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PUBLIC SAFETY AND ORDER ENSURING IN THE COURSE OF LAW ENFORCEMENT SYSTEM REFORMING IN UKRAINE

Current process of intensive reforming in political, social and economic areas in Ukraine affects the dynamics of social relations and shapes major trends of the state development as transitional period is essentially characterized with lack of social stability and aggravation of crime situation. Therefore social-economic and political environment in our state is marked with such attribute as public order maintenance problems and law enforcement is tasked to develop and apply the most optimal solutions. According to Decree of the President of Ukraine «Decision of Council of National Security and Defence of Ukraine dd. March 4, 2016 «On the Concept of National Security and Defence Sector Development» of March 14, 2016 № 92/2016, public safety and order maintenance by the Ministry of Interior of Ukraine and National Police of Ukraine is defined as one of the priority issues of national security and defence sector development in Ukraine [1].

The Constitution of Ukraine guarantees every citizen a right to take part in peaceful gathering or mass event held in strict adherence to the law but often different meetings, demonstrations, marches which have become a common way to express objection or disapproval by the citizens are organized with multiple violations of relevant requirements and procedures (mostly due to the fact that applicable legislation lacks consistency and full of discrepancies), with increased risk of violent acts commission and extremist involvement posing direct threat to public safety and order and, in some cases, threatening to the state security.

Currently due to high level of criminalization, economic instability and other negative factors we can claim that state power bodies fail to ensure public safety and order. The Law of Ukraine «On National Police» dd. 02.07.2015 № 580-VIII envisages key legislative framework of NPU activity organization, status of police officers and relevant career programs [2].

For the first time Ukrainian legislator has incorporated the term «public safety» into provisions related to activities of law enforcement agencies and structures but traditional definitions of «civic security» and «civic order», still present in separate acts, lead to multiple discrepancies and misinterpretations. It leads to conflict of laws regulating public safety and order maintenance. European and global legal practice justifies application of public security and order definition due to its positive perception by the international community. That is why research of public security and order maintenance during mass events

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as administrative-legal protection object should be followed by relevant amendments to applicable legislation with aim to harmonize it and eliminate existing discrepancies.

It should be noted that the Constitution of Ukraine never mentions definitions of «public safety» or «public order». Instead the term «civic order» is used. Thus, paragraph 17 of Article 92 of the Constitution of Ukraine defines foundations of national security, Armed Forces organization and public order maintenance.

Also Article 34 of the Constitution of Ukraine, which envisages right for freedom of expression and speech, free expression of opinions and beliefs, mentions opportunity to restrict the abovementioned rights for the sake of national security, territorial integrity protection or public order maintenance. It is similar for Article 39 which envisages the right of citizens to participate in peaceful gatherings without weapons stating that any restriction regarding the enjoyment of this right may be established by the court in accordance to the law serving the interests of national security and public order [3].

At the same time the Law of Ukraine «On National Police» dd. July 2, 2015 № 580-VIII gives direct reference to the statement that National Police of Ukraine is a central executive power body providing services to citizens on human rights and freedoms protection, crime combating, public safety and order maintenance [2].

The abovementioned also proves that legislator uses definitions of public (civic) safety and order as synonyms and sometimes as analogues – we consider this approach to be incorrect due to the lack of proper explanation and absence of these definitions in the text of Constitution which evidently results in additional legislative discrepancies. We agree with opinion of V. Fatkhutdinov that definitions of «public safety» and «public order» started to appear in legislative acts and other documents during Soviet times, so the intention to update the terminology is clear. In the process of drafting the Law of Ukraine «On National Police» legislator used primarily foreign practices (the USA, France, Great Britain, Germany) which led to automatic transfer of relevant definitions [4, p. 49]. It is important to note that public safety and order maintenance during mass events is an essential object of administrative-legal protection with methods, forms, procedures, means envisaged by the law. Applicable legislation in the abovementioned area requires completion of terminology harmonization with official definitions of public safety and order to be established. While defining the optimal ways of Ukrainian legislation improvement we must refer to specific foreign practices.

In Germany during mass events federal and local police may be involved (in Germany 2- level law enforcement system functions – federal police and local (land) police). Also in Germany public safety and order are maintained by special units subordinated to Federal Agency of the Ministry of Interior which perform some police functions. For example, Federal Border Protection Service is involved to public safety operations during different mass events. On the local

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level in federal lands function of public safety and order maintenance is performed by public safety police (patrol police) and readiness police (in case if any threat is posed, Federal Government may give direct orders to police forces of one or several lands) [5, p. 76].

In Britain these activities are regulated by the Law «On police» (1996). Key function of the British police is to ensure public safety while any measure regarding public order maintenance may be taken by any police officer regardless of his/her rank and position. At the same time the abovementioned functions in Great Britain are not defined as administrative activity [6, p. 8].

In Portugal according to the Law «On public safety police» (2007) special police units are established which mission is to ensure the legitimacy, internal security and protect citizens' rights according to Constitution and law. Public safety police is directly subordinated to the government official responsible for internal administration with unified structure nationwide [7, p. 202].

Analysis of foreign practices brought us to conclusion that in EU state non-lethal weapon is allowed for use by the law if any threat is posed during the riotous disturbances. Also violators arrested during mass events after demonstrations of improper behaviour may be kept in detention up to 8 hours and immediately taken to the court as in such cases judiciary is functional at any time of the day.

Taking the abovementioned into account we offer to interpret the public security and order maintenance during mass events as object of administrative-legal protection – an open system of public systematized social relations aimed at ensuring of appropriate conditions for the society existence and protection of national interests in case of natural and technological disasters, social, political or military conflicts, including prevention and elimination of any negative consequences resulting in damage by application of legislation.

References:

1. Про рішення Ради національної безпеки і оборони України від 4 березня 2016 року «Про Концепцію розвитку сектору безпеки і оборони України»: Указ Президента України від 14 березня 2016 року № 92/2016.
2. Про Національну поліцію: Закон від 02.07.2015 р. № 580-VIII // Відомості Верховної Ради (ВВР). – 2015. – № 40–41. – С. 379.
3. Конституція України від 28.06.1996 р. № 254к/96-ВР // Відомості Верховної Ради України (ВВР). – 1996. – № 30. – Ст. 141.
4. Фатхутдінов В. Г. Громадський vs публічний у дзеркалі правничої герменевтики / В. Г. Фатхутдінов // Науковий вісник Херсонського державного університету. – 2015. – Вип. 4. – Т. 1 – С. 45–50.
5. Конституції країн парламентської демократії / під ред. В. М. Кампо. – К.: Інститут державного управління і самоврядування при КМУ, 1994. – 93 с.
6. Заросило В.О. Порівняльний аналіз адміністративної діяльності міліції України та поліції зарубіжних країни (Великобританії, Канади, США

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та Франції): автореф. дис. ... канд. юрид. наук: спец. 12.00.07 «Теорія управління; адміністративне право і процес; фінансове право; інформаційне право» / В.О. Заросило. – К., 2002. – 21 с.

7. Статус поліції: міжнародні стандарти і зарубіжне законодавство / за заг. ред. О.А. Банчука. – К.: О.М. Москаленко, 2013. – 588 с.

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**ENSURING PUBLIC SAFETY BY THE NATIONAL POLICE
OF UKRAINE UNDER MARTIAL LAW**

Martial law was imposed in Ukraine on February 24 for a period of 30 days in response to Russia's military aggression against Ukraine [1]. The military command together with the Ministry of Internal Affairs, other executive bodies, and local self-government bodies, must ensure the measures and powers provided by the Law of Ukraine "On Martial Law" necessary to ensure Ukraine's defense, public safety, and state interests [2].

During martial law the police act in accordance with the purpose and specifics of their activities, taking into account those restrictions on the rights and freedoms of citizens as well as the rights and legal interests of legal entities, which are determined in accordance with the Constitution of Ukraine and the Law of Ukraine "On the Legal Regime of Martial Law" [2] [3].

In the Law of Ukraine "On the National Security of Ukraine" public security and order are defined as "the protection of interests, rights and freedoms of a person and a citizen vital to society and the individual, the provision of which is a priority task of the security forces, other state bodies, local self-government bodies, their officials and the public, who carry out coordinated measures to implement and protect national interests from the influence of threats" [4].

At the same time, the Law of Ukraine "On the National Police" uses the term "public security", the definition of which is absent in the Law. During the legal regime of martial law in Ukraine the National Police ensures public safety and order in accordance with the current Law of Ukraine "On the National Police" [3].

Having read the provisions of the main regulatory document that regulates the activities of the National Police, you can come to the conclusion that:

- public safety and order are recognized as an important sphere of public life, which needs to be ensured and supported by the National Police;
- The National Police is the central institute of the executive power, which carries out state policy in the field of maintaining public security and order [3].