard that the investigating judge actually checks, and if judicial control is focused on the form and access to its initiation is delayed, then the mechanisms for correcting possible errors in early information are transferred to later stages, where the status of the suspect has already managed to create procedural and social consequences.

The high percentage of satisfied complaints against the notice of suspicion in the High Anti-Corruption Court (58.3% in the first half of 2025) is combined with a high proportion of procedural returns of complaints without consideration on the merits (35.07% of all categories of complaints), which gives grounds to consider the availability of judicial control as a parameter subject to measurement and institutional audit. A study by S. St. Louis (2023) determines that early procedural decisions on preventive measures affect the subsequent outcome of a case, in particular, the propensity for plea agreements, convictions, and severity of penalties, which is applicable as an explanation for why timely monitoring of suspicion can influence the behaviour of participants in proceedings through a change in the balance of risks and incentives and push for strategies to minimise losses and delay active procedural actions. A. Martufi & C. Peristeridou (2020) analyses the objectives of pre-trial detention and the search for alternatives in the European context and demonstrates that the early stages of criminal proceedings require safeguards since it is at this stage that disproportionate consequences may arise in conditions of institutional inertia, which correlates with the conclusion that a delayed appeal against suspicion and a narrow window of its implementation weaken the proportionality mechanisms at the moment when suspicion actually determines the procedural regime.

The psychological block of results through the theoretical matrix of T.R. Tyler, Behavioural Law, and Hoffman finds support in foreign empirical works on the perception of procedural justice in criminal proceedings. J. Ansems *et al.* (2021) examine the subjective perception of procedural justice among defendants and accused persons and establish a link between how institutions provide the opportunity to be heard through the voice component, demonstrate neutrality through the neutrality component, and show respect through the respect component, which, within the scope of the results obtained, correlates with a deficit of voice,

institutionally embedded in the deferred right of appeal, where the procedure formally exists, but the signal of its admissibility appears after a period when the suspicion has already had consequences. M. Van Hall *et al.* (2024) review the perception of procedural justice among detainees through qualitative interviews and its connection to satisfaction and legitimacy of institutions describe that for the addressees of the process, not only the outcome matters, but also the manner of interaction with the police, the prosecution and the court, and demonstrate that the experience of fair treatment increases cooperation and acceptance of institutional decisions. While the results obtained describe a situation where the very design of access to control and the high proportion of procedural appeals returned shape the perception of the system as one that does not encourage early procedural activity, and therefore, even with proper communication in specific proceedings, structural time, and procedural barriers may have a greater impact on behaviour than interpersonal aspects of interaction, which is explained by differences in institutional contexts, where in the compared foreign data sets, procedural accessibility of control is often considered a given condition, where the results obtained indicate its deficiency as a separate variable.

The results of the study show that the Ukrainian design of appealing a notice of suspicion functions as a combination of delayed access to control and practices that tend towards procedural verification instead of analysing the actual basis of suspicion. The revealed gap between the norm on paper and the practice of its implementation is formed through the interaction of normative design, cognitive decision-making mechanisms by procedural actors, and the perception of procedural justice by suspects in conditions of limited access to control. Early procedural decisions on suspicion can influence the trajectory of the case and the behaviour of participants through the structure of incentives and risks, and the lack of a voice component through time barriers reduces the legitimacy of institutions in the perception of suspects. The inertia of the initial version of the prosecution, reinforced by delayed judicial control, creates conditions for stabilising the suspicion without checking its factual basis at an early stage, which transfers the mechanisms for correcting possible errors to later stages of the proceedings.

Conclusions

The study was devoted to the analysis of paternalistic limitations of procedural guarantees for appealing a notice of suspicion in criminal proceedings of Ukraine through the prism of normative construction, psychological mechanisms, and criteria for real procedural equality. The hypothesis that the paternalistic nature of the criminal process forms the psychological effect of institutional dominance, which reduces the effectiveness of the exercise of the right to appeal against suspicion even if there are formal procedural guarantees, was confirmed through a comprehensive normative, empirical, and theoretical analysis.

The normative design of the appeal against suspicion revealed systemic paternalistic features: the time limits for appeal were postponed for 1 or 2 months, the lack of positively defined criteria for the validity of suspicion, a legal gap in the mechanism for allocating pre-trial investigation materials, and a limited window for filing a complaint until the proceedings were closed or an indictment was applied to the court. The analysis of the judicial practice of the Supreme Court and the High Anti-Corruption Court indicated the dominance of the formal procedural approach, when the border of judicial control is drawn along the line of legality of the procedure, and not the persuasiveness of evidence, which confirms the structural gap between formal guarantees and real practice. Empirical data demonstrate the limited effectiveness of the mechanism: according to the statistics of the Supreme Anti-Corruption Court for the first half of 2025, the share of satisfied complaints against reports of suspicion is 58.3%, while 22.2% of complaints are returned without consideration on the merits due to procedural grounds, and aggregated data on all categories of complaints against the actions of pre-trial investigation bodies indicate that 35.07% of procedural appeals are completed without consideration on the merits of claims. The application of T.R. Tyler's theories of procedural justice, the behavioural economics of law, and Hoffman's role conflicts allowed operationalising the mechanisms for transforming normative architecture into the psychological effect of impotence due to the lack of components of voice, neutrality, respect, and trust in motives, which systematically reduces the legitimacy of institutions in the perception of a suspect. Role conflicts that arise in the context of transitions between institutional roles in the criminal justice system, particularly when a lawyer has previously held the position of judge, prosecutor, or worked in pre-trial investigation bodies, further limit the willingness to use formal guarantees due to the tendency to minimise confrontation with bodies perceived as institutionally close, which increases the psychological barrier to the exercise of the right to appeal against suspicion. A comparative analysis of the French and German models has exhibited that continental systems mitigate institutional dominance through formalised criteria for the validity of suspicion, multi-level standards of proof, and immediate or periodic judicial review without significant time delays. Based on the criteria of real procedural equality, a system of organisational, procedural, and behavioural recommendations for the transformation of the procedural architecture from a paternalistic to a partner model is formulated.

The results obtained are of conceptual importance for understanding the mechanisms of institutional dominance in criminal proceedings as a systemically determined phenomenon that occurs not only through regulatory defects but also through the interaction of legal structures with cognitive biases and role conflicts of participants in proceedings. Promising areas of further research are the empirical analysis of the impact of amendments to the Criminal Procedure Code on the effectiveness of appealing a suspicion, the examination of the practice of applying procedures for managing conflicts of interest of lawyers, and the study of the relationship between the style of motivating court decisions and the perception of procedural justice by suspects.

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References

[1] Ansems, J.R., van den Bos, K., & Mak, E. (2021). Perceived procedural justice, outcome favorability, and defendants' satisfaction with judges' decisions in criminal cases. *Frontiers in Psychology*, 12, article number 746364. doi: 10.3389/fpsyg.2021.746364.

[2] Atamanov, O. (2020). Change of notice of suspicion in pre-trial investigation. *Scientific Bulletin of the National Academy of Internal Affairs*, 114(1), 37-52. doi: 10.33270/01201141.37.

[3] Baker, H., Harkin, D., Mitsilegas, V., & Peršak, N. (2020). *The need for and possible content of EU pre-trial detention rules*. Retrieved from https://eucrim.eu/articles/need-and-possible-content-eu-pre-trial-detention-rules/.

[4] Cabell, J.J., Moody, S.A., & Yang, Y. (2020). Evaluating effects on guilty and innocent suspects: An effect taxonomy of interrogation techniques. *Psychology, Public Policy, and Law*, 26(2), 154-165. doi: 10.1037/law0000224.

[5] Catlin, M., Wilson, D.B., Redlich, A.D., Bettens, T., Meissner, C., Bhatt, S., & Brandon, S. (2024). Interview and interrogation methods and their effects on true and false confessions: A systematic review update and extension. *Campbell Systematic Reviews*, 20(4), article number e1441. doi: 10.1002/cl2.1441.

[6] Code of Criminal Procedure of French. (1959, March). Retrieved from https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006575198/2020-01-01.

[7] Code of Criminal Procedure of Germany. (1877, February). Retrieved from https://www.gesetze-im-internet.de/stpo/__112.html.

[8] Code of Judicial Ethics of Ukraine. (2013, February). Retrieved from https://zakon.rada.gov.ua/laws/show/n0001415-13.

[9] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254к/96-вр.

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

[11] Elaad, E. (2022). Tunnel vision and confirmation bias among police investigators and laypeople in hypothetical criminal contexts. *SAGE Open*, 12(2). doi: 10.1177/21582440221095022.

[12] European Union Advisory Mission Ukraine. (2024). *Public opinion poll for the EU Advisory Mission in Ukrain*e. Retrieved from https://euam-ukraine.eu/wp-content/uploads/2024/10/2024_EUAM-Survey-Results_UKRFor-website.pdf.

[13] Goffman, E. (1959). *The presentation of self in everyday life*. New York: Doubleday.

[14] Goffman, E. (1967). On face-work: An analysis of ritual elements in social interaction. In E. Goffman (Ed.), *Interaction ritual: Essays on face-to-face behavior* (pp. 5-45). New York: Pantheon Books.

[15] Graham, L. (2023). Liberty and its exceptions: Article 5 of the European Convention on Human Rights. *International and Comparative Law Quarterly*, 72(2), 277-308. doi: 10.1017/S0020589323000027.

[16] Hahach, V. (2024). Tactical and psychological principles of interrogation during the investigation of criminal offenses in the field of economic activity related to document forgery. *Legal Psychology*, 35(2), 45-53. doi: 10.32782/psy-visnyk/2024.1.14.

[17] High Anti-Corruption Court. (2020). *Review of the case law of the High Anti-Corruption Court regarding the consideration and resolution of complaints against notices of suspicion for the period from 5 September 2019 to 27 April 2020.* Retrieved from https://hcac.court.gov.ua/userfiles/media/VAKS/statistics/review_05.2020.pdf.

[18] High Anti-Corruption Court. (2023). *Report on the consideration of cases and materials of criminal proceedings for 2023*. Retrieved from https://court.gov.ua/userfiles/media/new_folder_for_uploads/hcac/statistics/reports/1-K_2023_1.pdf.

[19] High Anti-Corruption Court. (2025a). *Analysis of the administration of justice by the High Anti-Corruption Court (as a court of first instance) in the first half of 2025*. Retrieved from https://court.gov.ua/storage/portal/hcac/statistics/analyses/justice_2025_1.pdf.

[20] High Anti-Corruption Court. (2025b). *Report on the review of cases and materials of criminal proceedings for the first half of 2025*. Retrieved from https://court.gov.ua/storage/portal/hcac/statistics/reports/1-%D0%9A_10.07.2025.pdf.

[21] Horinetskyy, Y., Nesterova, I., & Replyuk, N. (2024). Problems of protecting the rights of a person whose actions are under pre-trial investigation before being notified of suspicion. *Analytical and Comparative Jurisprudence*, 3, 525-529. doi: 10.24144/2788-6018.2024.03.91.

[22] Jansen, G. (2021). The need for a new roadmap of procedural safeguards: A lawyer's perspective. *ERA Forum*, 22(2), 279-294. doi: 10.1007/s12027-021-00667-5.

[23] Jolls, C., Sunstein, C.R., & Thaler, R.H. (1998). A behavioral approach to law and economics. *Stanford Law Review*, 50(5), 1471-1550.

[24] Judgment of High-Anticorruption Court of Ukraine in Case No. 1-ks/4910/268/19. (2019, September). Retrieved from https://reyestr.court.gov.ua/Review/84601385.

[25] Judgment of High-Anticorruption Court of Ukraine in Case No. 991/2386/22. (2022, November). Retrieved from https://hacc-decided.ti-ukraine.org/uk/documents/105292560.

[26] Judgment of High-Anticorruption Court of Ukraine in Case No. 991/4108/24. (2024, June). Retrieved from https://hacc-decided.ti-ukraine.org/uk/documents/119355046.

[27] Judgment of Supreme Court of Ukraine Case No. 169/867/21. (2023, Decmber). Retrieved from https://reyestr.court.gov.ua/Review/115752100.

[28] Judgment of Supreme Court of Ukraine in Case No. 601/473/20. (2021, November). Retrieved from https://reyestr.court.gov.ua/Review/101673740.

[29] Judgment of the European Court of Human Rights in Case No. 14310/88 "Murray v. the United Kingdom". (1994, October). Retrieved from https://hudoc.echr.coe.int/eng#{"itemid":["001-57895"]}.

[30] Judgment of the European Court of Human Rights in Case Nos. 12244/86, 12245/86 & 12383/86 "Fox, Campbell and Hartley v. the United Kingdom". (1991, March). Retrieved from https://hudoc.echr.coe.int/eng#{"itemid":["001-57722"]}.

[31] Judgment of the European Court of Human Rights in the Case "Nechiporuk and Yonkalo v. Ukraine". (2011, June). Retrieved from https://hudoc.echr.coe.int/eng#{"itemid":["001-104613"]}.

[32] Judgment of the High Anti-Corruption Court of Ukraine in Case No. 760/24486/19. (2019, October). Retrieved from https://reyestr.court.gov.ua/Review/84766483.
[33] Krymchuk, S. (2020). The state of research on the institution of notification of suspicion and the procedure for appealing it. *Entrepreneurship, Economy and Law*, 5, 246-251. doi: 10.32849/2663-5313/2020.5.43.
[34] Kuen, H.-H. (2024). Procedural justice and police legitimacy: Implications for legal compliance over time. *Journal of Criminal Justice*, 92, article number 102290. doi: 10.1016/j.jcrimjus.2024.102290.
[35] Lavrova, V. (2021). Time limits for appealing the notice of suspicion: Practical and theoretical aspects. *Legal Gazette*, 2, 166-176. doi: 10.32837/yuv.v0i2.2170.
[36] Law of Ukraine No. 1402-VIII "On the Judicial System and the Status of Judges". (2016, June). Retrieved from https://zakon.rada.gov.ua/laws/show/1402-19.
[37] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18.
[38] Law of Ukraine No. 1700-VII "On Preventing Corruption". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1700-18.
[39] Law of Ukraine No. 2147-VIII "On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts". (2017, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2147-19.
[40] Law of Ukraine No. 5076-VI "On the Bar and Legal Practice". (2012, July). Retrieved from https://zakon.rada.gov.ua/laws/show/5076-17#Text.
[41] Law of Ukraine No. 889-VIII "On Public Service". (2015, December). Retrieved from https://zakon.rada.gov.ua/laws/show/889-19#Text.
[42] Maksymenko, A. (2020). Appeals of suspicion report in criminal proceedings. *Juridical Science*, 110(8), 199-207. doi: 10.32844/10.32844/2222-5374-2020-110-8.25.
[43] Martufi, A., & Peristeridou, C. (2020). The purposes of pre-trial detention and the quest for alternatives. *European Journal of Crime, Criminal Law and Criminal Justice*, 28(2), 153-174. doi: 10.1163/15718174-bja10002.
[44] Melcarne, A., Monnery, B., & Wolff, F.-C. (2022). Prosecutors, judges and sentencing disparities: Evidence from traffic offenses in France. *International Review of Law and Economics*, 71, article number 106077. doi: 10.1016/j.irle.2022.106077.
[45] Schaap, D., & Saarikkomäki, E. (2022). Rethinking police procedural justice: An organizational perspective. *Theoretical Criminology*, 26(3), 416-433. doi: 10.1177/13624806211056680.
[46] Sharenko, S.L. (2020). Problem issues of performance of judicial control during consideration by the investigative judge of the complaint on inactivity's inaction, prosecutor's office 214 of the Criminal Procedure Code of Ukraine. *Current Issues of State and Law*, 88, 386-390. doi: 10.32782/2524-0374/2020-7/97.
[47] St. Louis, S. (2023). The pretrial detention penalty: A systematic review and meta-analysis of pretrial detention and case outcomes. *Justice Quarterly*, 41(3), 347-370. doi: 10.1080/07418825.2023.2193624.
[48] Supreme Court. (2021). *Review of the case law of the Cassation Criminal Court within the Supreme Court for October 2021*. Retrieved from https://supreme.court.gov.ua/userfiles/media/new folder for uploads/supreme/Oglyad KKS October 2021.pdf.
[49] Supreme Court. (2024a). *Analysis of the state of justice in criminal proceedings and cases of administrative offences in 2024*. Retrieved from https://court.gov.ua/storage/portal/supreme/Analyz zdijsnenna pravosydda 2024.pdf.
[50] Supreme Court. (2024b). *Review of the case law of the Cassation Criminal Court within the Supreme Court (current practice): Decisions entered into the Unified State Register of Court Decisions for February 2024*. Retrieved from https://supreme.court.gov.ua/userfiles/media/new folder for uploads/supreme/ogliady/Oglyad KKS 02 2024.pdf.
[51] Teichman, D., Zamir, E., & Ritov, I. (2023). Biases in legal decision-making: Comparing prosecutors, defense attorneys, law students, and laypersons. *Journal of Empirical Legal Studies*, 20(4), 852-894. doi: 10.1111/jels.12365.
[52] Turkut, E., & Garahan, A. (2020). The "reasonable suspicion" test: Contrasting perspectives of Turkey and the European Court of Human Rights after the Turkish coup attempt. *Netherlands Quarterly of Human Rights*, 38(4), 264-282. doi: 10.1177/0924051920967182.
[53] Tyler, T.R. (2006). *Why people obey the law*. Princeton: Princeton University Press. doi: 10.1515/9781400828609.
[54] Tyler, T.R., Goff, P., & MacCoun, R. (2015). The impact of psychological science on policing in the United States: Procedural justice, legitimacy, and effective law enforcement. *Psychological Science in the Public Interest*, 16(3), 75-109. doi: 10.1177/1529100615617791.
[55] van Hall, M.S., Bosker, M., van der Laan, P.H., & van der Leun, J.P. (2024). Procedural justice in their eyes: A qualitative interview study among detainees. *International Journal of Offender Therapy and Comparative Criminology*. doi: 10.1177/0306624X241234857.
[56] Volobuyev, A. (2024). Notice of suspicion: Procedural significance and influence on the methodology of pre-trial investigation. *Science and Information Bulletin of the Ivano-Frankivsk University of Law named after King Danylo Halytsky*, 18(30), 139-146. doi: 10.33098/2078-6670.2024.18.30.139-146.
[57] Winter, C.K. (2020). The value of behavioral economics for EU judicial decision-making. *German Law Journal*, 21(2), 240-264. doi: 10.1017/glj.2020.3.
[58] Zaborovskyi, V.V., & Manziuk, V.V. (2015). The legal nature of the principles underlying the lawyer's relations with the court and other participants in judicial proceedings. *Scientific Bulletin of Uzhhorod National University. Series: Law*, 32(3), 157-161.

Патерналістські межі процесуальних гарантій: психологічні та правові аспекти оскарження повідомлення про підозру

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Анотація. У статті представлено критику патерналістської архітектури процесу оскарження підозри, з метою формулювання критеріїв процесуальної рівності через інтеграцію концепцій справедливості, поведінкової економіки та рольових конфліктів. Методом доктринального аналізу досліджено нормативну конструкцію оскарження підозри, що виявило системні патерналістські риси через відкладені строки оскарження на один або два місяці, відсутність позитивно визначених критеріїв обґрунтованості підозри та правові прогалини у механізмі виділення матеріалів досудового розслідування. Методом кейс-стаді та контент-аналізу досліджено практику Верховного Суду та Вищого антикорупційного суду, що засвідчила домінування формально-процедурного підходу до перевірки підозри. Методом функціонального аналізу офіційної статистики встановлено, що частка задоволених скарг на підозру у Вищому антикорупційному суді становить 58,3 % у першому півріччі 2025 року, водночас 35,07 % процесуальних звернень завершується без розгляду по суті через процесуальні підстави. Результати дослідження демонструють, що застосування міждисциплінарної теоретичної рамки дозволило операціоналізувати механізми трансформації нормативної архітектури в психологічний ефект безсилля через дефіцит компонентів голосу, нейтральності та поваги. Рольові конфлікти, що виникають за умови переходів між інституційними ролями у системі кримінальної юстиції, додатково обмежують готовність використовувати формальні гарантії. Порівняльно-правовий метод виявив, що французька та німецька системи пом'якшують інституційне домінування через формалізовані критерії обґрунтованості підозри та негайний судовий контроль. Результати підтверджують гіпотезу, що низька ефективність оскарження підозри є системно детермінованою взаємодією правових конструкцій із когнітивними упередженнями та рольовими конфліктами учасників провадження. Практична значимість дослідження полягає в розробці системи організаційних, процесуальних та поведінкових рекомендацій щодо трансформації процесуальної архітектури від патерналістської до партнерської моделі

Ключові слова: інституційне домінування; досудове розслідування; судовий контроль; рольовий конфлікт; слідчий суддя; когнітивні упередження