

# ON THE ISSUE OF REFORMING THE SYSTEM OF LAW ENFORCEMENT BODIES OF UKRAINE

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**Annotation.** *During the entire period of Ukrainian independence, economic, political, judicial, and administrative reforms are constantly taking place in it. Taking into account the fact that law enforcement agencies are called to ensure the protection of citizen's rights and freedoms, public law and order and security, protection of the interests of society and the state, accordingly, they could not affect the reform of the entire system of law enforcement agencies of Ukraine. It is emphasized that many scientific works of domestic legal scientists are devoted to the issue of researching the formation and development of the law enforcement system, as well as the activities of law enforcement agencies. However, changes in the political Olympus constantly affect the issue of the reform of the state's law enforcement agencies. During the period of independence, from the day of the proclamation of the Act of Independence of Ukraine in 1991, until today, the reform of law enforcement agencies has undergone several stages of its reformation. The Decree of the President of Ukraine on the Approval of the Comprehensive Strategic Plan for the Reform of Law Enforcement Bodies as Part of the Security and Defense Sector of Ukraine for 2023–2027, issued on May 11 of this year, essentially initiated a new (modern) stage of reforming the country's law enforcement agencies.*

*It was concluded that the initiated reform of the system of law enforcement agencies will largely depend on the effectiveness of the Cabinet of Ministers of Ukraine, because it is the Government of Ukraine, being the highest body in the system of executive authorities, that together with the relevant state bodies must develop and approve a plan of measures aimed at the implementation of the Comprehensive Strategic the plan for the reform of law enforcement agencies as part of the security and defense sector of Ukraine for 2023-2027, approved by the Decree of the President of Ukraine. Attention is drawn to certain shortcomings of the Comprehensive Strategic Plan for reforming law enforcement agencies.*

**Key words:** *state, decree, resolution, system, protection, law, freedom, authorities.*

## 1. Introduction.

In the modern conditions of the development of Ukrainian statehood, law enforcement agencies act as guarantors of the rights and freedoms of man and citizen, ensure the security of the state, however, despite the fact that, according to sociologists, the trust of Ukrainians in state institutions has increased after the beginning of the full-scale Russian invasion. Thus, as of the beginning of 2023, the Kyiv International Institute of Sociology stated that the balance of trust in the Security Service of Ukraine increased from 7% to +54%, and to the National Police – from 14% to +45%. At the same time, prosecutors and courts have the lowest level of trust: the balance of trust/distrust in prosecutors is 11%, in judges 9%. The given statistical data indicate significant problems in the activities of law enforcement agencies, whose activities do not correspond to the public interests of today's conditions, which determines the relevance of this article.

## 2. Analysis of scientific publications.

The question of reforming the law enforcement system, as well as the activities of law enforcement agencies, was addressed, in particular, by such domestic legal scholars as M. Anufriev, O. Bandurka, Yu. Bityak, I. Golosnichenko, V. Hrytsenko, R. Kalyuzhny, A. Kulish, E. Kubko, V. Moysyk, O. Ostapenko,

V. Tatsii, O. Yarmysh, and others. However, the implementation of law enforcement reform in Ukraine inevitably influenced and influences the reforming and organization of the entire law enforcement system of Ukraine, which attracts the constant attention of scientists.

**3. The purpose of the work** is to generalize scientific-theoretical and practical approaches to reforming the system of law enforcement agencies, the author's vision and justification of ways to reform the system of law enforcement agencies of Ukraine.

The main method of scientific work is the method of legal analysis, the use of which made it possible to determine in the context of a holistic presentation of knowledge about the system of law enforcement agencies. Emphasis is placed on the methodological importance of philosophical and theoretical provisions, the connection with the general legal doctrine of the reform of administrative law, which is based on the human-centered ideology of service to people, this fully applies to the activities of law enforcement agencies, whose activities must correspond to: the rule of law, legality; implementation of a permanent report of law enforcement officials to citizens; implementation of permanent public control over the activities of law enforcement agencies; justification of the need to introduce new approaches to reforming the entire system of law enforcement agencies. It has been proven that the researched reforms of the system of law enforcement agencies largely depend on the effectiveness of the Cabinet of Ministers of Ukraine, citizens and the entire caring society. The practical significance of the research results is that theoretical provisions and conclusions can become the basis for further scientific research on reforming the system of law enforcement agencies of Ukraine.

#### **4. Review and discussion.**

Law enforcement activity is traditionally understood as the use by state entities of powers to detect and sanction (punish) violations of legal rules. Law enforcement agencies symbolize the presence of the state in our everyday life, its ability to intervene and protect when such protection is needed [1, s. 9]. At the same time, one should agree with the opinion of O. Svitlychny that public authorities are the key subject of service provision, they have a leading place and role in ensuring the realization of the rights and legitimate interests of citizens [2, s. 235]. This fully applies to law enforcement agencies, most of which belong to central executive bodies. For example, the National Police of Ukraine is the central body of the executive power, which serves society by ensuring the protection of human rights and freedoms, countering crime, and maintaining public safety and order. And one of the tasks of this leading law enforcement body is to provide, within the limits defined by law, assistance services to persons who, for personal, economic, social reasons or as a result of emergency situations, need such assistance.

It should be noted that since the beginning of independence, the Ukrainian state, our state, has gone through several stages of reforming the system of law enforcement agencies. In our opinion, the first stage of reforming the law enforcement agencies of modern Ukraine was initiated in 1991, when the Act of Independence was proclaimed and Concepts for the development of the system of the Ministry of Internal Affairs were adopted. The next stage of the reform was 1996, when the Constitution of Ukraine was adopted. After the Revolution of Dignity in 2014, the third stage of law enforcement reform came. After 2014, the Strategy for the Development of Internal Affairs Bodies of Ukraine and the Concept of Priority Actions for Reforming the Ministry of Internal Affairs system developed by the Ministry of Internal Affairs were approved, as well as the order of the Cabinet of Ministers of Ukraine «Issues of Reforming Internal Affairs Bodies of Ukraine».

With the adoption of the Comprehensive Strategic Plan for the Reform of Law Enforcement Bodies as a Part of the Security and Defense Sector of Ukraine for 2023-2027, a new stage of law enforcement system reform has begun. We want to focus our attention on today's reforms.

Approved by the Decree of the President of Ukraine on the Comprehensive Strategic Plan for the Reform of Law and Order Bodies as a Part of the Security and Defense Sector of Ukraine for 2023–2027 dated May 11. No. 273/2023 of 2023, initiated a new stage of law enforcement reform, which defined the following strategic priorities:

1. The effectiveness and efficiency of law enforcement agencies and the prosecutor's office as an integral component of the security and defense sector, within which they ensure the national security of Ukraine, including public safety and order, combat crime taking into account strategic goals and in accordance with the standards of human rights and fundamental freedoms, including ensuring gender equality.
2. A consistent criminal policy, the priority of which is the prevention of crime, the inevitability of responsibility, the protection of the individual, society and the state from criminal offenses, ensuring the interests of the victim.
3. Promptness of criminal proceedings in compliance with international standards and the principle of the rule of law.
4. A management system focused on results in accordance with established priorities.
5. Comprehensive digital transformation.
6. Openness, transparency, accountability and independence.

We agree with the thesis expressed in the Decree that the priority among the changes is the guarantee of the rights and freedoms of a person and a citizen, as well as the further development of a democratic state in which the rule of law is consistently ensured. Along with this, the need to accelerate digitalization, to ensure maximum efficiency and effectiveness of work in the public sector is deepening. This request is more than relevant for the system of law enforcement agencies, which must strengthen their strategic and operational potential in order to properly perform the functions defined by the legislation of Ukraine. The thesis that changes in the system of law enforcement agencies should be comprehensive and relate to all aspects of their functioning: from training and selection of highly professional employees to ensuring the effectiveness of the system's functioning, taking into account international standards, in particular, accountability and transparency, is quite valid. Corruption and other risks should be further minimized, including by strengthening the mechanisms of democratic civil control over the decision-making process. At the same time, the general goal of reforming law enforcement agencies is to improve their value orientations, organizational culture, management structure, legislative regulation, in particular, taking into account the needs of law enforcement practice.

The analysis of the Comprehensive Strategic Plan indicates that it does not apply to all law enforcement agencies, namely: the prosecutor's office, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, the State Border Service of Ukraine, the State Bureau of Investigation, the Bureau of Economic Security of Ukraine, the Security Service of Ukraine and the State customs service of Ukraine.

That is, the reform plan was calculated by the indicated bodies. For some reason, the National Guard of Ukraine remained outside the Comprehensive Strategic Plan, which, in accordance with the Law of Ukraine «On the National Guard of Ukraine» dated 03.13.2014 No. 876-VII, is a military formation with law enforcement functions that is part of the system of the Ministry of Internal Affairs of Ukraine and is assigned to perform tasks of protection and protection of life, rights, freedoms and legitimate interests of citizens, society and the state from criminal and other illegal encroachments, protection of public safety and order and provision of public safety, as well as in cooperation with law enforcement agencies – to ensure state security and protection of the state border, cessation of terrorist activities, activities of illegal paramilitary or armed formations (groups), terrorist organizations, organized groups and criminal organizations.

Another debatable issue is that in the Comprehensive Strategic Plan we are talking about law enforcement agencies. That is, this regulatory act includes only the bodies specified in it, but the second part of Art. 12 of the Law of Ukraine includes: Ministry of Defense of Ukraine, Armed Forces of Ukraine, State Special Service of Transport, Ministry of Internal Affairs of Ukraine, National Guard of Ukraine, National Police of Ukraine, State Border Service of Ukraine, State Migration Service of Ukraine, State Service of Ukraine for emergency situations, the Security Service of Ukraine, the Anti-Terrorist Center under the Security Service of Ukraine, the Court Security Service, the State Security Office of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the Apparatus of the National Security and Defense Council of Ukraine, intelligence agencies of Ukraine, the central executive body authorities, which ensures the formation and implementation of the state

military-industrial policy. Secondly, Art. 1 of the same Law refers to the security and defense sector, security forces and defense forces as law enforcement and intelligence agencies, as well as special state agencies with law enforcement functions.

So, a logical question arises, which bodies – law enforcement agencies and/or law enforcement agencies will the state reform?

It is worth noting that in 2012, as the Chairman of the Constitutional Assembly Commission on Law Enforcement Activities, Academician V. Tatsii noted that in legislative and law enforcement processes it is advisable to abandon the term «law enforcement agencies» and divide this system of bodies depending on their specific functions and appointment in the law enforcement mechanism, which acts as a criterion for distinguishing them from certain classification groups. In this regard, the Commission proposes to single out:

- 1) law enforcement bodies – unlike other bodies of executive power, for them:
  - a) the law enforcement function is the main one and exercises powers aimed at protecting human rights and freedoms and maintaining law and order;
  - b) in this regard, they have the right to legally use coercion;
  - c) have armed formations in their composition;
- 2) control (jurisdictional) bodies of the executive power – to this system it is expedient to include those bodies of the executive power that are endowed with control powers and exercise administrative jurisdiction;
- 3) bodies protecting the Constitution and state control [3, s. 288-289].

As a result, the system of law enforcement agencies includes bodies that differ in their status and functional purpose, which makes it impossible to clearly define this system. For example, the attribution of judicial bodies to it, which is quite often found not only in doctrine, but also at the legislative level, is terminologically permissible, but inappropriate in view of the special place of judicial power in the legal system [4, s. 287].

It is also worth noting that the current legislation does not always indicate that this body is a law enforcement agency. In addition, taking into account law enforcement and law enforcement functions, not all bodies, in the «classic» sense, are law enforcement, another issue is that there are bodies that perform only separate law enforcement functions, and the absence of an indication in the normative legal act that the body is law enforcement, nor can it serve as a statement that a specific body is not law enforcement. Example, National Police. Therefore, when defining a law enforcement agency, as well as any other, it is necessary to proceed from its administrative and legal status.

Against the background of discussions on the reform of law enforcement agencies, in which the prosecutor's office takes an active part, the Ministry of Internal Affairs of Ukraine, which is working on a draft law, the purpose of which is to ensure the reliable operation of law enforcement agencies, as well as on a comprehensive document that should form a post-war security environment in the state and the Bureau of Economic security of Ukraine. However, we do not hear about the active activities of the Cabinet of Ministers of Ukraine, because the success of reforming law enforcement agencies largely depends on the active participation of this body.

## 5. Conclusions.

Taking into account the considerations outlined above, we believe that in order to eliminate the existing shortcomings, the legislator needs to provide a definition of the concept of «law enforcement body» or «law enforcement», this in turn will allow us to determine which system of state bodies we are reforming. The Cabinet of Ministers of Ukraine should be active in reforming law enforcement agencies, because the success of reforming law enforcement agencies largely depends on its active participation.

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