

DECISION-MAKING BY THE DEFENSE PARTY IN UKRAINIAN CRIMINAL
JUSTICE: BALANCING NEEDS AND CAPABILITIES

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ABSTRACT

Objective: The purpose of the article is to highlight the features of the decision-making process by the defense party in Ukrainian criminal proceedings and to identify the main needs and capabilities of the subjects involved.

Theoretical Framework: This study is based on contemporary scholarly perspectives in the fields of criminal law and procedure, forensic science, and legal psychology, the provisions of current legislation and statistical data.

Method: To explore decision-making process by the defense party, this study will use a range of general and specialized scientific research methods including systemic analysis, formal-legal, comparative, generalization, and modeling.

Results and Discussion: The authors argue that defense decisions in criminal proceedings are non-law-applying and significantly differ from the decisions of the prosecution or the court. The study demonstrates that defense decisions are structurally composed of the intended goal, the informational foundation, and the available alternative courses of action. The decision-makers on behalf of the defense include the defendant, the defense attorney, and the legal representative, each of whom possesses their own set of procedural needs and capabilities. It is emphasized that the most effective decisions are those made by the defendant in collaboration with defense attorney.

Contributions: The significance of the research results lies in their potential to serve as a foundation for developing practice-oriented recommendations on optimizing defense strategy against criminal charges, and formulating recommendations to overcome unlawful resistance to pre-trial investigations and court proceedings by the defense side.

Keywords: criminal proceedings, defense party, decision-making, proof, defense strategy, forensic recommendations, sustainable development goals (SDGs).

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1 INTRODUCTION

All participants in criminal proceedings pursue specific professional or private goals and take actions to achieve them. To do so, they make and implement deliberate decisions aimed at attaining a particular procedural outcome. In order to enhance their effectiveness, participants in the proceedings, including the parties and the court, need practice-oriented recommendations that optimize their decision-making process. It is therefore quite natural that scholars in the fields of criminal procedure and forensics are interested in the specifics of the decision-making in order to formulate the aforementioned recommendations.

The defense party in Ukrainian criminal justice is the least provided with recommendations for effective decision-making. The reason for this imbalance stems from law enforcement and academic traditions: historically, domestic criminal procedure has had a prosecutorial bias, and as a result, scholars have traditionally focused more on providing scientific and methodological support of the activities of pre-trial investigation bodies and the court. At the same time, the decision-making process by the defense party has its own specific characteristics, which have not been adequately addressed in either Ukrainian or foreign sources. The defense has its own private interests, which it pursues during the pre-trial investigation and court proceedings, while also facing a number of factors that significantly limit the real ability to choose optimal procedural strategies. As a result, the available capabilities are, unfortunately, not always sufficient to meet the needs.

Considering the above, the authors of the article have attempted to characterize the decision-making process by the defense party in Ukrainian criminal proceedings and to identify the main needs and capabilities of the decision-makers.

2 THEORETICAL FRAMEWORK

The psychological and mathematical aspects of the decision-making mechanism were first thoroughly examined by the father of modern game



theory, Ward Edwards, who, in particular, compared the trial process to a game in the mathematical sense of the term and revealed the patterns of decision-making within the strategy chosen by the participant in the game (Edwards, 1954, p. 406).

At the present stage, scholars are interested in the specifics of decision-making in the field of criminal justice. However, researchers primarily focus on the features of the decision-making mechanism by the prosecution and the court representatives. In particular, the special literature discusses the grounds for making the decision to detain suspects in cases of sexual assaults (Tasca *et al.*, 2012); judges' thinking process while making situational decisions (Clair & Winter, 2016) and assessing evidence admissibility (Ablamskyi *et al.*, 2021); the specifics of decision-making by the prosecution party (Bululukov, 2020) and investigating judges (Teremetskyi *et al.*, 2024); the capabilities of predicting judicial decisions on petitions (Liden, 2024), etc.

Scientific interest also lies in certain specific aspects of decision-making in criminal justice, such as the possibilities of using modern technologies, particularly AI, to support decision-making in criminal proceedings (McKay, 2019; Husieva *et al.*, 2022); the influence of involved mediators on the decision-making process of participants in agreements in criminal proceedings (Shmyndruk *et al.*, 2024).

At the same time, the specifics and issues of decision-making by participants in criminal proceedings on the defense side remain insufficiently addressed in both Ukrainian and foreign literature, and therefore require a separate, thorough study.

3 METHODOLOGY

The presented study on the decision-making process by the defense party in criminal proceedings is based on a range of general and specialized scientific research methods.

The structure of decisions made by participants in criminal proceedings has been identified using the method of systemic analysis, with the pursued goal (objective), informational basis, and available alternative courses of



action being identified as decision components. The formal-legal method enabled the authors to analyze the content of the current criminal procedural legislation of Ukraine in terms of the rights, obligations, and procedural tools available to the participants in criminal proceedings on the defense side. Based on this, an assessment has been made of the effectiveness of the decisions that can be made by defendants, defense attorneys, and legal representatives. The comparative method was used to contrast the procedural and extra-procedural capabilities of the defense party decision-makers. The application of this method allowed for identifying which decision-makers have advantages in terms of access to initial information, possession of professional knowledge and skills, and actual capabilities to act in pursuit of the defense's interests in criminal proceedings. The methods of generalization and modeling helped trace the process and characteristics of decision-making by the defense side in certain typical decisions within criminal proceedings. Based on the construction of hypothetical models of typical circumstances in which such decisions are made, the authors identified their informational basis, the goals pursued by the decision-makers, and the available alternative courses of action.

Although the methods applied allowed the authors to reveal the theoretical aspects of the decision-making process by the defense party in criminal proceedings, further research in this area should rely on current empirical data, which should be obtained through surveys or interviews with key stakeholders - the decision-makers on the defense side in Ukrainian criminal justice.

4 RESULTS AND DISCUSSIONS

The modern development of democratic, rule-of-law states is based on generally recognized international principles, among which is the human right to defense, including in criminal proceedings. This is fully correlated with the provision enshrined in a number of international legal acts that all people are born equal in their rights, and life and health are the highest social value. Given the law-restrictive nature of criminal proceedings, the regulation of the procedural activity of the defense party is of great importance.



The noun "decision" is defined in dictionary sources as "a conclusion or resolution reached after consideration; the action or process of deciding something or resolving a question; the ability or tendency to make decisions quickly; decisiveness". The verb "decide" is defined by the dictionary as "come or bring to a resolution in the mind as a result of consideration; make a choice from a number of alternatives; give a judgment concerning a matter or legal case; come to a decision about (something); to resolve or settle (a question or contest)" (Oxford dictionary of English, 2010, p. 453). From a psychological perspective, a decision is a volitional act of an individual (Haggard, 2019, p. 12) that involves choosing a specific alternative course of action.

Ukrainian legislation explicitly names and regulates only one type of decisions in criminal proceedings - the procedural decisions outlined in Articles 94 and 110 of the Criminal Procedure Code of Ukraine, which can only be made by the investigator, the inquirer, the prosecutor (i.e., the prosecution side), as well as the investigating judge and the court, exclusively based on the evaluation of evidence in the case (Law of Ukraine No. 4651-VI, 2012). The procedural decisions made by these entities are acts of law enforcement and directly alter the criminal procedural relations. In turn, the participants in criminal proceedings from the defense side (the suspect, the accused, the defense attorney, the legal representative) are not subjects of decision-making in procedural matters as defined in Article 110 of the Criminal Procedure Code of Ukraine. In criminal proceedings, the listed subjects make their own non-procedural (non-law-applying) decisions, the mechanism and consequences of which differ significantly from procedural decisions and require further study.

To analyze the decision-making process by the defense party in Ukrainian criminal justice, it is essential to clarify the structure of such decisions. M. Gottfredson and D. Gottfredson identify three key components in the structure of a decision: the goal (or set of goals) that the decision-maker wishes to achieve, alternative courses of action, and the information that guides the selection of one of the alternatives (Gottfredson & Gottfredson, 1988, pp. 3-4). It should be noted that this understanding of the decision structure is somewhat simplified, yet entirely suitable for analyzing decisions made by the defense in criminal justice.



The goals pursued by the participants in the proceedings, and for which they make their own decisions, stem from the general objectives of criminal justice outlined in Article 2 of the Criminal Procedure Code of Ukraine. These include, among other things, the following: protection of individuals, society and the state from criminal offences, protection of rights, freedoms and legitimate interests of participants in criminal proceedings, as well as the insurance of quick, comprehensive and impartial investigation and trial in order that everyone who committed a criminal offence were prosecuted in proportion to his guilt, no one innocent were accused or convicted (Law of Ukraine No. 4651-VI, 2012). Each participant in criminal proceedings, within the scope of their own procedural capabilities and considering their individual interests (whether professional or private), contributes to the realization of the aforementioned general objectives.

The specific goals of each participant in the proceedings are individualized based on their procedural functions and interests. The prosecution and the court act solely in the public interest, with their procedural functions being defined and thoroughly regulated by current legislation. On the other hand, the individual goals and tasks of the defense and the victim are not specified by the requirements of current legislation but are based on their private interests.

The procedural interest of the defense party, in general, is determined by the needs of the person facing criminal liability. As a general rule, their interest is directed towards avoiding criminal responsibility. This may result in the termination of the criminal proceedings during the pre-trial investigation or the issuance of an acquittal verdict following the court trial. However, in certain cases, the defendant may pursue other interests as well. For example, it is not uncommon for suspects to make false confessions in order to take responsibility on behalf of another person who actually committed the crime (Redlich *et al.*, 2024).

Obviously, the overall goal of the defense party is too broad to be achieved through the adoption and execution of a single decision. Therefore, the goals are broken down into separate, sequential elements, specified, and



then achieved through the adoption and implementation of successive and interconnected decisions.

Another essential component of any decision is its informational basis. J. Ingram defines the information on which a person can base their decision as evidence. To illustrate this point, he provides a great non-legal analogy: "Before purchasing a used car, one should inquire with the seller about the condition of the vehicle, and in some cases, even inspect the car with the participation of a mechanic. The information thus obtained, or evidence, should be taken into account before making the decision to buy the car." (Ingram, 2021, p. 18).

The informational basis of all decisions made by participants in criminal proceedings consists of the information they have about certain significant circumstances of the criminal case. For the defense party, such circumstances include information about the crime event (in particular, regarding the defendant's actual involvement or non-involvement), the legal positions of other participants in the proceedings (primarily the prosecution side), information about the successes of the pre-trial investigation bodies, available evidence, and so on.

A significant portion of the procedural opportunities for the defense depends on the results of the consideration of their motions by authorized participants in the proceedings: the prosecution, the investigating judge, and the court. Therefore, the decision-making process of the defense in criminal proceedings is also influenced by information about the individual characteristics, legal positions, and working hours of the aforementioned individuals. In particular, scholars demonstrate that decisions made by the defense regarding the use of specific procedural tools may be influenced by information about the workload of investigating judges and their actual ability to thoroughly review submitted motions (Hloviuk, *et al.*, 2019, p. 383). In any case, both judges and the defense party act with the common goal protecting the rights and freedoms of participants in criminal proceedings. Consequently, the effective functioning of these participants in the proceedings requires mutual respect, clear communication, and a shared commitment to justice (Teremetskyi *et al.*, 2025, p. 10).



Before making each specific decision, the participant in the proceedings must process all available information, identify the data that is relevant for achieving the specific goal, and based on this, choose the most optimal course of action.

Finally, the alternative courses of action available to the defense can be categorized into legal and non-legal options. The former represent legally significant actions explicitly provided for by law. These include filing challenges (Articles 75-83 of the Criminal Procedure Code of Ukraine), obtaining items and documents (Article 93 of the Criminal Procedure Code of Ukraine), submitting motions (Articles 220, 221 of the Criminal Procedure Code of Ukraine) and complaints (Article 303 of the Criminal Procedure Code of Ukraine), commissioning forensic examinations (Article 243 of the Criminal Procedure Code of Ukraine), etc. (Law of Ukraine No. 4651-VI, 2012). Theoretically, such tools should be accessible to anyone at any time; however, their effective application largely depends on the decision-maker's legal knowledge, professional experience, available time, access to computer equipment, case law materials, and a range of other factors. The list of non-legal (i.e., not regulated by law) alternative courses of action is unlimited and encompasses any actions that are not explicitly provided for by legislation.

All methods that the defense may employ to achieve its objectives can be categorized into three groups: lawful (such as identifying and pointing out errors made by the prosecution during the evidentiary process), "grey" (abuses of procedural rights, also known as procedural sabotage, often aimed at delaying the proceedings, for instance, filing unfounded motions, challenging participants, failing to appear without valid reasons, or replacing defense attorneys), and unlawful (such as fabricating evidence, influencing witnesses, or tampering with victims). The latter two groups of methods should be regarded as forms of obstruction to pre-trial investigation and court proceedings. Therefore, it is worth emphasizing that studying the decision-making mechanism of the defense side will, among other things, contribute to the development of effective tools for overcoming resistance to criminal justice.



Due to various factors such as procedural status, personal interests, individual experience, professional skills, and others, decision-makers on the defense side in criminal proceedings have differing needs and capabilities. Therefore, it is necessary to provide a brief characterization of the key decision-makers on the defense side and their capacities to act in pursuit of their objectives in criminal proceedings.

Clearly, the main actor of the defense party in each criminal proceeding is the individual who is being held accountable. Depending on the stage of the proceedings, they may have the procedural status of a suspect or an accused person (these subjects can be collectively referred to as "the defendant," which we will primarily use henceforth).

The procedural capabilities of these subjects are determined by their rights, which are regulated by paragraphs 3 and 4 of Article 42 of the Criminal Procedure Code of Ukraine. The defendant has basic procedural rights to provide explanations, testify regarding the suspicion or charge, or refuse to do so at any moment; gather and submit evidence to the investigator, prosecutor, investigative judge, or court; participate in procedural actions and ask questions to participants; file motions and challenges as provided by procedural law; appeal decisions made by authorized participants of the proceedings, etc. (Law of Ukraine No. 4651-VI, 2012). It should be emphasized that the procedural rights available to the defense are significantly fewer compared to those of the prosecution, creating an imbalance in the equality of the arms during the pre-trial investigation.

In the vast majority of cases, individuals facing criminal liability do not possess professional legal education, nor do they have the necessary knowledge and skills to conduct criminal proceedings, which significantly limits their ability to make optimal decisions during the process. According to official statistical data, in 2023, 66,684 individuals were convicted for committing criminal offenses in Ukraine, of which only 5,519, or 8.28%, had completed higher education (The State Judicial Administration of Ukraine, 2024). In this case, it can be confidently assumed that not all of the convicted individuals in this category had legal education and/or professional experience in the field of criminal justice.



Another limiting factor that negatively impacts the ability of suspects and accused individuals to achieve their procedural goals through the adoption and implementation of rational decisions is the potential imposition of preventive measures on such individuals, including those related to restrictions on movement, communication with other participants in the process (victims, witnesses), use of modern gadgets, etc. In Ukrainian practice, the most severe (and associated with the greatest restrictions) preventive measure, detention, is applied most frequently. Specifically, according to statistical data for 2023, requests for detention accounted for 69.6% of all motions for preventive measures, and 58.1% of all granted motions of this nature (The State Judicial Administration of Ukraine, 2024).

Therefore, defendants, as decision-makers in criminal proceedings, face significant limitations in their ability to make and execute decisions, both procedurally and extra-procedurally, due to the specifics of legal regulation, potential physical constraints, and the absence of legal education and professional experience in criminal justice.

To overcome the aforementioned limitations, both Ukrainian and foreign legislation provide for the possibility of engaging a professional defense attorney to effectively represent the interests of the defendant in criminal proceedings. Such a person does not have their own procedural interest and, instead, may act independently in the best interests of the defendant, thus becoming a decision-making subject in criminal proceedings. A defender in criminal proceedings, in accordance with the current legislation of Ukraine, must be an individual who has completed higher legal education, is proficient in the Ukrainian language, has at least two years of professional experience in the legal field, has passed a qualification exam, completed an internship (with certain exceptions), taken the oath of the advocate of Ukraine, and received a certificate authorizing them to engage in advocacy (Law of Ukraine No. 5076-VI, 2012). Thus, scholars rightly argue that professional defense attorneys have significant advantages compared to other legal professionals (as well as individuals without legal education), as they are required to pass specific qualification exams, undergo internships with experienced colleagues, and regularly enhance their qualifications (Kolomoitsev *et al.*, 2024, p. 142).



According to the law, the defense attorney enjoys all the same rights as the defendant, except for those rights that cannot be delegated. In addition to this, the attorney has some additional procedural opportunities: they can independently initiate meetings with the defendant (Law of Ukraine No. 4651-VI, 2012) and submit attorney requests, a specific method of gathering evidence unavailable to other participants (Law of Ukraine No. 5076-VI, 2012). Moreover, defense attorneys are not subject to any physical restrictions and, on the contrary, enjoy additional guarantees of protection from unjustified persecution and detention. While the defendant's right to privacy (including its communicative and informational aspects) may be restricted based on an investigating judge's decision upon a reasoned request by the investigator and prosecutor (Teremetskyi *et al.*, 2021, p. 7), the confidentiality of communication between the defendant and their defense counsel is guaranteed by both international treaties and domestic legislation.

Hence, defense attorneys have significantly more procedural, organizational, and professional opportunities to pursue the private interests of the defendants by making and implementing appropriate decisions in criminal proceedings.

Another participant in the Ukrainian criminal justice system from the defense side is the legal representative. According to Article 44 of the Criminal Procedure Code of Ukraine, in cases where the suspect or accused is a minor or a person recognized as legally incompetent or partially competent in accordance with the established legal procedure, a legal representative must be involved in the proceedings alongside them (Law of Ukraine No. 4651-VI, 2012). In other words, such a person is involved when the defendant is unable to make decisions independently due to age, health issues, or legal reasons. Legal representatives can include the defendant's parents (adoptive parents), and if they are absent, guardians or caretakers, other adult close relatives or family members, as well as representatives of guardianship authorities. Thus, as a general rule, these are individuals who do not have specialized education or professional skills in representing interests in criminal proceedings.

The legal representative exercises the procedural rights of the person whose interests they represent, except for those procedural rights whose



implementation is carried out directly by the suspect or accused and cannot be delegated to a representative (Law of Ukraine No. 4651-VI, 2012). Unlike professional defense attorneys, legal representatives do not have any additional procedural capabilities. However, in comparison to the defendant, a legal representative cannot be restricted in their freedom of movement or communication. It is also important to emphasize that a legal representative can act in criminal proceedings both alongside a professional defender and independently.

Thus, among the listed subjects, professional defense attorneys evidently have the most favorable opportunities to rationally make and implement decisions in the best interests of the defendant. In this context, it is worth agreeing with scholars that another participant in criminal proceedings who has private procedural interests - the victim - does not have a legally guaranteed right to counsel (Ablamskyi *et al.*, 2020, p. 5) and is therefore often limited in their ability to receive professional legal support in decision-making. Hence, it should be noted that the specifics of decision-making by victims in criminal proceedings also require separate research.

The general decision-making mechanism of the defense during criminal proceedings can be traced through the example of several of the most typical and significant decisions.

One of the first decisions that a suspect faces in criminal proceedings is the choice of a professional defense attorney (or the decision to waive the right to one). The ability to make such a choice is guaranteed by the universally recognized right to counsel, which is fundamental both in the United States, European countries, and Ukraine. Specifically, Article 42 of the Criminal Procedure Code of Ukraine guarantees the defendant the right to have a defense lawyer upon first request and to meet with them at any time, including prior to the first interrogation (Law of Ukraine No. 4651-VI, 2012).

The informational basis for such a choice is very limited, as the notification of suspicion typically catches the defendant by surprise. The only notable exception to this rule is when the individual has made prior arrangements with a professional lawyer, who agrees in advance to represent their interests in criminal proceedings, should such assistance be required. In





other cases, the defendant must ask friends or relatives to find a good defense lawyer or seek legal assistance *pro bono*, thus making this choice "blindly."

The defendant's goal in making this decision is to receive the most professional legal assistance and, as a result, the best possible representation and realization of their interests in the criminal proceedings. Thus, a well-considered choice should primarily take into account the experience and professional abilities of the engaged lawyer. At the same time, the services of the best lawyers may be quite expensive. As noted by J. Moore, in practice, there is the issue of "no choice for the poor," where poor individuals do not have real access to quality legal assistance (Moore, 2018, p. 170). Thus, the opportunities (alternative courses of action) available to the defendant when making such a decision may be significantly limited. If the individual lacks sufficient funds to cover legal expenses, has no prior agreements with lawyers, and is detained at the beginning of the criminal proceeding, making an informed and rational choice of a defense attorney becomes nearly impossible.

If the defendant cannot afford to hire a professional defense lawyer and instead receives assistance *pro bono*, the choice of a lawyer, as such, is entirely absent. Specifically, the Ukrainian Supreme Court recently ruled that a person receiving free legal assistance does not freely choose their defense lawyer but instead receives protection guaranteed and funded by the state. Therefore, in order to replace the state-appointed lawyer, the defendant must present significant arguments, including citing the inadequate performance of the lawyer's duties (Supreme Court, 2024).

Finally, an alternative for the defendant is to waive professional legal assistance and represent their own interests in the criminal proceedings. However, as demonstrated earlier, the significantly limited procedural and extra-procedural opportunities available to such an individual cannot guarantee the successful resolution of the criminal case under this option.

Another crucial decision for the defense side in criminal proceedings is the choice of defense strategy, which involves determining the general approach to procedural and extra-procedural actions aimed at realizing the procedural interest of the defendant.



The informational basis for this decision is complex and dynamic. It includes a range of factors, such as the defendant's actual involvement or lack of involvement in the alleged crime, information about the evidence available to the prosecution, the formulation of suspicion or charges, typical case law in similar proceedings, evidence gathered by the defense, the professional abilities and experience of the defense lawyer, the defendant's personal requirements, and others. Clearly, among the defense participants, only a professional defense attorney is capable of adequately evaluating these and other criteria and making a well-balanced decision.

Among the alternatives available to the defense, one can list full admission of guilt, negotiations for the best deal with the prosecution or the victim, refusal to cooperate with the prosecution and the court (passive stance), denial of the charges, presenting alternative versions, and so on. Again, it is quite clear that the best practices for professional defense against criminal charges are known only to professional lawyers. Another possible option could be the complete lack of any strategy, which may occur in the absence of a professional defender in the proceedings or due to the glaring unprofessionalism of the defending lawyer. However, in the context of this study, we will only focus on the rational options for decision-making.

It should also be noted that the implementation of the chosen strategy is carried out through the adoption and execution of a series of intermediate decisions of varying scale (whether to file a certain motion, present a specific piece of evidence to the prosecution or court, which argument to formulate during the closing statements, etc.). For example, the option of presenting alternative versions requires the defense to conduct, in effect, a parallel investigation, identifying and proving facts that the pre-trial investigation authorities failed to establish. Additionally, with the change of significant circumstances in the criminal proceedings (such as the prosecution obtaining substantial incriminating evidence), the defense strategy must be adjusted, which is also the responsibility of the defense attorney.





5 CONCLUSION

Based on the analysis of the provisions of national legislation, scientific sources, and statistical data, the authors examined the decision-making process by the defense in criminal proceedings and identified the key needs and capabilities of the subjects involved in making those decisions.

It is emphasized that the defense in criminal proceedings makes its own non-law-applying decisions, which do not directly affect the course of procedural relationships and are fundamentally different from the decisions of the prosecution or the court. Structurally, decisions made by the defense consist of the pursued goal, the informational basis, and available alternative courses of action. The goals of the defense's activities derive from the general objectives of criminal justice and are specified by the private interest of the defendant. The informational basis of the decisions consists of the available information regarding significant circumstances of the criminal case. The alternative courses of action are determined by a variety of factors, including procedural opportunities, knowledge and experience, physical and legal limitations, and must be considered in the context of individual subjects and specific decisions.

The decision-makers of the defense party include the defendant (suspect or accused), the defense attorney, and the legal representative. The defendant is the primary participant in the proceedings on the defense side, as the outcome of the trial directly concerns their private interests. However, this person is significantly limited in their ability to act rationally and effectively, as they have fewer procedural opportunities, may be restricted in movement and communication, and, as a general rule, do not possess legal education or courtroom experience. In contrast, professional defense attorneys have additional procedural opportunities and guarantees of non-interference, are not subject to any physical limitations, and, by definition, possess specialized education and the necessary professional experience. Legal representatives replace defendants in proceedings when, due to age, health, or legal reasons, they are unable to make decisions independently. These individuals are not





optimal decision-makers, as they do not have additional rights and generally lack the necessary legal skills.

Modeling and analysis of some typical decisions made by the defense (such as choosing a defender or waiving the right to one, selecting a defense strategy) confirm that defendants are often limited in their ability to analyze the informational basis of these decisions and implement optimal behavior options. Therefore, the balance of needs and capabilities in the decision-making process on the defense side can only be achieved if a professional defender is involved in the proceedings, as they possess a range of additional procedural and extra-procedural tools to effectively represent their client's interests.

Further research prospects in this area are linked to the collection and analysis of specific empirical data regarding the grounds and conditions for decision-making by Ukrainian defendants, defense attorneys, and legal representatives, as well as the formulation of concrete practice-oriented recommendations for optimizing the decision-making process by these individuals.





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