

**CONSTITUTIONAL PRESUMPTION OF INNOCENCE
AND THE INSTITUTION OF RELEASE FROM CRIMINAL LIABILITY:
CORRELATION ISSUES**

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Summary

The purpose of the article is to determine, taking into account the results of the analysis of the current legislation of Ukraine and the provisions of the doctrine of criminal law, the issues of correlation and ensuring the compliance of the institution of release from criminal liability with the constitutional presumption of innocence.

The methodological basis of the presented article includes a complex of general and special legal methods including analysis and synthesis, the method of description and observation, comparative- and formal-legal methods.

Results and conclusions. The article, taking into account the results of the analysis of the current legislation of Ukraine and the provisions of the doctrine of criminal law, identifies the problems of the relationship between the institution of release from criminal liability and the constitutional presumption of innocence.

It is established that the release from criminal liability does not refute the admission of guilt of a person, if you give him the value of official confirmation (statement) of the fact that he committed a criminal offense. It is determined that the release from criminal liability also concerns the problems of ensuring the rule of law in the activities of public authorities, compliance of criminal law with the principles and norms of international law, systemic coherence of various branches of the national legal system.

It is determined that the presumption of innocence is recognized as one of the fundamental principles of criminal justice in a state governed by the rule of law. At the same time, it is an important element of the right to a fair trial guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which is part of national law by virtue of Article 9 of the Constitution as an international treaty. However, despite its fixation in the most important international legal acts that enshrine universal standards of fundamental human rights, and the enshrinement of the Constitution of Ukraine states that in practice the presumption of innocence is often violated, as evidenced by a number of decisions of the European Court of Human Rights concerning Ukraine.

Key words: release from criminal liability, presumption of innocence, criminal impact, measures the impact of criminal law, the ratio.

1. Introduction

The Constitution of Ukraine declares that a person is deemed innocent of a crime and may not be criminally punished until one's guilt is legally proven and found by a lawful sentence. A similar provision is reproduced in Part 2 of Article 2 of the Criminal Code of Ukraine (hereinafter – CC). These requirements relate to one of the most important guarantees of observing the rights and freedoms of a person and a citizen - the presumption of innocence. In the most comprehensive way, this provision of a democratic and legal state is set out in Article 17 of the Criminal Procedure Code, Part 1 of which stipulates that “a person shall be deemed innocent of the commission of a criminal offense and shall not be imposed a criminal punishment unless his/her guilt is proved in accordance with the procedure prescribed in this Code and is established in the court judgment of conviction which has taken legal effect”.

In modern criminal law, the system of measures of criminal-legal influence is not exhausted (does not end) only by punishment. The Criminal Liability Law provides for the possibility of applying to a person whose act contains the elements of a crime a number of other “tools” for correcting his behavior, in particular, such as exempting this person from criminal liability on the grounds provided for by law (in particular, provided for in Article 45–49 CC). The legislator is adamant when it comes to the assessment of actions, by the commission of which a person is exempted from criminal liability. Part 1 of Article 44 of the Criminal Code directly states that only “the person who committed the crime” is exempt from criminal liability. Therefore, the body that applies the release is not given the right to change the legal assessment of the person's crime. The legislator does not exclude the committed act from being socially dangerous, but only exempts a person from criminal liability in connection with the presence of certain conditions stipulated by the current criminal legislation. At the same time, the grounds for release from liability are not those that give the right to rehabilitation of a person (Korol V.V., 2011, p. 257). Therefore, the person's act is considered criminal both at the time of its commission and at the time of its assessment by the pre-trial investigation body or the court - as well as when resolving the issue of release from criminal liability. Recognizing a person's act as a crime also means establishing his guilt. This raises certain doubts regarding the consistency of the indicated legal consequence of the crime with some principles of the rule of law in the field of law enforcement.

The peculiarities of the prerequisites and grounds for the application of the norms on release from criminal liability have long been the reason for discussions considering the constitutionality of the mentioned institution, and its compliance with the presumption of innocence as one of the most important principles of modern law. Among the representatives of

criminal law science, in different years, P.P. Andrushko, O.F. Bantyshev, Yu.V. Baulin, V.I. Borisov, G.B. Wittenberg, O.M. Gotin, M.E. Grigorieva, Yu.V. Grodetskiy, O.O. Dudorov, O.O. Zhitny, O.V. Kovitidi, O.S. Kozak, O.M. Lemeshko, V.T. Malyarenko, A.A. Muzyka, O.V. Naden, V.P. Tyhiy, P.V. Khryapinskiy, S.S. Yatsenko, and some other authors have participated in this discussion. At the core of the issue, is the fact that the release of a person from criminal liability allegedly entails the recognition of a person's guilt in committing a crime in a manner not provided for by law, i.e. without a court judgment on this issue.

The purpose of the article is to determine, taking into account the results of the analysis of the current legislation of Ukraine and the provisions of the doctrine of criminal law, the issues of correlation and ensuring the compliance of the institution of release from criminal liability with the constitutional presumption of innocence. The relevance of this issue is not only in the theoretical plane. It also concerns the problems of ensuring the regime of legality in the activities of authorities, compliance of criminal law norms with the principles and provisions of international law, and systemic coherence of various branches of the national legal system.

2. The essence of the institution of release from criminal liability and the presumption of innocence

The study of investigative and judicial practice shows that the anti-criminogenic potential of the institution of release from criminal liability is only partially realized, since the legislator, constructing the analyzed norms, made a number of conceptual shortcomings and editorial errors. As a result, the institution of release from criminal liability has significant contradictions, and some of its provisions come into conflict not only with other articles of the Criminal Code of Ukraine but also with the provisions of other legal branches (Mezentseva I., Borovyk A., 2016., p. 87). Release from criminal liability, as stated in Clause 1 of the Resolution of the Plenum of the Supreme Court of Ukraine “On the practice of application by the courts of Ukraine of the legislation on release from criminal liability” dated December 23, 2005 No. 12, is the state's refusal to apply restrictions of certain rights and freedoms established by law by closing the criminal case to a person who has committed a crime, which is carried out by the court in cases provided for by the Criminal Code of Ukraine and in the manner established by the Criminal Procedure Code of Ukraine. Closing of a criminal case with release from criminal liability is possible only in the case of a person committing a socially dangerous act, which contains the composition of a crime provided for by the Criminal Code of Ukraine, and in the presence of legal grounds defined in the law, an exhaustive list of which is given in part 1 of Article 44 of the Criminal Code of Ukraine, namely: in the cases provided for by this Code, as well as on the basis of the Law of Ukraine on amnesty or an act of pardon (On the practice of application by the

courts of Ukraine of the legislation on the release of a person from criminal).

P.V. Khrypynskyi notes that the problem of release from criminal liability is controversial, certain issues are solved diametrically oppositely in the legal literature (Khrypynskyi P.V., 2014, p. 77-78). Thus, S.G. Kelyna, researching release from criminal liability, defines it as the refusal of the state to give a negative assessment to a person who has committed a crime in the cases provided for in the law. Yu.V. Baulyn understands release from criminal liability as a legal refusal of the state to apply to a person who has committed a crime restrictions on his certain rights and freedoms, defined by the Criminal Code of Ukraine (Baulin Yu.V., 2004, p. 58). V.V. Skibytskyi defines release from criminal liability as the legal eradication of liability of a person who has committed a socially dangerous act prescribed by law if the goals of punishment and the objectives of criminal legislation can be achieved (or have already been achieved) without the use of criminal coercion. O.F. Kovitidi believes that release from criminal liability is the refusal of the state in cases provided for by law to convict and punish a person whose act contains the elements of a crime (Kovitidi, O.F., 2005, p. 107). O.S. Kozak understands release from criminal liability as the state's refusal, represented by the court, to apply to a person who committed a crime the restrictions on certain rights and freedoms provided for by the Criminal Code of Ukraine, which does not entail criminal legal consequences carried out in accordance with the requirements of criminal and criminal procedural laws (Kozak, 2009, pp. 18-19). A.V. Savchenko, V.V. Kuznetsov, and O.F. Shtanko define release from criminal liability as the refusal of the state to apply restrictions, conviction, and punishment of a person who has committed a crime provided for by the criminal law if such a person does not impose a significant public danger, has fulfilled certain regulatory conditions and is able to correct oneself without coercion of the state through punishment (Savchenko A.V., 2005, p. 164). V.S. Egorov sees in release from criminal liability the non-application to a person, who is recognized guilty of committing a socially dangerous act, of the negative legal consequences provided by law for its commission, in connection with the disappearance or significant reduction of the social danger of the criminal act or the person who committed it. P.V. Khrypynskyi notes that release from criminal liability is the state's refusal to officially condemn the person who committed the crime in the form of a guilty sentence by a court and the application of criminal law burdens due to the legal facts provided for in the Criminal Code of Ukraine, which has the effect of terminating all complex of criminal-legal relations (Khrypynskyi P.V., 2014, p. 77).

The principle of presumption of innocence is a generally recognized international legal principle. It is enshrined in a number of universal and regional acts that form the basis of international human rights standards.

It is reflected in Clause 1 of Article 11 of the Universal Declaration of Human Rights of 1948, Clause 2 of Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms of 1950, Clause 2, of Article 14 of the International Covenant on Civil and Political Rights (Convention on the Protection of Human Rights and Fundamental Freedoms of 1950). Its purpose is to protect citizens from unjustified prosecution and conviction.

The presumption of innocence is recognized as one of the fundamental principles of criminal justice in a state governed by the rule of law. At the same time, it is an important element of the right to a fair trial, guaranteed by Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms, which is part of national legislation by virtue of Article 9 of the Constitution of Ukraine - as an international treaty in force ratified by the Verkhovna Rada of Ukraine. However, despite its fixation on the most important international legal acts, which established universal standards of basic human rights, and its normative enshrining in the Constitution of Ukraine (Article 62), in reality, the presumption of innocence has often been violated, as evidenced by, in particular, a number of decisions of the European Court of Human Rights regarding Ukraine (Fulei T., 2012, p. 39).

In order to apply grounds for release from criminal liability (taking into account their substantive-legal, and procedural components), the state body (court) must establish the presence of the elements of a crime in the act, i.e. recognize what the person has committed as a crime. Therefore, the logic of applying the norms of the institution of release from criminal liability requires preliminary recognition of the fact of committing a crime and proof of a person's participation in it. In any other case, one should talk not about release from criminal liability, but about its exclusion (non-occurrence) in connection with the absence of its grounds (Stupnyk Ya.V., Horinetskyi Y.I., 2015, p. 72).

3. Practical challenges of the release from criminal liability implementation

The introduction in 2001 of an exclusively judicial procedure for closing criminal proceedings on "non-rehabilitative" grounds (due to the entry into force of the Criminal Code of Ukraine of 2001, according to Part 2 of Article 44 of which release from criminal liability in the cases provided for by this Code shall be carried out exclusively by the court) has not put to an end the discussion. The main issue on which representatives of substantive criminal law and procedural experts cannot agree is whether the state establishes the guilt of a person who is subject to release from criminal liability, and if so, whether it can be established in the relevant court decision (resolution or rulings), or only a guilty sentence of the court is required for this (Ros H., 2009, p. 232). Thus, the former head of the Supreme Court of Ukraine, V.T. Malyarenko, emphasized: since the release

from criminal liability of persons who have committed a crime is not carried out by issuing a guilty or acquittal sentence, it is necessary to immediately provide for the procedure for considering such cases and issuing rulings, resolutions on closing cases and release of a person from criminal liability. The absence of such an order creates serious problems for law enforcement (Maliarenko V.T., 2005, p. 206). At the same time, some scholars insist that the release of a person from criminal liability can take place only after he is found guilty of a crime in a guilty sentence by the court, as the release of a person from criminal liability outside of the judgment cannot take place, because, in this case, there are no conditions for such a release (Pivnenko V., 2004, p. 39). Ye. Osychniuk notes that a reference to the commission of a crime by a person is possible only if there is a guilty sentence against him, and not a court ruling, since there are many provisions in the legislation, according to which citizens can be limited in certain rights based on the closure of a criminal case against them for “non-rehabilitating” circumstances. Thus, the researcher believes that a paradoxical situation has arisen, when a person based on a court ruling will be considered to have committed a crime and will be subject to certain restrictions in the exercise of his rights, but based on the Constitution of Ukraine as an act of the highest legal force, one at the same time has to be considered innocent. In order to correct this drawback, it is proposed to introduce a rule according to which release from liability is possible based on a judgment by which a citizen is found guilty and at the same time exempted from criminal liability without imposing any punishment (Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of the Ministry of Internal Affairs of Ukraine regarding the official interpretation of the provisions of the third part of Article 80 of the Constitution of Ukraine (the case on parliamentary immunity).

In order to overcome the conflict between the existence of release from liability and the presumption of innocence, a change in the procedure for such release is proposed. However, despite the external “technical” simplicity of such a decision, it is unacceptable for modern criminal law. In the case of its legislative implementation (and the establishment of release from liability exclusively through a court judgment), the difference between the release of a person from punishment (today it is carried out by a sentence as well as the imposition of punishment) and release from criminal liability is blurred. Recognizing negative criminal liability by imposing on the person who committed the crime state condemnation and deprivations of a personal, property and other nature, which are provided for by the criminal law and are determined for this person by the guilty sentence of the court, release from such a liability can be considered as the complete deprivation of the person who committed the crime from the state conviction for it together with all the legal restrictions that would occur in connection

with the conviction (mainly these restrictions that the person undergoes in connection with in connection with serving a sentence). According to the current criminal legislation, negative criminal liability is implemented in one of three forms (conviction with actual punishment, conviction with release from serving the sentence and conviction with release from punishment) (Criminal Law. General part, 2011, p. 718–722). Therefore, release from criminal liability, which does not formally contain state condemnation (conviction), does not belong to the forms of realization of such liability. It is a release not only from the execution of the punishment but also from its appointment, as well as from condemnation (a negative official assessment of the guilty’s behavior by the state in the form of a guilty verdict) (Merkulova V.O., 2007, p. 64). At the same time, release from punishment or release from serving a sentence is a partial deprivation of certain, but not all, legal restrictions of an already convicted person. With the passing of a verdict and its entry into legal force, the state condemns the violator, and criminal liability is imposed on him.

Thus, to demand that a guilty verdict be handed down upon the release from criminal liability means denying this institution the right to exist, since a component of release from criminal liability is, as already noted, a refusal to officially condemn the criminal behavior of the guilty person and to condemn him on behalf of the state. Therefore, release from criminal liability is impossible either through a guilty sentence or through an acquittal (release from criminal liability is possible only in relation to a person who committed an act containing all the elements of a crime) (Criminal Law. General part, 2011, p. 736). From the moment the guilty sentence of the court becomes legally binding, the only release from punishment or its serving or the application of other criminal-legal measures of influence, which are included in the content of certain forms of criminal liability, is possible (Burdin V.M., 2005, p. 71). Thus, the court’s guilty sentence against a person and his release from criminal liability are mutually exclusive categories.

Some scientists suggest, taking into account foreign legislative experience, abandoning the institution of release from criminal liability, while expanding the scope of application of release from punishment and improving other means of criminal law response to a crime, the presence of which can be established only by a guilty sentence of the court, which will allow to abolish the possibility of collision between the provisions of the Criminal Code, the Criminal Procedure Code, and the Constitution of Ukraine (Yatsenko S.S., 2011, p. 165). However, the very existence of the institution of release from liability is based on the fact that the state is ready not to apply official condemnation (actually, sentence) and related means of criminal law influence (repressive in content) to the person who committed the crime, if it recognizes, that such a measure, given the grounds available in the law, is inexpedient. For example, this

is possible due to the fact that, as a result of a change in the situation, a person or his actions (committed for the first time for a crime of minor or medium severity) have lost public danger (Article 48 of the CC). Rejection of the institution of release from criminal liability at the current stage of the development of the criminal policy of Ukraine is impossible, given the presence of a clear tendency to differentiate the means of solving criminal legal conflicts. "The concept that is developing... within the framework of the criminal law institution of release from criminal liability is absolutely necessary from the point of view of criminal policy, and its existence is inevitable for every more or less developed legal order," L.V. Golovko notes.

Nowadays, the issue of harmonizing ("reconciliation") the provisions of the Criminal Code regarding release from criminal liability and the principle of presumption of innocence remains important. However, it should be noted at the same time that the perfection of its wording is open to reasonable doubt today. In particular, V. Lobach comes to the conclusion that the definition of this presumption contains a broad comprehension that does not fully take into account the modern realities of justice, that the literal understanding of "establishment of guilt only by a sentence", which focuses on the conviction of a person, does not correspond to the principle of humanism and international trends in the development of criminal justice regarding alternatives to criminal prosecution (Lobach V., 2003, p. 15).

4. Guilt and culpability as determining factors for solving the ambiguity

It should be noted that Article 62 of the Constitution of Ukraine and in Part 2 of Article 2 of the Criminal Code is actually (it should be noted) not about the "guilt" of a person, but about his "culpability". According to Article 23 of the Criminal Code "guilt is a mental stance of a person with regard to the performed act or omission under this Code and to the consequences thereof, as expressed in the form of intent or recklessness." In such an interpretation, guilt in criminal law is only one of the elements in the subjective side of the composition of the crime, which must be proven along with its other components - the object, the act, the sanity of the person, etc. As a feature that is part of the subjective side of the composition of the crime, guilt (intent or recklessness) must be established both in the proceedings that end with the imposition of punishment and in the proceedings in which the person is released from criminal liability. "The decision on the release of a person from criminal liability must be preceded by a complete and accurate establishment of the actual circumstances of the committed crime and the correct qualification of the committed crime", points out O.O. Dudorov (Dudorov O., 2009, p. 40). Such polysemy in the use of the term "guilt" in Ukrainian law leads some domestic researchers to

ambiguous, unsubstantiated (and therefore controversial) conclusions, an example of which is the position of O.S. Kozak, who believes that "proving the guilt of a person in the manner prescribed by law and establishing of this fact by the court's decision in the form of a justified resolution to close the criminal case in connection with the release of a person from criminal liability is not a violation of the principle of presumption of innocence, since the person's guilt is proven in a legal manner and established by the court's decision" (Kozak O.S., 2008). In this regard, R.V. Veresha should be supported in his proposal on the expediency of formulating of Part 2 of Article 2 of the Criminal Code in the new edition: "A person is considered innocent of committing a crime and cannot be subjected to criminal punishment until his culpability is proven in a legal manner..." (Veresha R.V., 2005, p. 110). So, formally (primarily in the criminal-procedural sense) the category "culpability" means no more than the statement that "it was this person who committed the act against which he is accused" (Dudorov O., 2009, p. 41).

In Article 62 of the Constitution of Ukraine and in Part 2 of Article 2 of the Criminal Code, the recognition of guilt (more precisely, culpability) of a person is connected only with the imposition of punishment. Such a requirement is consistent with Part 1 of Article 50 of the Criminal Code, according to which punishment is imposed only on a person found guilty of committing a crime. The international democratic community, the relevant acts of it were cited at the beginning of this publication, also associates the recognition of a person's culpability by a court sentence within the limits of the presumption of innocence with the imposition of punishment (and not other means of criminal legal influence). The connection between the categories "culpability" and "punishment" allows us to assume that culpability is an indispensable (mandatory) prerequisite for punishing a person. But at the same time, neither the criminal law nor the criminal procedural law requires recognition of culpability as a prerequisite for the application of punishment alone. A dogmatic and systematic interpretation of the legislation allows us to state that the recognition of a person's culpability when applying other measures of criminal legal influence is not prohibited either at the international or national level. Thus, the procedure of release from punishment (for example, according to Part 4 of Article 74 of the Criminal Code) or release from serving a sentence (for example, according to Article 75 of the Criminal Code) requires the court to issue a guilty sentence. However, this circumstance does not become a basis for raising the question of unconstitutionality (inconsistency with Article 62 of the Fundamental Law of the State) or inconsistency with international standards of human rights of such forms of implementation of criminal liability (Stupnyk YaV., Horinetskiy Y., 2015, p. 73).

One should agree with the opinion of O.F. Kovitidi that “the Constitution of Ukraine links the establishment of a person’s guilt by the court’s sentence with the possibility of imposing a punishment on him, and this consequence is by no means foreseen in the case of a decision on release from criminal liability” (Kovitidi O.F., 2005, p. 16), as well as that “the Constitution resolves only one, albeit very fundamental issue, namely: a person can be found guilty of committing a crime only by a court’s sentence” and this “does not exclude the fact that being recognized as having committed a crime, a person may be released from criminal liability by a court, but in a different procedural order” (Baulin Yu.V., 2004, p. 55).

5. Recognition of release from criminal liability as an alternative to a criminal punishment

In order to solve the set tasks, release from criminal liability should be considered from the point of evaluating this institution as an alternative to a criminal punishment as a means of criminal-legal influence, which is used at the stage of criminal-legal relations when the crime is revealed, the person who committed it has already been exposed, and his guilt in the committed act is confirmed by a sufficient evidentiary base formed during the criminal proceedings (Stupnyk Ya.V., Horinetskiy Y.I., 2015, p. 75).

Such a release is considered a proven domestic variant of an alternative response to the commission of a crime, which replaces the state’s traditional response to a crime. The application of such an alternative should differ in form (procedural aspect) and content (the presence of an official conviction – moral and ethical aspect) and legal consequences (substantive and legal aspect) from the application of punishment. In particular, a court decision (ruling) should be a fully sufficient decision on this issue, in which, on the one hand, the grounds for applying the exemption of a person from criminal liability must be substantiated, on the other hand, the actual circumstances of the crime committed by him, his qualifications, evidence of his guilt, etc. When such a decision (ruling) is issued, the defendant does not acquire the status of a convicted person, which gives the state the right to apply a punishment to him. Since the release from criminal liability does not indicate the acquittal of a person, the recognition of his innocence of a crime, then, when deciding the issue of releasing a person from criminal liability, the court not only has the right but also must establish the guilt of this person in committing a crime. The Criminal Code of Ukraine, regulating the analyzed legal institution, proceeds from the establishment of the fact that a person has committed a criminal act, and therefore the grounds for release from criminal liability provided by law are recognized as non-rehabilitative (Criminal Law. General part, 2011, p. 732).

6. Conclusions

Thus, the analysis of the problem of ensuring compliance of the institution of release from criminal

liability with the constitutional and international legal presumption of innocence ultimately allows to support the position according to which the substantive legal institution of release from criminal liability stipulated by the Criminal Code of Ukraine does not contradict the presumption of innocence. However, for this, its prescriptions should be evaluated, firstly, as not included in the mechanism of implementation of criminal liability, and secondly, as alternative measures of criminal law influence in comparison to punishment. At the same time, such dismissal does not negate the recognition of a person’s guilt, if we give it the meaning of official confirmation (acknowledgment) of the fact that he committed a criminal offense.

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КОНСТИТУЦІЙНА ПРЕЗУМПЦІЯ НЕВИНУВАТОСТІ ТА ІНСТИТУТ ЗВІЛЬНЕННЯ ВІД КРИМІНАЛЬНОЇ ВІДПОВІДАЛЬНОСТІ: ПРОБЛЕМИ СПІВВІДНОШЕННЯ

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Анотація

Метою статті є визначення, з урахуванням результатів аналізу чинного законодавства України й положень доктрини кримінального права, проблем співвідношення та забезпечення відповідності інституту звільнення від кримінальної відповідальності конституційній презумпції невинуватості.

Методологічною основою представленої статті є комплекс загально- та спеціально-правових методів, що включає аналіз і синтез, метод опису та спостереження, порівняльно- та формально-юридичний методи.

Результати та висновки. У статті з урахуванням результатів аналізу чинного законодавства України й положень доктрини кримінального права визначено проблеми співвідношення інституту звільнення від кримінальної відповідальності конституційній презумпції невинуватості.

Встановлено, що звільнення від кримінальної відповідальності не спростовує визнання винуватості особи, якщо надавати йому значення офіційного підтвердження (констатації) факту вчинення нею кримінального правопорушення. Визначено, що звільнення від кримінальної відповідальності стосується й проблем забезпечення режиму законності в діяльності органів влади, відповідності норм кримінального права принципам і нормам міжнародного права, системній узгодженості різних галузей національної правової системи.

Визначено, що презумпція невинуватості визнається однією з основоположних засад кримінального судочинства в правовій державі. Водночас вона є важливим елементом права на справедливий суд, гарантованого статтею 6 Конвенції про захист прав людини і основоположних свобод, яка є частиною національного законодавства в силу статті 9 Конституції України – як міжнародний договір, згоду на обов'язковість якого надана Верховною Радою України. Однак, незважаючи на її фіксацію у найважливіших міжнародно-правових актах, які закріпили універсальні стандарти основних прав людини, та нормативне закріплення в Конституції України зазначено, що на практиці презумпція невинуватості часто порушується, свідченням чого є, зокрема, низка рішень Європейського суду з прав людини щодо України.

Ключові слова: звільнення від кримінальної відповідальності; презумпція невинуватості; кримінально-правовий вплив; заходи кримінально-правового впливу, співвідношення.