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PROCEDURAL ORDER OF APPEAL AGAINST THE DECISION OF THE INVESTIGATING JUDGE DURING THE PRE-CASE INVESTIGATION

The institute of appealing the investigative judge's rulings during a pre-trial investigation is one way of exercising judicial review by reviewing a court decision by a higher court. The importance of a person's right to judicial protection is confirmed by the consolidation of such a right in criminal procedural law and international documents. The Criminal Procedure Code of Ukraine sets out a clear list of the investigative judge's decisions that may be appealed during the pre-trial investigation on appeal. Accordingly, complaints against other rulings of the investigating judge are not subject to appeal and objections to them may be filed during the preparatory proceedings in court.

The analysis of the scientific literature indicates that it is inappropriate to consolidate at the legislative level an exhaustive list of decisions of the investigating judge to be challenged during the pre-trial investigation. Therefore, criminal procedural legislation needs to be improved.

Attention is drawn to the fact that, in practice, it is often difficult to determine the subject matter of an appeal against the decision of the investigating judge, and therefore the judge decides to refuse to open the proceedings.

The legislator established certain features of the appellate review of the rulings of the investigating judge, which are conditioned by the nature of this type of court decision and the need for urgent verification of its lawfulness and validity. Specifically, the review of such rulings should include the simplified procedure for lodging an

appeal directly with the court of appeal, the shorter term of appeal against the decision of the investigating judge, and the shorter term for examining the appeal.

Another peculiarity of the appeal procedure for investigating appeals against the orders of the investigating judge is that, unlike the procedure for examining appeals against the decision, actions or omissions of the investigator or prosecutor, which provides for mandatory participation of the complainant, the non-attendance of parties or other participants in criminal proceedings the appellate court shall not interfere with the proceedings if such persons have been duly informed of the date, time and place of the appeal and have failed to give reasons for their non-attendance. Only in cases where the participants of the criminal proceedings, whose participation is obligatory according to the requirements of the CPC of Ukraine or the decision of the court of appeal, are not obliged to attend the court session, the appeal is postponed.

Keywords: the investigating judge, appealing the investigative judge's rulings, pre-trial investigation, judicial control, investigator, prosecutor, participants in criminal proceedings.

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