

FOREIGN EXPERIENCE OF INSTITUTIONAL SUPPORT OF THE LAW ENFORCEMENT SYSTEM

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Annotation. The article deals with the issue of ensuring the national security of each State is one of the main problems of our time. Today, foreign countries have significant experience in both investigative and procedural actions and preventive measures, which should be a priority for law enforcement agencies of Ukraine. European countries have considerable experience in building law enforcement systems. This is due to the historical features and development of civilisation in these countries. It is worth noting that the law enforcement systems of the European Union countries have been transformed quite often, but at the same time, some law enforcement agencies in some countries are more than 100 years old.

Today, in the context of modernisation of the entire civil service system in Ukraine, reform of law enforcement agencies, and their integration into the law enforcement system of foreign countries, there is a need to improve law enforcement agencies in Ukraine, optimise personnel training, especially for senior staff, and implement systemic changes in the legal regulation of professional activity and social security of employees. The issue of reform is quite relevant from both theoretical and practical points of view, and has been ripe since Ukraine gained independence and adopted the Constitution of Ukraine.

However, despite the efforts of individual politicians, justifications and arguments of scholars, there have been no significant driving transformations in the law enforcement system. At the current stage of reforming law enforcement agencies, it is important to build a model that best meets the requirements of international standards and national interests. The main vectors of our research were the countries of the European Union and highly developed countries. It has been determined that the need to establish communication with law enforcement agencies of foreign countries is becoming increasingly important. The experience of the European Union countries can be applied in terms of creating specialised law enforcement agencies, expanding the range of powers of representatives of the Bureau of Economic Security, using joint resources and establishing cooperation in training and retraining of law enforcement personnel.

Key words: law enforcement, reform, law enforcement system, law enforcement agencies, foreign experience.

1. Introduction.

Legitimacy is defined as a legal social phenomenon characterised by the organisation and functioning of society and the State on a legal basis. Legitimacy is based on the concept of "law" [1], which determines the penetration of the principle of legality into all spheres of life and an increased social role - from the process of creating a law to the implementation of its norms in legal practice (law enforcement). As Singh, Danny (2022) notes, the state of legality reflects the level of legal organisation of social and political life, the relationship between law and the activities of both the state authorities and the state as a whole [2, p. 69]. On the part of the state, legality appears as a certain method of state governance of society. Namely, the activities of the state are carried out exclusively by legal means. Therefore, the main purpose of legality in any democratic state governed

by the rule of law is the way of legal regulation of the organisation of social relations to ensure the progressive development of the country.

2. Literature review.

Institutional support of the process of ensuring the rule of law in law enforcement agencies is the focus of scientific research by legal scholars. Theoretical issues related to various aspects of law enforcement activities have been studied in the scientific works of foreign authors: Wonicki, R., Silverburg, S., Mckinnon, F., Kierulf, J., et al.

The issues of development of law enforcement systems in the countries of the world were raised in the works of domestic scholars, in particular: V.B. Averyanov, D.M. Bakhrakh, Y.P. Bytyak, S.V. Bobrovnyk, I.P. Holosnichenko, R.A. Kalyuzhnyi, A.M. Kolodii, V.K. Kolpakov, A.T. Komziuk, M.V. Kornienko, V.I. Olefir, V.L. Ortynsky, A.Y. Oliynyk, S.V. Petkov, V.M. Plishkin, V.Y. Tatsiy, P.M. Rabinovych, Y.S. Shemshuchenko, V.K. Shkarupa and others.

3. Formulation of the article's objectives (task statement).

The purpose of the research is to conduct a comprehensive analysis of the theoretical and legal framework for institutional support of international experience in ensuring the rule of law in law enforcement agencies, and to develop recommendations for its improvement.

4. Materials and methods.

Around the world, close attention is paid to the observance of the law by law enforcement officials, which is a guarantee of law and order, public and national security. Let us consider the main measures to prevent violations of the law by police officers on the example of some foreign countries.

The importance of foreign experience for reforming Ukraine's law enforcement system lies in the following features:

- first, advanced mechanisms of fighting crime should be used in the formation of institutional, legal, organisational, informational and other components of the reform;
- second, for the purposes of combating cross-border crime, it is important to develop a mechanism of interaction with law enforcement agencies of foreign countries;
- third, the resource provision of law enforcement agencies of Ukraine does not fully meet the requirements that would allow to effectively prevent and counteract crime, ensure public order and security of social systems.

These features determine the need to study foreign experience in reforming the law enforcement system, which will allow identifying key mechanisms. The main vectors of the study will be the countries of the European Union and highly developed countries.

5. Results and discussion.

France.

A positive example of a police system for internal security and anti-corruption is France. The French Ministry of the Interior has a vertical structure. It is headed by the Minister of the Interior (a civilian). The heads of all departments are also deputy ministers. Each department includes several offices.

The staffing of law enforcement agencies is as follows:

- about 105 thousand active police officers
- about 5 thousand officers;
- 16 thousand administrative staff. [3, c.187]

In addition, it should be noted that the gendarmerie, which also provides law enforcement and is funded by the Mol, is part of the military department. The issues of discipline and lawfulness among police officers fall within the competence of two divisions of the French National Police Department: – the Disciplinary Bureau of the Administrative Department; – the General Inspectorate. The Disciplinary Bureau of the Administrative Department (staff size – 20 people) performs the function of controlling the observance of discipline by all police officers. In France, as noted by Wonicki, R. (2022), there is a decentralised management system. The country is divided into zones. Each zone (Marseille, Bordeaux, Lyon, etc.) has a general secretariat (commissariat) of the police department. [4]

Police offences have a wide range and, depending on the severity of the offence, are divided into four groups with corresponding types of sanctions:

1) official offences ranging from being late for work to losing documents (police card) are punishable by a warning or reprimand from the immediate superior;

2) driving under the influence of alcohol (on or off duty), refusal to comply with an order, unreasonably cruel treatment of a detainee, and stirring up a negative situation in the team are punishable by removal from the promotion queue, reduction of seniority and, accordingly, salary while retaining the rank;

temporary suspension from official duties for a period of 15 days without pay (this punishment may be conditional or partially conditional, but during these 15 days seniority, pension, promotion period, etc. are not accrued);

transfer to another region at the expense of the offender;

3) failure to perform official duties and abuse of office (including sexual harassment) are punishable by demotion;

theft or being permanently intoxicated on duty or while driving a vehicle entail temporary removal from office for a period of 3 months to 2 years with the same consequences as in the second group;

4) murder, use or sale of drugs, sexual harassment of minors, robbery, corruption (bribery) result in dismissal from the police either for retirement (for example, a narcologist concludes that a police officer cannot perform his/her duties due to regular drug use) or for negative reasons (for example, bribery).

Moreover, dismissal for negative reasons automatically results in the cancellation of seniority and pension [5].

Professional mistakes of the second to fourth groups are necessarily reviewed by a disciplinary board, and the decision on the guilt of the police officer, the gravity of the offence and sanctions is made collectively, which guarantees its objectivity.

Analytical data shows that in France, a total of about 2.5 million civil servants were registered (2018-2023), including 148-150 thousand police officers. 5,700 sanctions were imposed, of which about 3,000 were against police officers, and about 600 of them were brought before a disciplinary board. The total number of employees of the General Inspectorate of the National Police is 185.

It operates according to two criteria:

- thematic (disciplinary investigations, audits);
- territorial (Central Disciplinary Bureau with three territorial offices).

The Central Service for the Prevention of Corruption was established in 1993.

According to Mathieu Delahousse (2009), the main task of the Service is to prevent violations of the law and corruption. The Service is part of the French Ministry of Justice, and its independence is ensured by law. [6]

The Head of the Service is appointed by the President of the country for 4 years, traditionally from among prosecutors or judges. One of the features of the Service is its autonomy and financial independence. The Service has its own budget allocated by the state. The staff of the Service is inter-ministerial, with 15 people (former employees of various ministries and agencies). [7]

Each employee of the Service is a link between the Service and any agency. The Service deals not only with specific cases of corruption, but also with systemic ones. It has the right to engage experts when considering a specific request. [8]

The Service's competence includes 3 main tasks:

- systematisation of all information on corruption (annually, the service submits a report to the President with the results of the analysis of the situation and proposals that are of a recommendatory nature. Politicians have the right to use these proposals or not. For example, the report indicates which laws need to be improved, which services are inefficient, etc.);
- advisory role (the Service's employees can officially express their opinion on the activities of persons on certain lists (from ministers to mayors)). In specific cases, upon request, the Service can provide explanations to legal entities on the presence or absence of signs of corruption in their actions;
- conducting expert examinations (the French Ministry of Justice provides the Service with situations for the purpose of conducting expert examinations. In case of complex issues, a synthesised decision is made: representatives of various agencies express their opinions at a general council, after which a final decision is made). Currently, the service pays great attention to the conclusion of contracts between local authorities and private enterprises, large-scale construction and sales markets [9].

Spain.

Let us also consider as an example the structure of the Spanish police, which is a decentralised 3-level model of organisation:

State level – the National Corps (CNP) and the Guardia Civil (GC),

national level – police corps of the two autonomous communities: Catalonia and the Basque Country,

local level – commissariats of autonomous communities, provinces and other municipalities with clearly delineated powers. The total number of police officers is about 190 thousand. [10]

The issue of ensuring their own security is the responsibility of three divisions:

Department for Training and Retraining,

Department of Internal Affairs,

Department of Disciplinary Regime.

A distinctive feature of this system is the absence of a preventive component in its activities, except for the stage of recruitment and training of candidates for police positions. Operational and investigative activities to detect, stop and solve crimes committed by police officers are carried out by the Internal Affairs Department (130 employees), which is part of the Criminal Investigation Division of the Main Directorate of the National Police Corps. The Civil Guard has similar units. The department carries out its work in close cooperation with the department of disciplinary regime. [11]

The basis for initiating an investigation is information about an unlawful act committed by a law enforcement official, which is received through official and operational channels. The judicial authorities are notified of the initiation and progress of the investigation. Upon completion of operational measures, the materials are submitted to the court for a procedural decision. Information on the initiation of an investigation, its results, as well as crimes committed by police officers that



were solved by the judiciary without the involvement of the department, is accumulated in a single database of the Criminal Investigation Division. This makes it possible to obtain information about the possible involvement of the suspects in other illegal acts and to exclude cases of investigation of the same crime by several groups. [12]

Czech Republic

The Czech police is another example of law enforcement. The priorities of the Czech police are:

- fighting organised crime;
- fighting corruption;
- combating economic crimes;
- combating the acquisition of profits by criminal means. [13]

The structure of the Ministry of the Interior of the Czech Republic also includes the Police Inspectorate of the Czech Republic (hereinafter - the Inspectorate). The Inspectorate is directly subordinated to the Minister of the Interior and is organisationally separated from the management structures of the Ministry. It is an investigative body that carries out operational and investigative activities using both public and covert methods of operational and investigative activities within the framework of the Criminal Procedure Code. In 2008, the 5th Inspectorate Department was established in the Czech Police. Its competence includes the consideration of complaints against police officers, the President of the Police and his deputies, and directors of secondary police schools of the Ministry (if these officials are police officers). [14]

In order to prevent, deter and detect illegal acts, the inspector of the said department is entitled to conduct a "reliability test". The test consists of creating a situation that the person under test must solve. In other words, a "reliability test" means artificially creating conditions in which the person under test performs his/her daily service in order to establish the employee's conscientiousness in performing his/her functional duties within the scope of the authority granted. The test is conducted without informing the probationer. Upon completion of the test, the employee shall be notified of the test and shall be obliged to review the test results. If an employee fails the test, he or she is subject to disciplinary action or dismissal (depending on the test results).

Germany

In the difficult conditions of radical reform of the system of internal affairs in Ukraine the experience of the police of the Federal Republic of Germany can be quite useful. The German police is recognised by experts as a kind of benchmark for the organisation and practical implementation of law enforcement activities. It is a body of state executive power that has successfully combined the best traditions of police service with the latest achievements related to building a legal democratic, socially oriented state.

Germany is a federal state, which determines the appropriate structure of the country's law enforcement agencies. The Federal Government of Germany is responsible for the state of law and order and is divided between the governments of the Länder, which, according to the Constitution of 1949 of 1949 have their own police forces [11].

The modern system of law enforcement agencies in Germany consists of the following (federal and state levels); police services of 16 federal states; federal federal police agencies; federal customs office (subordinated to the Federal Ministry of of Finance); bodies for the protection of the Constitution (the Federal Office for the Protection of the Constitution is subordinated to the Federal Ministry of the Interior). The police are managed by a semi-centralised system system, a characteristic feature of which is the limitation of powers of central (national) police authorities in relation to the Länder. Police

The German police is part of the Ministry of the Interior, which has a much broader competence than the Ministry of Internal Affairs of other countries.

Canada.

The Canadian police is another example of a system of ensuring its own security. When applying for police positions in the Canadian police, it is mandatory to undergo special psychophysiological tests using a polygraph, which allows to establish whether the personal motivation of the candidate for service meets the requirements of the state. Every 5 years, all officers are subjected to shortened additional polygraph examinations. The same procedures are envisaged for promotion and obtaining a higher security clearance.

The next link in the system of ensuring the rule of law in the activities of law enforcement agencies is to conduct checks on the legality of police officers' actions, legal assessment of offences committed by them and the application of disciplinary measures. The main requirements for verification measures in relation to employees are transparency, objectivity and equality, regardless of official position. The main principle in disciplinary practice is the priority of measures aimed at correcting the employee and preventing similar violations in the future. In this regard, such punishment as dismissal is rarely applied. Other disciplinary sanctions include: demotion, reduction in pay, reprimand, transfer to a less prestigious place of service [15].

6. Conclusions.

Thus, having analysed the experience of preventing violations of the law in the field of law enforcement, we can conclude that the priority measures are strict selection of candidates for service, high level of control over the activities of officials, close communication with the public in identifying facts of offences by employees.

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