

The Investigating Police and the Respect of the Rule of Law in Pre-Trial Criminal Proceedings: An Observation under Cameroonian and Ukrainian Criminal Law Systems

Nana Charles Nguindip¹, Leonid Volodymyrovych Mohilevskyi², Ablamskyi Serhii Yevhenovych³

¹Lecturer in Law, University of Dschang Cameroon, Faculty of Law and Political Science,
Department of English Law, P.O Box 66, Dschang, Cameroon.

²Vice-Rector of Kharkiv National University of Internal Affairs, Ukraine.

³PhD in Law, Associate Professor, Department of Criminal Procedure and Organization of Pre-Trial Investigation,
Faculty No. 1, Kharkiv National University of Internal Affairs, Ukraine.

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ABSTRACT

With careful consideration of current regulatory rules and scientific research on the subject, the study focuses on particulars of judicial oversight during pre-trial investigation. The requirements for implementing judicial oversight during the pre-trial investigation phase have been disclosed by the article's authors. During the pre-trial investigation, the term "judicial control" has been defined. Certain traits of this kind of judicial control have been identified. It has been decided what the goal of court control during pre-trial investigation. Taking into consideration the standards of the existing legislation and scientific study on the subject, the relationship between the functions of judicial control and justice has been determined. Crime commission is an unavoidable singularity in any given and documented society functioning under the umbrella of established rules and regulations. Cameroon and Ukraine have engaged huge steps in establishing credible laws, all in the preservation and protection of fundamental human rights of those presumed of crime commission. This article establishes that, it is the responsibility and role of the investigative police in carrying out investigation and respects the due process of the law in the course of its investigation so that their act should not contravene the right of the suspect or accused in question.

Corresponding Author:

Nana Charles Nguindip,
Lecturer in Law, Faculty of Law and Political Science, Department of English Law,
University of Dschang Cameroon, Dschang.
Email: seniorlecturer84@gmail.com

1. INTRODUCTION

Every crime has a series of actions or steps in the investigations that progress from the collection of evidence to the gathering of information and the development of the evidence in order to provide everyone with a reasonable basis to believe that the accused or suspect in question is actually accountable for all of the accusations made against them. The evidence gathered can be used to determine the type of inquiry setup in this way. According to this perspective, the criminal investigator's job is to examine the gathered evidence and hints in order to establish that the crime has actually occurred and that the accused or suspect in question bears responsibility for all of the accusations made against him. Before proving that someone has actually committed an offense or crime, the criminal investigator must be aware of their own thoughts, and these thoughts must always be the result of a deliberate procedure [1]. The investigating police or authority in question does not necessarily need to have the acquired skills to conduct a criminal inquiry; it also depends on the officer's ability to think. Indeed, the role of the investigating police, their method of finding,

evaluating, and even assessing the reliability of information frequently becomes a complicated and crucial platform in contrast to the daily analysis of crimes. Every investigator has an assumed duty to do more than simply assume that material is true and legitimate based on personal confirmation of beliefs, but instead made sure that he or she is accountable and authorized by law to provide pertinent and convincing evidence so that it doesn't impact the rights or even the lives of people being examined [2]. Therefore, it makes sense that anyone who is competent to work as a police investigator should be able to gather and analyze evidence at all levels that the criminal justice system will accept, as well as have the cognitive abilities to do so. The aforementioned individual is required to conduct the investigation in a manner that conforms to the applicable legal regulations and the proper procedures for the evidence gathered.

In order to fulfill its duty to recognize the scientific system, both Cameroonian and Ukrainian laws have passed a number of criminal laws and legal dispositions that give the judiciary or investigatory police the authority and competence to carry out and participate in investigations ranging from the crime authorize to the trial process. The investigative police are in charge of looking into crimes, gathering evidence, locating criminals and their collaborators, and placing them before the law in every case involving a police inquiry [3]. It is generally reasonable to assume that any action conducted by these investigative police must be permitted by law; otherwise, it will be considered improper and illegal. The challenge that needs to be addressed is locating the laws that provide these people the power and legitimacy to carry out any type of criminal portfolio investigation. The basic criminal trial stages is represented in Figure 1.

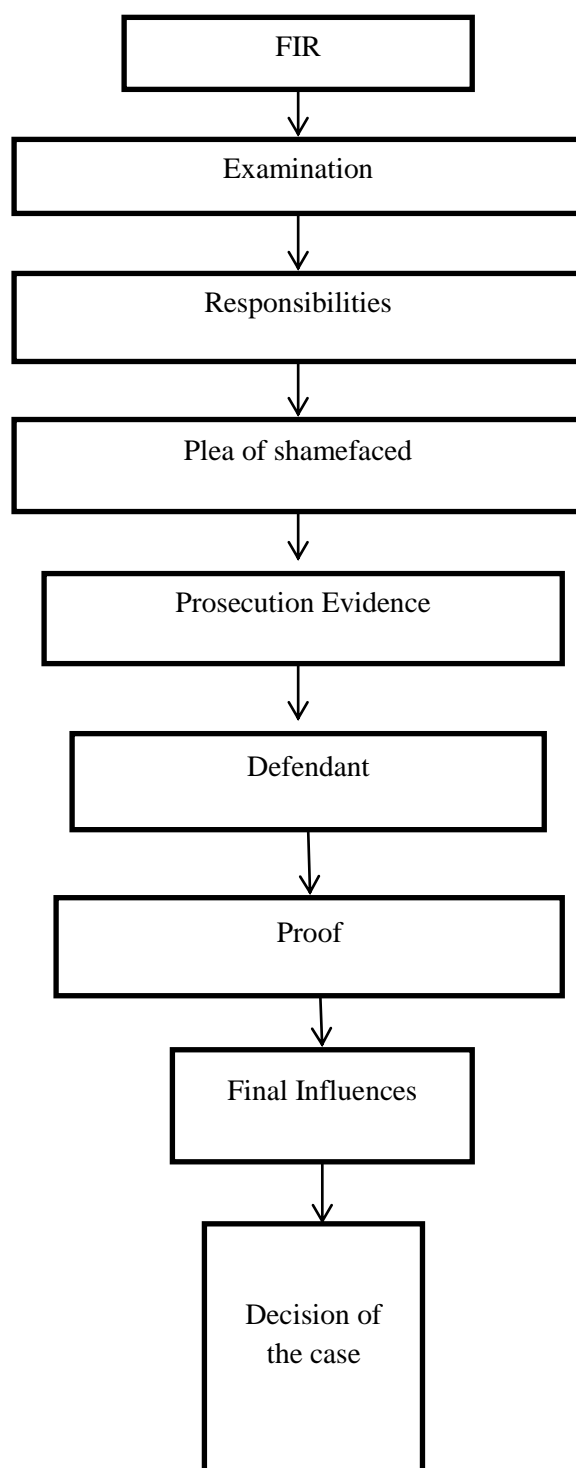


Figure 1. India's Criminal Trial Stages

2. RECOGNISING AND DETERMINING THE PLACE OF AN INVESTIGATIVE POLICE UNDER CAMEROONIAN AND UKRAINIAN LAW

Both the Cameroonian and Ukrainian Criminal Procedure Code are the main laws that grant and recognise the status under which the investigative police officers are operating [4]. In actuality, these laws regulated and designated their varied actions in a way that prevented these officials from acting in any way

that would result in criminal difficulties unless their activities or competency were highly recognized by such laws.

2.1. Legal Recognition of the Investigative Police under Cameroonian Law

The Cameroon Constitution considered as the highest law of the law has established that all acts done within the territory of the country must be carried out in accordance with the law [5]. In its Preamble, it is stated that;

No one may be charged, imprisoned, or arrested unless the circumstances and the legal process specify otherwise.

Regulations that specifically address

- *the investigation of offenses;*
- *the search for and locating of criminals;*
- *the process of presenting evidence;*
- *the authority of those in charge of prosecution; and*
- *The composition, structure, and jurisdiction of criminal courts are laid out in the legislation that established the Criminal Procedure Code.*

Since the code in question is the primary criminal code of the nation, it has unambiguously stated the jurisdiction and extent of all individuals authorized to handle criminal cases and conduct investigations within the nation in which police investigator is participates? In complementing the provision of the Criminal Procedure Code, the Penal Code¹, otherwise considered as the Criminal Law of the Republic stipulates in its **Section 17** that [6];

No penalty or measure may be imposed unless provided by law, and except in respect of an offence lawfully defined.

The police investigator is subject to a unique code of ethics and deontology that regulates all facets of police operations, including police investigations, particularly when the investigator is conducting the investigation. This code was established in 2012. Article 17 of the code stipulates that [7];

“Every National Security agents shall respect the law, ensure that the law is respected, and obey the law; defend and protect the fundamental human rights; banish tribalism, favouritism, nepotism, discrimination and corruption; serve the community according to the law, and not use it or supersede it”.

In conforming with this relevant dispositions and prescription, it further explain that during every criminal operation of the police officer in carrying out his or her duties, they have to respect the right of freedom, individual security, private and family life, the inviolability of the home, and even that of confidentiality of correspondence [8]. This is a clear indicator that investigating officers must adhere to and respect these rules when conducting their investigations, and they should never violate the rights of the accused or suspect while performing their investigative duties. It is thus their fundamental and judicial duty in respecting this fundamental human right of the suspect or accused under their custody. [9] We are not suggesting that they should use their investigative abilities to carry out the legal duties assigned to them; rather, we are concerned about the performance level at which they attempt to use every resource at their disposal to obtain evidence from the accused or suspect, thereby violating their human rights. The law stipulates that police officers must adhere to impartiality principles and rigorous respect for important human rights when performing their jobs, specifically, the freedom of thought, confidence, communication, and opinions; the right to peacefully meet; the right to free circulation; and the right to respect for everyone else's property. The officer is required to refrain from discriminating in criminal performance cases on the basis of sex, ethnicity, race, language, faith, and level of schooling, social standing, political affiliation, beliefs, disabilities, and other characteristics that are prohibited by the Declaration of Independence, international agreements, and contracts. Since we continue to witness police officers who have promised to uphold everyone's human rights throughout the arrest and investigation process breaking these rules, the enforcement of the different laws mentioned above has been incredibly irrational and unreliable.

¹**R. GEHL and D. PLECAS (2016), *Intro to Criminal Investigation: Processes, Practices and Thinking*, Justice Institute Of British Columbia New Westminster, Bc, page 1**

2.2. Legal Recognition of the Investigative Police under Ukrainian Law

As for Ukraine, the clear powers of pre-trial investigation bodies, which include, inter alia, the investigative units of the National Police of Ukraine, are also defined at the legislative level [10].

«Public authorities and their officials are obliged to act only on the basis, within the powers and in the manner prescribed by the Constitution and laws of Ukraine [11]».

«Criminal proceedings are carried out in accordance with the principle of the rule of law, according to which a person, his rights and freedoms are recognized as the highest values and determine the content and direction of State activities.

The principle of the rule of law in criminal proceedings is applied taking into account the case law of the European Court of Human Rights».

As is evident, in addition to stressing the importance of the rule of law, the legislator also made the point that this idea ought to be applied via the European Court's case law. The reason for this is that the Court's ruling is now a source of law since the Ukrainian government has agreed to follow the rulings of the European Court of Human Rights since ratifying the 1950 Tradition for the Protection of Human Rights and Basic Freedoms. These days, because criminal procedures are the most common arena where globally recognized human rights are restricted, the European Court's rulings are crucial for the safeguarding of human rights and freedoms [12].

As a result, the prosecution must take advantage of every legal opportunity to uphold the rights [13], liberties, and legitimate interests of those engaged in criminal proceedings, especially the rights to protection, access to justice, communication privacy, and even non-interference in their personal lives.

3. AN EXAMINATION OF THE RESEARCH POLICE'S PART IN LAWLESS PROCEDURE AND ROLE

Both Cameroon and Ukraine have accepted numerous regional and international treaties that require the government to investigate any allegations of violations of human rights and hold those accountable through its enforcement institutions. Among the fundamental accords that Cameroon and Ukraine have ratified are the United Nations Protocol against Terrorism and Other Forms of Inhumane, Uncaring, or Abusing Treatment or Retribution the African Charter on Human and Peoples' Rights, and the Global Covenant on Civil and Political Rights. The International Covenant on Civil and Political Right' Article 6(1) declares that [14];

Every human being has the inherent right to life. The law will safeguard this right, and no one's right to life should ever be unjustly taken away from them.

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In respecting this both countries have been able in performing criminal proceedings through its investigative or judicial police [15].

These international norms-requirements have found their direct consolidation at the level of criminal procedural law. For example, Article 11 of the Criminal Procedure Code of Ukraine stipulates that respect for the human dignity, rights and freedoms of every person must be ensured during criminal proceedings. It is prohibited to subject a person to torture, cruel, inhuman or degrading treatment or punishment, to resort to threats of such treatment, to keep a person in degrading conditions, to force him to actions that degrade his dignity. In order to implement these provisions in practice, the legislator provided for judicial control during the application by the prosecution (investigator, prosecutor) of restrictive measures [16], in particular, the choice of preventive measures against the person, compulsory attendance, interference with privacy.

In addition, an essential guarantee of the protection of person's rights and freedoms is that evidence obtained as a result of torture, cruel, inhuman or degrading treatment or threat of such treatment is declared inadmissible by the court. That is, evidence obtained as a result of a substantial violation of human rights and freedoms will inevitably be declared inadmissible by the court.

3.1 The Cameroonian Criminal Law and the Judicial Police

In every aspect concerning the investigative euphoria, it is the general rule and principle that during the process of investigation, it is the role of the police to question, conduct service, make arrest as far as the necessary evidence acquired in the course of the investigation is weighty and can be convincing. It is but

normal that the investigative police in the course of carrying its duties must ensure that such duty carried should respect the necessary provision prescribed by the law, if not any act or activities carried out will be considered as null and automatically illegal.

3.2 The Police and the Place of Instant Arrest

The Cameroon Criminal Procedure Code in its Section 30 has made provision when issues of arrest are concerned. It provides that it is the responsibility of the judicial police officer when empowered with the authority and competence in effecting arrest on suspect, should do so without plaguing or using methods which randomly affect the human rights of the accused in question. The general rule is that in every criminal aspect under the Cameroonian criminal law, the accused is presumed to be innocent until proven guilty by the prosecuting party who is bringing allegations that the accused or suspect really committed the offence.² The code states in its Section 30 that [17];

*A judicial police officer, agent of judicial police or any officer of the forces of law and order affecting an arrest shall order the person to be arrested to follow him and in the event of refusal, he shall use reasonable force necessary to arrest the person. That any individual may in case of felony or misdemeanour committed *flagrant delicto* arrest the author of such an offence.*³

The fact that the code has offered or vested the judicial police with this power as to arrest, the official in question has no authority during the arrest in causing any bodily or psychological harm on the person arrested.⁴ The said police officer must respect the fundamental human right of the arrested person. The question one needs to ask is in determining whether during moment of arrest, it is the duty of the police officer to touch the body of the criminal.⁵

Article 12 of the Criminal Procedure Code of Ukraine also stipulates that during criminal proceedings no one may be kept in custody, detained or restricted in the exercise of the right to free movement in any other way on suspicion or accusation of committing a criminal offense other than on the grounds and in the manner prescribed by this Code. Anyone detained on suspicion or charge of a criminal offense or otherwise deprived of his liberty shall be brought before an investigating judge as soon as possible to decide on the lawfulness and justification of his detention, other deprivation of liberty and further detention. A detainee shall be released immediately if he or she has not been served with a reasoned detention order within seventy-two hours of his or her detention.

Unfortunately, there is a negative practice regarding violations of procedural requirements of the law during detention. For example, the Supreme Court found the detention of a person without drawing up a detention record and without explaining his rights as a significant violation of human rights and freedoms. Thus, having examined as evidence the scene inspection record, according to which the accused provided psychotropic substance to police officers, the Court concluded that the document was not an admissible source of evidence, as the facts were obtained with significant violations of criminal procedure. The circumstances of the case indicate that the suspect was actually detained, but contrary to the requirements of Part 5 of Art. 208 of the Criminal Procedure Code of Ukraine, a record on his detention was not drawn up and procedural rights were not clarified [19]. In addition, the violation was recognized by the court as significant and without the search record of the detained person confirmed in accordance with Part 3 of Article 208 of the Criminal Procedure Code of Ukraine.⁶

In another criminal proceeding, the Court found the allegations of the prosecution about the voluntary participation of the accused in the investigative actions carried out immediately after his actual detention baseless - examination and inspection of the area, premises, things and documents, since in understanding of Article 209 of the Criminal Procedure Code of Ukraine, he was detained, which obliged the

²Section 8 of the Criminal Procedure Code talks on the aspect of presumption of innocence until proven guilty.

³Section 30(1) of the Criminal Procedure Code

⁴ Ibid, Criminal Procedure Code, Section 30(4)

⁵WesDenham(2010), *Arrest: What to do when your loved one is in Jail*, Chicago Review Press, page 21

⁶Resolution of the Board of Judges of the Criminal Cassation Court of the Supreme Court of 21 January 2020 (case № 756/8425/17; proceedings № 51-859 km19).

investigator to inform the detainee about his procedural rights provided by Part 4 of Article 208 of the Criminal Procedure Code of Ukraine. However, such requirements of the procedural law were not complied with, the record of detention of the person and evidence of explanation of his rights in the materials of the criminal proceedings are missing. Thus, the panel of judges of the Supreme Court found both violations of the form of criminal proceedings and such general principles of criminal proceedings as legality and protection of the right to defense, which became the basis for declaring this evidence and its derivatives inadmissible.⁷

Other examples of violation of the right to defense are the failure to involve a defense counsel immediately after the detention of a person and the conduct of investigative (search) actions before his appointment. Thus, the Supreme Court found a violation of the detainee's right to protection, as in violation of Part 4 of Article 213 [20] of the Criminal Procedure Code of Ukraine, the Regional Center for Free Secondary Legal Aid was not immediately informed about the person's detention. This is confirmed by the information specified in the detention report of the person suspected of committing the crime. Also, it is a violation of the right to defense to conduct such investigative actions as presenting a person for identification before drawing up a record on his detention and before appointing a defense counsel.

Summarizing the case law, it can be noted that the most common violations of the rights of persons detained on suspicion of committing crimes are: detention by an authorized official without legal grounds or failure to notify the detainee of the relevant grounds for detention; violation of the terms of detention, in particular, discrepancy between the moment of actual detention and the time of detention reflected in the detention record; violation of the right to protection; detention without drawing up a detention record and others. It is inadmissible to commit such violations [21], as it is an integral part of the whole detention process, therefore non-compliance with one of the parts leads to the recognition of detention as illegal, and the evidence collected in the course of it is inadmissible. And in this perspective, we should take into account the case law of the European Court of Human Rights, which emphasizes in its decisions that the fixation of accurate data on detention, including grounds, is a necessary condition for lawfulness of detention for the purposes provided by Article 5 of the European Convention on Human Rights and Fundamental Freedoms.

4. JUSTIFYING THE POSITION OF REASONABLY FORCE IN ASPECT OF INVESTIGATION

The Cameroon Criminal Procedure Code has been able to respect these international instruments as it makes clear that, an arrest, ordinarily, should be conducted by simply ordering the person to be arrested to follow the judicial police officer or any person authorized to perform the arrest to the Police Station or any other specified legal ground of investigation or detention.⁸ In other words, unless the person to be arrested offers some physical resistance the arresting officer should not use any force intended to cause bodily or psychological harm in carrying out the arrest.⁹ However, a judicial police officer, agent or persons authorized to carry out the arrest may use "reasonable force" whenever the person to be arrested refuses to follow him peacefully.¹⁰ Indeed, the worry here is that the code did not make mention of what would amount to a reasonable force, thereby given the authority the power to enforce what they actually think is sufficient for and most often, violates the rights of the suspects.¹¹ To ensure that the force however use in carrying out the arrest is a reasonable one, the code provides that no bodily nor psychological harm may be inflicted on the arrestee upon arrest.¹² The code further ensures the safety and security of the person arrested

⁷Resolution of the panel of judges of the Third Judicial Chamber of the Criminal Cassation Court of the Supreme Court of 18.12.2019 (case № 588/1199/16-k; proceedings № 51-3127km19).

⁸Section 30 (2) of the Criminal Procedure Code.

⁹Section 30 (2 & 4) of the Criminal Procedure Code

¹⁰Section 30 (2) of the Criminal Procedure Code

¹¹David C. O (2012). *Criminal Practice*, Justice Institute Of British Columbia New Westminster, Bc, page 34

¹²Section 30 (4) of the Criminal Procedure Code.

by providing that, the arrested officer if so required by the arrestee or where the Judicial Police Officer intends to remand the arrestee, shall allow a third party to accompany the suspect or arrestee in order to ascertain the place in which he being detained.¹³ Where this was the case in an arrest, it shall be mentioned in the police reports for tranquillity.¹⁴

Restrictions on the use of police force, including those during detention, are also enshrined in Ukrainian law. Thus, according to Article 29 of the Law of Ukraine "On the National Police", all police measures must be used exclusively to perform the powers of the police during the detention of a person. The measure chosen by the police must be lawful, necessary, proportionate and effective. The police officer is prohibited from taking any measures other than those specified by the laws of Ukraine. In this case [22], the principle of legal certainty is applied, according to which the rules of law must be high quality and clear for understanding and law enforcement. In this context, a police officer, as a public official, must act exclusively in the manner prescribed by current law during his activity.

In addition, the applied police measure is proportional if the harm caused to the legally protected human rights and freedoms or the interests of society or the state does not exceed the good for which it is used or the created threat of harm. However, the chosen police measure is effective if its application ensures the fulfillment of police powers.

We should also pay attention to the fact that in order to effectively perform the tasks assigned to the police, the legislator made it possible to apply such a preventive measure as a superficial inspection, which conditions and procedure are enshrined in Article 34 of the Law of Ukraine "On the National Police [23]". The superficial inspection is that the police officer has the right to carry out a visual inspection of the person, to touch the surface of the person's clothing by hand, a special device or means, as well as visually inspect things or vehicles. In addition, according to Part 5 of Article 34 of the Law of Ukraine "On the National Police" a police officer during the surface inspection has the right to require to open the trunk lid and / or cabin door. Regarding the application of this preventive measure, O. Banchuk and I. Dmytrieva noted that such powers bring this police measure closer to inspection, but there is no requirement to obtain a court permit. They believe, this contradicts Article 30 of the Constitution of Ukraine, according to which it is not allowed to enter a house or other property of a person, carry out the inspection or search there other than by a reasoned court decision. Scientists believe that since the vehicle is recognized as " [24] "The grounds and conditions used for the surface inspection should be similar to those used for the individual's possession. They also noted that the grounds for a surface inspection are broader than those outlined in Article 30 of the Ukrainian Constitution and Part 3 of Article 233 of the Ukrainian Criminal Procedure Code. In this regard, scientists recommend eliminating the following scenarios from the language of the law: 1) the existence of sufficient evidence to suspect the presence of a restricted or prohibited item in the vehicle; 2) There are sufficient grounds to believe that the item or car is a tool of perpetrators and/or is at a location where a crime might be committed, requiring a quick inspection to stop it. Since the surface examination of a person, object, or document and its investigation are two different legal institutions, we find it difficult to fully agree with such a statement. Therefore, it is important to distinguish between the reasons and circumstances for their use. Nonetheless, the examination of these clauses' content really points to potential discrimination and independence abuses throughout the reviewed measure's implementation. This conclusion stems from the fact that the law lacks a clear mechanism for putting these standards into practice.

What about circumstances where the accused has a likelihood of escape or when the arrested person needs to be restrained for their own safety? Section 31 of the Cameroon criminal procedure laws states unequivocally that in all situations where an arrest is made, the person who was arrested must be told why they were taken into custody and may even be accompanied by a third party to investigate the location of their detention. This hasn't been the case because a lot of people were arrested and tried in a remarkably short amount of time, leaving little to no time for defense preparation. While some defendants were not allowed time to speak with their attorneys, many others lacked legal representation. The trials had a summary format. Hundreds of offenders received prison terms ranging from three months to two years [25].

Prolonged pre-trial incarceration persists despite the arrest of the suspect and defendants in question, which is a major issue and compromises the accused's rights. The Cameroon Criminal Procedure Code's Article 221 states that custody pending an inquiry cannot be longer than six months and can only be prolonged by a judge's order, which can be extended by six months for less serious crimes and twelve months for major ones. The suspect must be released as soon as the deadlines pass. Except in cases when an

¹³ Section 119 (1) (a) of the Criminal Procedure Code

¹⁴ Section 119 (1) (b) of the Criminal Procedure Code

individual is apprehended while committing a crime, the Code mandates the police and gendarmes acquire an arrest warrant; however, in reality, the police frequently disregard this requirement. Detainees are required by law to be brought before a magistrate as soon as possible, but this rarely happens.

Although the Ukrainian Criminal Procedure Code also allows for a person to be detained without the investigating judge or court's consent, this term is shorter than that of Cameroon's laws. Specifically, According to Article 211 of the Ukrainian Criminal Procedure Code, unless the responding judge gives authorization, an individual cannot be held for longer than 72 hours following the date of imprisonment, which is determined in accordance with Article 209 of the Criminal Procedure Code. According to the latter, a person is detained as soon as they are made to obey orders, stay with a police officer who has been given permission, or remain in a location that the official has specified.

4.1 The Influence of Interrogating the Accused

The law enforcement agencies have the authority to interview the suspect during an investigation in order to obtain statements from them as part of their efforts to gather the evidence required for the criminal case in question. Even though the police have this prerogative disposition at their disposal, the problem here is that it must be done voluntarily because the law will not accept any statement obtained from the suspect through coercive means, which are all intended to get the suspect to confess to their culpability and even indicate that others. The law forbids the use of torture, threats, intimidation, or undue influence in order to get evidence, which may still be obtained at the actual trial. Therefore, the admission of guilt must be made willingly for the accused's testimony to be allowed in a court of law. In this instance, this has not been the case. According to Cameroon's Criminal Procedure Code, Section 315;

Any remark made by an accused person acknowledging that he committed the crime for which he is charged is considered a confession. If the confession was collected by coercion, force, or intimidation to be exchanged for an offer of any kind of advantage, or by any other method that goes against the confession maker's free will, it will not be allowed in court.

It is evident from the meaning of this clause that in order for any confession or evidence provided by the accused to be accepted in court, it must be given voluntarily; otherwise, it would be considered illegal and inadmissible. When conducting investigations by the proper authorities, especially the judicial police who are granted this power, one must ask whether this has always been the case. According to Section 132 of the Penal Code, which expressly covers torture, the country's police force continues to violate the accused's fundamental human right by using excessive force and punishment.

The Ukrainian Criminal Procedure Code states that no one may be tortured or subjected to cruel or inhuman treatment. Naturally, when interviewing someone, including a suspect, these criteria are also applied. In addition to expressing any other comments or objections regarding the investigation action's process, the suspect has the right to document any physical, psychological, or other acts that have diminished his honor and dignity in the interrogate protocol. Therefore, adhering to the legal standards for the execution of operational actions during court proceedings guarantees three things: first, that the procedural form of felony proceedings will be followed; second, that evidence gathered as a result of procedural actions will be admissible; and third, that criminal proceedings' objectives will be met and that its core values will be upheld.

4.2. Police Search and Seizure Authority

When making an arrest, the police officer has the authority to search the suspect or order a search of the suspect. Section 87 of the Cameroon criminal procedure laws grants this authority to conduct searches, stating that;

Any person suspected of possessing weapons or any other item likely to be used in the commission of an offense may be searched by a judicial police officer, whether the search is conducted in a public setting or one that is open to the public. Additionally, only a person of the same sex may do a bodily search on the suspect.¹⁵

According to the code, all search operations must take place in a public setting or a location designated as such. As a result, any private search conducted by the Federal Police will be deemed unlawful, and the question of harassment will arise. The cypher's disposition, which talks to the people who are intended to conduct the search, is once again of paramount relevance. Section 87(2) makes it clear that only

¹⁵Section 87 of the Criminal Procedure Code

individuals of the same sex may conduct a bodily search on a suspect. This is essential for protecting the suspect's right to privacy and indecency, as outlined in Section 295 of the Cameroonian Penal Code, which addresses private indecency. The searcher—whether a man on a man or a woman on a woman—is not the problem here. The way in which the person suspected or accused is searched will be the basis of our concern in this case. Most of the time, Under Section 292 of the same Penal Code, there is some use of force, which is considered a sanction. According to the section, anyone who forces someone to perform labor or offer a service against their will for personal gain faces a sentence of one to five years in jail. Everyone is subject to this law, regardless of their standing. When the investigating police conduct a search, they invariably employ force on the suspect. As if that weren't bad enough, it gets even worse when we witness police officers examining private residences. A search warrant is an order issued to a judicial police officer by the State Lawyers, an Examining Magistrate, or a trial court to enter a public or private location and search it in order to seize any items or documents that were used in committing an offense or that seem to be the result of an offense, as stated in Section 16 of the Criminal Procedure Code. Thus, the judicial police have no authority to search homes or other locations since doing so would be against the Cameroon Constitution. The preamble states that the house is an inviolate dwelling. Since even the Cameroon Penal Code punishes invasion of residence under Section 299, we can assert that any forced intrusion into someone's home without a search warrant can be sued for trespassing. Those in the area have an obligation to search the police officer and ensure that no incriminating evidence is placed by the policeman that may influence the offender, as this is not exhaustive. Due to constant threats, persuasions, and even duress, the suspect is unable to do the action in question, making it impossible to carry out.

The Ukrainian Criminal Procedure Code also lays forth procedures for searching someone's home or other property as well as searching someone who is in custody. However, it is important to note that there is no specific item in the Code of Criminal Procedure that would allow a police officer to conduct a personal search of an individual. In other words, personal searches are only permitted under the present Criminal Procedure Code of Ukraine when an individual is being held in custody (part 3 of Article 208 of the Criminal Procedure Code), or when a person's home or other property is being searched. However, in any situation, a police officer must conduct a person's search while keeping the following criteria in mind: 1) conducted by individuals of the same sex; 2) at least two witnesses must participate, independent of the use of specialized fixation methods; 3) the course and outcomes of the personal search must be recorded in the appropriate method. A lawyer or agent must also be called at the suggestion of the individual being searched if the personal search is conducted while searching their house or another piece of property. However, part 5 of Article 236 of the Ukrainian Criminal Procedure Code states that a person's search cannot be stopped if a lawyer or other representation does not show up within three hours.

5. JUDICIAL POLICE INQUIRY AND EVIDENCE INADMISSIBLE

Though this is up to the court's privacy, the Cameroon Criminal Procedure Code's adoption of the test system allows the judicial police officer who submits his report to the court or the examining magistrates to be cross-examined in court. This gives the judge or examining magistrate a great deal of power, even when it comes to top police officers whose reports are subject to public criticism. The judge can directly question the judicial police officers regarding the conditions of the admission and the police investigation process under this Common Law-based style of procedure. In a public trial, the police are subject to the judicial authority to regulate and sanction their actions. The public observes for themselves that law enforcement personnel have restricted authority and that there is a governing body capable of defending individual liberties against the abuse of state power. The practice in Francophone Cameroon, where a police officer's written report regarding their questioning of the accused can be used in place of the accused's in-person appearance at the trial, is regrettably still possible because cross-examination is mandatory.

The Ukrainian lawmaker took a different approach, adding the following clause to Article 94 of the Criminal Procedure Code of Ukraine:

«Investigator, public prosecutor, investigating judge, court evaluates evidence based on his own moral certainty grounded in comprehensive, complete, and impartial examination of all circumstances in criminal proceedings being guided by law, evaluates any evidence from the point of view of adequacy, admissibility, and in respect of the aggregate of collected evidence, sufficiency and correlation, in order to take a proper procedural decision. No evidence shall have any predetermined probative value».

Therefore, only the proof that the judge directly reviewed during the trial should serve as the basis for the indictment. Such proof must be adequate and admissible, nevertheless. The testifying party may be questioned about prior testimony that contradicts one another if necessary.

6. MANAGING THE POLICE POWER'S LEGALITY DURING THE SCIENTIFIC PROCESS

What about the occurrence of home invasions, for which the police are also held criminally accountable? The time and date of a hearing will be specified by the order the judge issues after receiving an application. Following the hearing, the judge will order the detainee's immediate release if he finds that the capture or detention was unlawful based on the case's facts. An appeal could be filed against that ruling. However, regardless of any appeal, the detainee will be released quickly in accordance with the ruling.

The present Ukrainian legislation has similar clauses. The requirements of Article 9 of the Criminal Procedur Code of Ukrainian are particularly crucial for more successfully upholding the rule of law in criminal proceedings. It stipulates that:

«During criminal proceedings, a court, investigating judge, public prosecutor, chief of pre-trial investigation agency, investigator, other officials of state authorities shall be required to steadfastly comply with the requirements of the Constitution of Ukraine, the Criminal Procedur Code of Ukraine, and international treaties the Verkhovna Rada of Ukraine has given its consent to be bound by, and requirements of other laws».

Importantly, the concept of making a false arrest that will prevent someone from being freed is covered in Section 291 of the Cameroon Penal Code. The consequences for public servants, including the police, who use force against anyone, are covered in Section 132 of the law. Section 7 of the United Nations Covenant on Civil and Political Rights and Sections 5 and 9 of the United Nations Declaration of Human Rights, "No one shall be exposed to beatings or to cruel, inhumane, or demeaning treatment or repercussions," according to the Preamble of the Constitutions of Cameroon and Ukraine as well as other international agreements. The Cameroon criminal law has been able to adhere to these international conventions because it makes it clear that an arrest should normally be made by simply ordering the subject to cooperate with the judicial police officer or any other person authorized to carry out an arrest to the police station or any other stated legal ground of inquiry or detention. In other words, the arresting officer should not use any force that could inflict physical or psychological harm in order to make an arrest unless the subject of the arrest presents some form of physical resistance. However, if the subject of the arrest declines to follow him voluntarily, a judicial officer, security agent, or other person with the authority to make the arrest may use "reasonable force." In its wisdom, the Parliament decided to add section 138 to the Statute book to enforce financial responsibility in commercial transactions.

Before section 138 of the Negotiable Instruments Act was added, the only way for the individual who was wronged by a dishonoured cheque to get their money back was to make a claim. Because the new provisions in the Act were intended to instill a sense of ownership in those involved in business dealings, any failure to uphold one's end of the bargain could result in a criminal charge under the new sections of the law. Once more, this is a noteworthy aspect of the legislation since it emphasizes the Criminal Procedure Code's focus on citizen liberty, which is in contrast to Cameroon's prevailing legal tradition that an appeal has the power to halt the execution of the lower court's decision. Notable is section 585(5), which stipulates that if the inmate fails to appear in tribunal, the judge will take into account the reasons and base his decision on the application's supporting documentation. Therefore, the judge can still decide whether the detention was lawful even if neither the caretaker nor the detainee shows there. The new law's main weakness, though, is that it doesn't go so far as to impose fines or further penalties on a caretaker who disobeys the court's directive to appear in court with the detainee and present an explanation for the confinement.

7. CONCLUSION

Every law must be applied, but criminal law in particular, in order for the justice system to function properly. Regardless of whether a community has cohesive values or not, crime is an unavoidable part of life. The examining police, also referred to as the crime execution police, are charged with upholding the order of law in the administration and enforcement of justice, but they are not authorized to guarantee the protection of the accused's fundamental human rights prior to, during, or even following the execution of a crime. As nations bound by the recommended and recognized criminal disposition, Cameroon and Ukraine guarantee that the investigative police will respect and enforce the accused's rights during the pre-trial phase while gathering evidence from the presumptive accused. Even with all of these techniques used by the investigations police in these nations, it has been seen that the upholding of the law by these law-abiding personnel has been difficult and dubious.

The state is required to uphold citizens' rights and successfully combat threats to national security while martial rule is in effect. Under some circumstances, it is practical to temporarily increase the prosecutor's office's authority in order to maintain peace and order. The prosecutor's office continues to carry out its duties in accordance with international law and the Constitution, offering procedural direction to pre-trial investigations despite the difficult circumstances. The protection of state interests and human rights is the main goal.

The prosecutor must actively use their authority to steer the pre-trial inquiry in order to guarantee its efficacy. In addition to organizing and overseeing the investigator's procedural operations, the prosecutor's duties also include participating in the gathering and evaluation of evidence.

Procedural guidance's positive characteristics of international practices have shown significant advantages for enhancing the effectiveness of justice. Grand juries, which are used in America, encourage independence in the assessment of the evidence and guarantee more objectivity in verdicts. The AI-ACT system in Brazil significantly improves the efficiency and transparency of judicial procedures by automating process management and monitoring. Bulgaria serves as an example of how specialized courts and prosecutors can lower the risk of corruption and enhance the standard of justice in delicate cases. The examination of prosecutor training programs in Ukraine and outside, the effect of legal practice on procedural advice, and the institutional and organizational factors influencing this are all promising topics for further study.

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