

PRINCIPLES OF ACTIVITY OF LAW ENFORCEMENT BODIES

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Annotation. *Based on the research of scientific opinions, the new administrative-legal doctrine, the analysis of domestic and international legislation, the article examines the key fundamentals of administrative-legal support for the activities of law enforcement agencies. Considering the fact that domestic law enforcement agencies and their officials have constant relations with citizens in their activities, it is emphasized that modern principles of administrative law should play an important role in these relations, which is the purpose of the work. The methodological basis of the work is the provisions of the modern theory of scientific knowledge of legal and social phenomena. In the course of writing the article, general philosophical, general scientific, logical and special legal methods of scientific knowledge were used. The main international principles and standards that determine the content of the activities of law enforcement agencies in international agreements ratified by Ukraine are highlighted. Based on the analysis of the legislation, the modern principles of the National Police, as one of the leading law enforcement agencies of the state, are considered. An important place is given to the characteristics of foreign legal acts aimed at ensuring and protecting the rights of citizens by law enforcement officials. For this purpose, international legal acts, which are one of the main sources of legal regulation of relations arising in the activities of law enforcement agencies, were analyzed. They establish the norms and principles of behavior of an official of a law enforcement agency for the performance of professional activities in relations with citizens and the rules of conduct binding on them in specific conditions of law enforcement activity. The need to introduce special principles of administrative law into the activities of law enforcement agencies is substantiated. On this basis, the following special principles have been researched, substantiated in detail and recommended: the principle of ensuring trust; the principle of ensuring human rights; the principle of providing access to information technologies; the principle of ensuring the confidentiality of information. These principles correspond to the domestic administrative-legal doctrine, international standards and principles, legal relations of officials of law enforcement agencies, which can be an important direction of the new administrative-legal doctrine of law-enforcement agencies.*

Key words: *theory, practice, legislation, international standards, administrative law, relations, society.*

1. Introduction.

It is difficult to imagine the organization and activity of any state authority, which, regardless of the purpose and tasks, would not be guided by the basic ideas that determine the directions and legal mechanisms of legal regulation of social relations. This fully applies to the law enforcement agencies of our country, which in their daily activities are guided by the general, enshrined in the Constitution of Ukraine and special principles of administrative law, focused on observing the rights and freedoms of citizens, ensuring guarantees of their effective implementation and protection, taking into account the fundamental values of freedom, rule of law and legality. It is the principles of administrative law detailed in special domestic legislative acts and international agreements that ensure practical organization and determine the activities of law enforcement agencies and their officials. An important role in legal relations between citizens and law enforcement agencies is played by international legal acts, where the principles of protection of human rights are fundamental in the activities of law enforcement officers.

At the same time, the constant development of social relations, which is dynamic, affects the determination of the place and role of the principles of administrative law in the administrative and legal provision

of the activities of law enforcement agencies, which requires new views on the special principles of administrative law, oriented to international principles and standards, which determines the goal of this work.

2. Analysis of scientific publications.

A significant number of works by scientists of various branches of science, for example, V. Averyanova, V. Golunka, O. Gulak, R. Kalyuzhny, V. Kolpakova, T. Kolomoets, O. Korotun, O. Svitlychnoy, S. Stetsenko and many others. However, many issues related to the principles of administrative and legal support for the activities of law enforcement agencies remain unexplored, which determines the relevance of this article.

3. The aim of the work consists in the generalization of scientific and theoretical approaches to the characterization of the principles of administrative law, the justification of the need to introduce new special principles into the activities of law enforcement agencies.

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 principles of administrative law, by analyzing the consequences: 1) theory of law, 2) principles of law, 3) general principles, 4) principles of administrative law. Focused attention on the methodological significance of philosophical and theoretical provisions, connections with the general legal doctrine of administrative law, principles and standards of international law; ensuring consideration of general principles and special principles of administrative law in normative legal acts; justification of the need to introduce special principles into the activities of law enforcement agencies. It has been proven that the researched and proposed principles of administrative and legal support for the activities of law enforcement agencies correspond to the domestic administrative and legal doctrine, international standards and principles, and legal relations between officials of law enforcement agencies and citizens. The practical significance of the research results is that theoretical provisions and conclusions can become the basis for further scientific research on updating the doctrinal foundations of Ukrainian administrative law.

4. Review and discussion.

In the general theory of law, the principles of law are considered as the primary source, fundamental value-driven guidelines, initial provisions that characterize the content of law, its essence and purpose in regulating social relations.

Any principles, including the principles of law, are the product of human activity, the result of which they act and the interests of which they satisfy. Principles are social phenomena, both in origin and content: their emergence is determined by the needs of social development and they reflect the regularities of social life. The main sources of these principles are politics, economics, morality, ideology, and social life [1, s. 46].

If we analyze domestic legislative acts, in particular, the Basic Law of Ukraine, then we will find in it the main sources of the principles of administrative law. In particular, that general principles are of fundamental importance for the entire field of administrative law. They are revealed and detailed in the sectoral principles of administrative law, which, in turn, are divided into basic principles and principles of the formation and functioning of its individual institutions (for example, principles of public service, principles of administrative responsibility, principles of administrative procedure, etc.) [2, s. 15].

Considering the fact that law enforcement officers have permanent relations with citizens in their activities, modern principles of administrative law should play an important role in these relations. The important role of Ukrainian administrative law and its principles in the light of European integration requirements was emphasized by academician V. Averyanov, who noted that an important direction in the development of the new administrative-legal doctrine is the rethinking of the principles of administrative law, precisely thanks to its principles, administrative law in Europe is clearly focused on the rights and interests of

people. The only possible way to ensure the principle of the rule of law in the field of administrative and legal regulation should be recognized as a decisive transition to a human-centered ideology [3, s. 5].

In order to outline the principles of administrative and legal support for the organization and activities of law enforcement agencies, we must take into account not only the achievements of legal scholars, but also pay attention to the current domestic legislation that regulates the relations between the activities of law enforcement agencies.

Regarding the principles operating in the legislative acts, let us first of all pay attention to the principles of the National Police of Ukraine, as the leading law enforcement body, in Chapter II of the Law of Ukraine «On the National Police» dated 07.02.2015 No. 580-VIII, the following basic principles are laid down principles: 1) rule of law; 2) observance of human rights and freedoms; 3) legality; 4) openness and transparency; 5) political neutrality; 6) interaction with the population on the basis of partnership; 7) continuity [4].

In general, the above principles reflect the basic and guiding principles of the activity of law enforcement officers, which they should be guided by in their activities. However, they cannot fully provide a significant array of principled guiding ideas that lie in the sphere of activity of law enforcement agencies. We believe that in their daily activities, officials of law enforcement agencies of Ukraine should be guided by other basic principles that correspond to today's conditions.

On this basis, we suggest supplementing the fundamental principles of the activity of any law enforcement agency, in particular, with such special principles as: the principle of ensuring trust; the principle of ensuring human rights; the principle of providing access to information technologies; the principle of ensuring the confidentiality of information. Let's examine each of the above principles.

The principle of ensuring trust is one of the fundamental principles in relations between citizens and law enforcement agencies.

Analyzing public trust as a criterion for evaluating the effectiveness of law enforcement agencies, O. Pronevich considers trust as a kind of emotional background of effective interaction between law enforcement agencies and the public. Trust in law enforcement agencies is a special positive attitude of individuals and various social groups, which is characterized in the emotional and intellectual aspect by the belief in a high degree of predictability of favorable behavior and actions. An objective prerequisite for public trust in law enforcement agencies is satisfaction with their activities [5, s. 227].

The given opinions show that the principle of public trust in the work of law enforcement agencies is one of the most sensitive and painful. In particular, according to the results of research conducted in 2013-2020, in the Kharkiv region a total of 37.6% of respondents trust the National Police (among which 12.8% trust completely, and 24.8% to some extent), the balance of trust (the difference between the percentage those who trust and those who do not trust) has improved and in 2020 is – 7.3. Compared to 2019, trust increased by 3% (in 2019, trust was 34.1%, the balance of trust was 12.7). In the city of Kharkiv, 34% of respondents trust the police (among whom 14.2% trust completely, and 19.8% to some extent), the balance of trust in Kharkiv is – 15.6. Compared to 2019, trust increased by 2% (in 2019, trust was 31.8%, the balance of trust was – 16.8). In the districts of the Kharkiv region, 43.4% of respondents trust the police (among whom 10.4% trust completely, and 33% to some extent), the balance of trust in the districts of the Kharkiv region in 2020 became positive and is + 6.4. Compared to 2019, trust increased by 6.5% (in 2019, trust was 36.9%, the balance of trust was – 7.4). [6, s. 58].

Understanding the existing problem, the issue of citizens' «trust» in the work of law enforcement agencies is defined in separate normative acts as the main criterion for evaluating the effectiveness of their work. This is indicated by the third part of the article. 11 of the Law of Ukraine «On the National Police», which states that the level of public trust in the police is the main criterion for evaluating the effectiveness of police bodies and units. The principle of trust corresponds to constitutional and legal principles. M. Kozyubra believes that one of the most important components of the rule of law and the rule of law is the principle of legal security and protection of the citizen's trust in the reliability of his legal position. He must be sure that his legal position will remain stable and will not deteriorate in the future. This is precisely what the principle «the law does not have retroactive effect» (*lex ad praeterian non valet*) is aimed at, which was formulated by ancient Roman lawyers to counteract the arbitrariness of the legislator, who gave retroactive effect to laws that worsened the situation of people, punished them

for actions that temporarily actions were recognized as legal. The purpose of this principle is to put a veil on the violation of human rights and freedoms by the authorities. Its orientation makes this principle an important guarantee of human safety and trust in the state [7, s. 7].

The principle of trust corresponds to the Code of Conduct for Law Enforcement Officials, approved by UN General Assembly Resolution No. 34/169 of 12.17.1979, which emphasizes that in the performance of their duties, law enforcement officials: respect and protect human dignity and support and protect human rights in relation to all persons; may use force only in case of extreme necessity and to the extent necessary for the performance of their duties; ensure full health protection of the persons detained by them and, in particular, take immediate measures to ensure the provision of medical assistance in case of need; do not commit any acts of corruption, prevent any such acts and fight against them; using all their powers, they also prevent and in every way hinder all such violations [8].

The principle of ensuring human rights by law enforcement agencies means that the state guarantees to ensure human rights and freedoms in accordance with the principles and standards established in domestic and international regulatory acts.

P. Rabinovych defines that the provision of human rights and freedoms involves three elements (directions) of state activity to create conditions for the exercise of human rights and freedoms: 1) promotion of the realization of rights and freedoms (through the positive influence of the formation of their general social guarantees); 2) protection of rights and freedoms (by taking measures, in particular legal ones, to prevent violations of rights and freedoms); 3) protection of human rights and freedoms (restoration of violations of legal status, bringing violators to legal responsibility) [9, s. 18].

The above opinion follows from the content of the provisions of the Constitution of Ukraine, according to which: A person, his life and health, honor and dignity, inviolability and security are recognized as the highest social value in Ukraine. Human rights and freedoms and their guarantees determine the content and direction of state activity. The state is responsible to the people for its activities. Affirmation and provision of human rights and freedoms is the main duty of the state (Article 3); Bodies of state power and bodies of local self-government, their officials are obliged to act only on the basis, within the limits of authority and in the manner provided for by the Constitution and laws of Ukraine (Article 19); All people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable (Article 21); No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment (Article 28); No one can be arrested or detained other than by reasoned court decision and only on the grounds and in the manner established by law (Article 29); Everyone is guaranteed the right to appeal in court the decisions, actions or inactions of state authorities, local self-government bodies, officials and officials. Everyone has the right to compensation at the expense of the state or local self-government bodies for material and moral damage caused by illegal decisions, actions or inactions of state bodies authorities, local self-government bodies, their officials and employees in the exercise of their powers (Article 56 [10]).

At the same time, it should be noted that among the state bodies entrusted with the duty of implementing measures to ensure the constitutional rights and freedoms of citizens, an important place is given to the National Police. Compared to other law enforcement structures, it solves the most issues related to ensuring human rights and freedoms. This structure is entrusted with the functions of: protecting the rights and freedoms of citizens from illegal encroachments, ensuring public safety [11, s. 37].

The principle of ensuring human rights by law enforcement agencies also follows from the Convention on the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights) dated November 4, 1950, which aims to ensure general and effective recognition and observance of the provisions proclaimed therein rights by law enforcement agencies, namely: the obligation to respect human rights; right to life; prohibition of torture; the right to freedom and personal integrity; the right to a fair trial; no punishment without law; the right to an effective remedy [12].

The principle of providing access to information technologies in the activities of law enforcement agencies has an important practical significance, it provides an opportunity to prevent the commission of misdemeanors, to respond promptly to all offenses and other negative actions of persons who violate the law and order established in the state.



The effectiveness of combating offenses, and above all criminal offences, largely depends on the information support of law enforcement agencies. At the same time, experts draw attention to the fact that the employees of law enforcement agencies do not fully use the implemented information systems, and in the conditions of the reform in the law enforcement sphere, the problem of idleness and loss of existing systems that have proven their effectiveness in practice has arisen [13, s. 84].

Among the main tasks of informatization of law enforcement activities at the current stage of development of the system of law enforcement agencies in Ukraine are: creation and promotion of the accumulation of information in databases on all areas of activity of law enforcement agencies; ensuring prompt access of users to databases directly from workplaces of law enforcement officers; use of analytical methods of information processing, resources of non-departmental information systems to provide law enforcement activities with multi-species information; determination of promising directions and trends in the development of modern crime; adaptation of the existing provisions of tactics and methods of disclosure and investigation of crimes in modern conditions of informatization; development, implementation and use of special software [14, s. 182].

The principle of providing access to information technologies in the activities of law enforcement agencies is directly related to the principle of ensuring confidentiality in the activities of law enforcement agencies.

The principle of ensuring the confidentiality of information in the activities of law enforcement agencies. This principle is relevant to the daily activities of law enforcement officers, who are constantly faced with various types of criminal acts, a special place among which is crimes that degrade human dignity (deliberate grievous bodily harm, murder, torture, rape, corruption of minors, rape, etc.), therefore the disclosure of such information by law enforcement agencies, their officials, which they received in the course of their activities, may be disclosed in exceptional cases, during the investigation, during the consideration of the case in court, in other cases of ensuring the confidentiality of information, is a violation of human rights and freedoms with by the law enforcement officers.

According to the Report of the National Police of Ukraine on the results of work in 2021, these bodies alone annually consider more than 120,000 appeals from citizens, of which: more than 40,000 applications to provide public information about their activities (30%), 75,000 requests from participants proceedings in criminal cases and cases of administrative offenses (63%), 5,000 complaints about the activities of officials of the National Police (7%) [15].

According to O. Svitlychny, one should take into account the value of information, which can influence not only people's behavior, but also decision-making, as well as influence management processes. Therefore, we should talk about the reliability of information, its «factness» and the impact of such information on society. We can perceive the same information in different ways. First, the value of information depends on the entity that distributes the information. Secondly, from the subject who perceives the information. Thirdly, the question of the method and means of disseminating information is important. The scientist believes that when providing information, law enforcement agencies, first of all, must adhere to the principle of protecting a person from interference in his personal and family life. Secondly, it should be taken into account that information with limited access is confidential. Therefore, socially significant legal information should be provided to citizens through state or official media, by the relevant subject of authority, who, based on legal facts, is a guarantor of its authenticity. Otherwise, the subject of power, who disseminated information that is not reliable, must bear responsibility [16, s. 91].

The relevance of the problem is enhanced by the fact that the significant prevalence of violations of the rights of representatives of vulnerable groups, their discrimination based on health and social status causes global negative consequences for society as a whole. These are legal consequences (the principles of the rule of law and legality are violated, signs of the rule of law are nullified), medical (negative impact on the effectiveness of the fight against the spread of drug addiction, HIV infection and other related dangerous diseases), political (discrimination of vulnerable groups negatively affects the international image of the state), socio-demographic, economic, etc. Thus, violations of the rights of drug addicts and representatives of commercial sex by law enforcement agencies, in our opinion, should cause special attention and concern on the part of both state authorities and society as a whole, because, among other things, they reflect the general situation with compliance human rights in the state [17, s. 8].

The following documents directly concern the principle of confidentiality of information in the activities of law enforcement agencies: Code of Conduct of UN Law Enforcement Officials dated December 17, 1979 No. 34/169, in Art. 4 of which it is emphasized that information of a confidential nature received by law enforcement officials shall be kept confidential unless the performance of duties or the requirements of justice require otherwise [18]; The European Code of Police Ethics, set out in Recommendation Rec (2001)10 of the Committee of Ministers to the member states of the Council of Europe of 19.09.2001: the police must not violate the right of every person to respect for his private life, except in cases of absolute necessity and only to achieve legitimate purposes; collection, storage and use of personal data by the police must comply with international data protection principles and, in particular, be limited to what is necessary to achieve legitimate, fair and specific goals; the police must provide the necessary support, assistance and information for victims of crime without any discrimination [19]; Declaration on the Police, approved by the Resolution of the Parliamentary Assembly of the Council of Europe No. 690 of 08.05.1979: a police officer must maintain the secrecy of all classified materials that come to his attention, unless the performance of duties or legal norms dictate otherwise [20].

5. Conclusions.

Thus, the principles investigated and substantiated in detail:

ensuring trust; ensuring human rights; providing access to information technologies; ensuring the confidentiality of information, complying with domestic administrative and legal doctrine, international standards and principles, legal relations between law enforcement officials and citizens, is a methodical basis for further scientific investigations and the implementation of their activities by law enforcement agencies.

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