



The police reform through the prism of social partnership: the experience of Ukraine

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Abstract

The purpose is to find possible ways as to how to increase the level of effective cooperation of the police with the institute of civil society in Ukraine on the ground of using international experience; to identify a single police reformation concept taking into consideration the rethinking of its social function. The method of system analysis, the dialectical method, the formal-logical method, the structural and functional one and the range of empirical ones were used while carrying out this research. The authors have come to a conclusion that the activity of the National police is aimed at constant prevention of social tension and at the prevention of crime by means of social environment monitoring. It is also aimed at helping people to solve their problems as well as at the relief action with minimal compulsory interference and at maximal approach to social problems. The research results are interesting and important for domestic lawmakers as well as for the subjects of public administration against the background of democratization and humanization tendencies' actualization. Novelty and originality of the research: All the results were obtained independently. They are original (the analogues and adoptions are absent). The subject matter is studied in Ukraine first and has a perspective for further development.

Keywords: the police, social partnership, service function, public administration, Ukrainian

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INTRODUCTION

The demands – the European society make – are aimed at the reformation of state law-enforcement authorities (Galushkin 2015) and at the transformation of Ukraine into a service state the purpose of which is not the enforcement and control but the provision of social compromise. They are also aimed at mitigation and overcoming of social antagonism where the law-enforcement authorities protect the rights and freedoms and legitimate interests of people. The regular effect of state function revolutionary development is the bodies of internal affairs' reorientation and their transformation into a state structure, which provides the population with services (Cornilov et al. 2019). The perception of state as a social organic element and its antagonistic positioning minimization directly depends on the law-enforcement authorities' function. It concerns the police as the authority which is close to people in their day-to-day activity.

The positioning of the police as a new authority is connected with the implementation of a new service state concept in Ukraine. The society service is an optimal task, which is posed before every subject of public administration including the police (Baibarin et al. 2016, Gorbunov et al. 2019, Subota 2015).

The conformation of the police reformation in terms of social partnership concept was preceded by the adoption of the Law of Ukraine "Pro Natsional'nu politsiyu", which changed the police task by means of the service function allocation (Pro Natsional'nu politsiyu 2015). The study of advanced foreign experience concerning the social concept implementation into the law-enforcement activity is analyzed in terms of political instability, the imperfection of current legislation and the ineffective cooperation of public authority organs and social society institutions.

METHODOLOGICAL FRAMEWORK

The problem of police institutionalization as a subject of public administration, which carries out the service, is topical. Whereas, a complex research of ideological, scientific, normative-legal bases of public participation in terms of the police care is absent.

The service concept source is formed by the European law doctrine. The activity of law-enforcement authorities in Ukraine are examined in the context of

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their services' provision (Kalayanov 2010, Kritsak 2013, Lastovych 2016, Pysarenko 2006).

The police state and functioning in terms of civil society institutes' creation is the research subject of different social sciences. The theoretical base of this research is the concept of social partnership and police patrolling the content of which is the police activity interpretation as a set of social relations. It concerns the public sphere (the sphere of public interests' implementation), the economic sphere (only economic interests' implementation the development of which is possible both in the presence of civil society and in terms of its absence), the family sphere, the social sphere, which is the free communication of society members with a view to a certain society rights' and freedoms' implementation whose participants are free members implementing public interests and freedoms.

The key points in defining the notion namely, "the social participation in police activity" are the public administration subject's and civil society institutes' co-existence. The formal and dogmatic approach – when the state does not oppose the civil society but protect it – was used from this point of view. Despite a clear urgency of real but not formal civil society institutes' involving we have to admit that domestic scientists resort to a fragmentary research of these issues only. However, the study of institutional-legal grounds of civil society institutes' participation is insufficient. The study of social effect on law-enforcement authorities' functioning is an effective step in the development of system, democratic and managerial processes in Ukraine. As far as the function of service activities is represented to be the service policy aimed at creation of comfort and social environment. What concerns the question of normative regulation implementation, it requires the adaptation of Ukrainian legislation in accordance with the international standards of social services' rendering.

This article deals with the grounds of the civil society institutions' participation in police functioning as a system democratic processes' instrument in Ukraine. The thematic blocks, which characterize the affinity group of social relations, are detailed for a consequent problem illumination. These blocks deal with the determination of police reform, which are as follows: the social partnership in police activity and the fundamental principles of common police patrolling.

RESULTS AND DISCUSSIONS

The Social Partnership in Police Activity

The social partnership («compstat policing») is a philosophy of police activity. It is created in accordance with its structure decentralization and acts in close collaboration with the citizens. Providing the implementation of social partnership context into a legal activity, the policeman motivation positively changes,

the role of policemen in society widens and the policeman-policeman and policeman-citizen relationship improves (Beschastnyi 2009).

The police functioning international standards are written in many international documents. The most important ones are: the Code of Conduct for Law Enforcement Officials (Kodeks povedinky osib z pidtrymannya pravoporyadku 1979) and the European Code of Police Ethics (2001). Based on the content of the international legal documents mentioned above the most important tasks of the police are: the public peacekeeping; the observance of the law and order; the protection of the main rights and freedoms of people; the prevention and detection of crime and the fight against it and the service provision to population.

The concept of social partnership is differently embodied in different countries. For example, there are special services in the London police (The London Ambulance Service, The London Emergency Liaison Services Panel), which render free-of-charge medical services in case of emergency. They also render clinic transportation services ensuring comfort conditions for the injured (Matyukhina 2001).

In Georgia, there is the service agency of the Ministry of Internal Affairs. This is a subdivision which render any services connected with vehicles, customs clearance, experts' examination, registration plates, driving licenses, theoretical and practical exams' pass on the right and so on – Service agency. Moreover, the right for gun purchase can be drawn up in a day as far as the need for submitting additional certificates, different confirmations from other facilities is absent, which simplifies the license issue for any citizen in Georgia (Mel'nyk 2015).

The Fundamental Principles of a Common Police Concept

What concerns the common police patrolling concept, it is a model of police activity, which fully meets all the requirements of modern society and allows to change the police paradigm from a narrow concept of police security into a broad one – the police service (Bennett 1994). The police have to solve social problems instead of a traditional task to decrease the criminal rate (Understanding Community Policing 1994). The conceptual base of similar changes was the confidence that the level of crime in a certain territory may be decreased by means of a certain area's problems research. In order to reduce the level of crime, the efforts should be aimed at solving the problems, which are pointed out to by the society. Consequently, the task for reducing the level of crime according to the new interpretation is something more than just reaching its low indexes in comparison with the previous period. It consists of the range of problems solving, which do not have direct relation to crime but which create favorable conditions for its sprawl and contribute to the decrease

in the level of threat of those, who live in a certain territory (Blagoveshenskii et al. 2007).

Thus, the process of “non-criminal” police functions widens, which transforms them into a specific authority on prevention of different social services. The US Police Department, for example, defined 32 police functions, which are directly connected with the service rendered to population (Rimarenko et al. 2008). The police are attracted to such work directions as: propagandistic and educational work with population, participation in solving family and domestic conflicts, psychological help rendered to the victims of violence, rescue of injured people and rendering medical help, participation in anti-alcohol and anti-drug movements, rendering help to children from unhappy families, help assistance and provision with different social formations on the fight against crimes and so on. The implementation of these functions, as a rule, is carried out in the form of tutorial, advises and offers connected with appealing of the police to different state and non-state organizations, social services and population with a view to attract them to solve the problems of public order, to fight against crime and to organize the cooperation in this sphere (Shalyagin 1996).

The Police Reform in Ukraine

The state, in the person of its organs and officials, is oriented at people's needs the same way as service official are oriented at customers' needs (“client”), its demands and expectations in private sector. That's why the state authority may act both as the authorized liable authority in relation to people. The state has to fulfil important and useful for society public services such as: the provision with political stability, economy regulation and entrepreneurship support, healthcare, education development assistance, the provision with security, international cooperation and so on.

The term “social service of the National police” means that – taking into consideration the police social nature – it ensures the security of the rights and freedoms of people. It also ensures crime opposition, public order and security maintenance only for people but the state is sidelines. In other words, the police protect people but not the state protects them. Thus, the aim of the National police is in serving their people by means of ensuring their rights and freedoms. The aim also lies in crime opposition, public order maintenance and the obligation to be strictly limited to the duties. The trust of population to the police will return, if to achieve this aim (Katryn 2017).

As of now, it is possible to say that the National police activity – including their law-enforcement and remedial component – is recognized as services. Thus, Koroshtanova (2015) says that according to European standards of the services rendered by the police, which is the aim (task) among other ones, is only one (separate) aim (task) of the EU member state's police.

The scientist admits that the standards mentioned above consist of the instruction that the police services' rendering aspect (in contrast to the services rendered by the police) remain to be fuzzy and difficult to identify. It shouldn't be confused with some tasks placed on the police (the passports' change, for example). The function of the services rendered by the police is more connected with the population relation to them rather than with giving them large powers on the service rendering in addition to their traditional tasks (Koroshtanova 2015).

The National police – as the government body and the subject of public administration – carry out their service activity and are not limited to the service rendered by the police. The National police render a complex of services, which are as follows: professional (law-enforcement), administrative, informational and social services. Administrative ones are the main means for people's rights and freedoms implementation in the sphere of executive power as far as the great amount of cases, which are solved by public administration, are initiated by citizens and concern their subjective rights.

Administrative services, which are rendered by the police

Administrative services are the main means of people's rights implementation in the sphere of executive power as far as the main part of cases, which are solved by public administration authorities, are initiated by the citizens and deal with their subjective rights. According to Kuzmenko (2016), the administrative service of organs should be understood as the system of organized actions, which are performed by public authority entities (using compulsion in some cases) and which are regulated by the administrative law. They are also aimed at creation of new conditions on ensuring rights and freedoms of people (Kuzmenko 2016). Moreover, the administrative service, on a legal level, is defined as the effect of the authoritative power implementation by the subject of administrative services' rendering, which is done on request of physical or legal entity and which is aimed at buying or changing the rights and/or duties of such a person in accordance with the law. So, the subject of request is the physical or legal entity which requires administrative services. The subject of administrative services' rendering is the executive power authority, another government authority, the power authority of the Autonomous Republic of Crimea, the local government body, their officials, who are authorized to render administrative services (Pro administratycni poslugy 2013).

The signs of administrative services rendered by law-enforcement authorities are attributed to the following: these services are directly connected with social state function in the sphere of internal affairs; the service rendering connected with the support of conditions' making for physical and legal entities' rights and

freedoms implementation; these services are rendered on request of physical and legal entities; the power of authority concerning the assignment of a certain kind of services is defined by the law; these services are not connected with the authoritative-administrative power; in order to get such service a person, who requests it, should meet the requirements stipulated by the law. In other words, such service can be rendered only by a corresponding (in a one) administrative authority. The administrative service result, in a procedure sense, is the administrative act (decision or action of the administrative organ, which fulfils the customer request).

The administrative services rendered at a legislative level are as follows: special licensing (agreements, conclusions) for certain activities carrying out; product certification; certain kinds of economic activity licensing; state registration with the register management; certification (certificate) of a certain legal entity and/or its fact (Pro Natsional'nu politsiyu 2015). The paid administrative services rendered by the police are as follows: the licensing for buying and transportation of guns, ammunition and other objects which the licensing spreads on; the licensing for storage and bearing (registration and re-registration) of award weapon, hunting cold steel and pneumatic weapons and other objects the permission system spreads for. There are also such services as: the re-registration of weapon from one holder for another one in the place of its register; the licensing (preparation of documents) for opening and functioning of licensing system authorities, which work with explosive materials, pyrotechnic mastery and with other object; the licensing for the services rendered in the sphere of people's security (Deyaki pytannya nadannya pidrozdilamy Ministrestva vnutrishnikh sprav, Natsional'noi politsii ta Derzhvnoi migratsiinoi sluzhby platnykh poslug).

The Informational Services Rendered by the Police

The information service defines the subject activity on the provision of customers with the information products (Pro informatsiyu 1997). When defining a certain service by its activity, it is important to take into account its ability to make useful results by using of which a person's right is implemented because any government presumes informational component, which cannot be changed into a single service.

What concerns the information services rendered by the police, they are as follows: the police carry out the informational and analytical activity; the police form databases (banks), in terms of this activity; they use the databases of the Ministry of Internal Affairs of Ukraine and others and do the informational and search work. They also perform the informational interaction with other public authorities of Ukraine and with the law-enforcement authorities of international countries. The police can create their own databases, which are

important for everyday law-enforcement authorities' activity in the sphere of labour, finance, the circulation of documents and interdepartmental informational and analytical relations, which are important for performing the duties placed on them and so on (Pro natsional'nu politsiyu 2015).

The Social Services Rendered by the Police

The social services are the set of legal, economic, psychological, educational, medical, rehabilitation and other activities aimed at separate social groups or persons, who are in difficult life situation and who are in need of constant aid with a view to improving or performing their vital activity, social adaptation and return to the life in full (Pro sotsial'ni poslugy 2003).

The police – according to the tasks placed on them – take all the necessary measures to render the urgent, pre-medical or medical aid to people who suffered from criminal or administrative infractions and accidents. The medical aid is also rendered to people who are in emergency situations. The police also give social and legal aid to people, enterprises and facilities as a result of the duties placed on them (Pro zatverdzhennya Polozhennya pro Natsional'nu politsiyu 2015). Thus, it is possible to say that the police render services.

Based on the notion “social services”, the police service should also be attributed to this group. According to the explanatory dictionary of Ukrainian, the term “guardship” is an action, which means “take care of”. The word “take care of” has three meanings which are as follows: pay attention to and take care of somebody, do something, help and create conditions and so on (The Ukrainian explanatory dictionary). The guardship means partial relations and actions' carrying out aimed at ensuring rights and freedoms of people who, by virtue of different reasons, cannot implement them. The police guardship is a preventive measure, which is implemented by the police in the context where it is stipulated by the law and consists of the services rendered to people, who by virtue of personal, economic or social reasons are in need of such help.

For the fulfillment of the tasks placed on the National police, they are given some special powers such as: “the national police, in terms of their competence, carry out control over the fulfillment of laws and other normative-legal acts concerning guardship, take measures on child neglect prevention (Pro natsional'nu politsiyu 2015).

The police guardship may be changed in respect of different people such as: under-age persons, who do not have any supervision; people who is suspected in the escape from psychiatric facility or from a specialized medical clinic where he/she was kept on the ground of court decision; people with mental disorders sings who pose real danger to others; people in a public place, who have lost the ability to move as a result of alcohol intoxication and pose great danger to others (Pro natsional'nu politsiyu 2015).

The interesting fact is that mass media report on cases when the police send home those alcohols intoxicated people with a view to increase the police prestige. We will also point out that – according to the rules – a person, who is in police car, should be put on handcuffs in spite of whether he committed a crime or not. Otherwise the police do not have the right to transport a person. The policeman has to immediately tell a person in the language clear for him/her about the police action and to explain him/her the right for medical care, the right for explanation and appeal against the police action and the right for notifying other about his/her whereabouts in order to implement the rights and freedoms of people.

The use of police guard entails certain law consequences such as: the pass of people under age to parents, adopters and guardians; the pass of people escaped from psychiatric facilities or medical clinics to corresponding authorities; the pass of people who lost the ability to move to special medical clinics upon their registration. While implementing the police guardship, the policeman can withdraw guns and other objects by means of which a person can hurt others. However, the policeman is forbidden to do the search of a person.

According to a common law the procedural implementation of such preventive measures is the protocol making where it is important to indicate the following data: the place, date and precise time (hour and minutes) of the police activity; grounds of activity; the account of guns withdrawn (it is important to point out that it is illegal to do a search in relation to these people); the petition, application or complaints, if there are some. The report is signed by a policeman and person in relation to whom the police guardship is used but its copy is submitted to be signed last. We are emphasizing that a person – in relation to whom the police guardship is used – is in the state when he/she cannot give an account to his/her actions. That's when the law provides the police with the right not to explain a person his/her rights, not to submit a report to be signed by him/her and not to hand over a report copy (Pro natsional'nu politsiyu 2015).

Based on all these, it is possible to indicate the following police activity signs: this a private (exclusive) service of National police, that is, no one except of the

police cannot carry out police guardship; this is a preventive measure, that is, the activity (cumulative action), which is aimed at the prevention of public law and order; this is a temporary measure; this is a service, which is rendered only to certain categories in cases stipulated by the law; it has its own procedural implementation in the form report; it does not stipulate for any sanctions' use to a person.

Thus, the police guardship is a separate preventive police measure, which is aimed at partnership relations' formation between the police and citizens. However, it is important to say that some police actions usage requires to be more concretized.

CONCLUSIONS

One of the reasons for the democratic processes in Ukraine was the advantage of a social partnership model between the society and subjects of public administration. The relations between the police and citizens are not the exception. This is an advantage, which is displayed in a long-term scheme, consists of flexibility, which is secured at the expense of the effective feedback.

In order to increase the police efficiency level in the sphere of public services rendering, it is important to implement new bases of services. It is possible by means of the following: defining the public needs in the sphere of public security provision; the discussion of a certain event's plan on achieving a corresponding police services' level with people; the development of communication methods. It is mediated by the change of direction in the decentralization of Ukraine and formation of the National police as a service authority, which function according to "Community policing". It was offered to broaden a form, which regulates the activity of the National police, to local government authorities.

For the improvement of social prerequisites in the police decision making, it is important to include the courses and themes on civil society into the curriculums of general education, technical-vocational and higher education facilities. It is also important to tell about the police as about the service subject, which render services with the use of specific means of effect.

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