

Нац. Юрид.акад. України ім. Я. Мудрого, 2010. С. 10-20.

6. Мельник К.Ю. Проблеми законодавчого закріплення поняття «правоохоронні органи» / К.Ю. Мельник // *Вісник Харківського Національного університету внутрішніх справ*. 2009. Вип. 3 (46). 2009. С. 139-146.

7. Загуменна Ю.О. Правоохоронні органи: поняття, ознаки, функції, особливості діяльності / *Право і безпека: науковий журнал*. 2010. №3. С. 145-150.

8. Конституція України від 28.06.1996 року / URL: <http://zakon2.rada.gov.ua/laws/show/254к/96-вр>

9. Про державний захист працівників суду і правоохоронних органів: Закон України від 23.12.1993 року №3781-ХІІ / URL: <http://zakon4.rada.gov.ua/laws/show/3781-12>.

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## **PROVIDING OF PUBLIC ORDER AND SECURITY: CHALLENGES FOR HUMAN AND CITIZEN RIGHTS AND FREEDOMS**

Solving the problem of public order and security has highly importance in the system of tasks that are set for state bodies of Ukraine. However, high crime rates, low economic stability, and other negative factors indicate that the state is not paying attention to sufficiently problem solving. One of the major reasons for such situation is not fully respected human and citizen's rights and freedoms while ensuring public order and security directly by enforcement agencies. Because one thing is closely related to the other one.

Respect for the individuals, protection of his honor and dignity is the duty of all government bodies, public organizations and officials. This constitutional obligation connected equally to the National Police activities in the part of providing rights, freedoms and responsibilities of the individual and the citizen. Moreover, ensuring law and order, curbing any unlawful acts, protecting human rights and freedoms is an urgent and scrumptious task of the National Police. Taking into account this statement, particular attention should be paid to the protection of individual and citizen rights and freedoms, while ensuring public order and security.

It is impossible to ensure human security unless the police protect the dignity, rights and freedoms of every society member without discrimination on any features, such as national or ethnic origin, religion, political beliefs or any other individual characteristics or status. There is, and cannot be, any contradiction between the protection of human and human rights and the maintenance of public order and security. Rather conversely.

Restriction of human rights and freedoms shall be allowed only on the basis and in the manner specified by the Constitution, laws of Ukraine, in case of urgently need, and in the volumes that are necessary for the police tasks performance. Police officers under any circumstances has no rights to promote, carry out, incite or tolerate any form of torture, cruel, inhuman or degrading, ill-treatment or punishment [7, p. 6]. Any privileges or restrictions on race, color, political, religious or other beliefs, gender, ethnic or social background, property, residence, linguistic or other characteristics are also prohibited by the law.

However, unfortunately, today there are a number of problems in the sphere of human and citizens' rights and freedoms violation. The realities of today indicate that, protection of the rights and freedoms of the individual and citizen, as one of priority tasks of police, increasingly failing and they violate a number of constitutional, civil rights, and freedoms.

The problem of observance of human and civil rights and freedoms by police officers in the process of ensuring public order and security during strikes and peaceful rallies, protests and religious movements has a great relevance nowadays. Almost in every news release, we hear about police trying again to violate activists' right to peaceful meetings. By far this is not the only right that is attacked by law enforcement.

Not infrequently, while ensuring public order and security, law enforcement officers level a range of human and citizen rights and freedoms. Among them: the right to assemble peacefully, without weapons and to hold meetings, rallies, marches and demonstrations (Article 39 of the Constitution of Ukraine), the right to respect dignity (Article 28 of the Constitution of Ukraine), the right to liberty and security (Article 29) Of the Constitution of Ukraine), the right to freedom of movement (Article 33 of the Constitution of Ukraine), the right to freedom of thought and expression, to the free expression of views and beliefs (Article 34 of the Constitution of Ukraine), the right to freedom of opinion and religion (Article 35 of the Constitution of Ukraine), the right to own, use and dispose of property, the results of intellectual, creative activity (Article 41 of the Constitution of Ukraine), the right to strike for the protection of economic and social interests (Article 44 of the Constitution of Ukraine), the right to know rights and obligations (Article 57 of the Constitution of Ukraine). And the civil rights corresponding to them: the right to liberty (Article 288 of the Civil Code of Ukraine), the right to personal inviolability (Article 289 of the Civil Code of Ukraine), the right to respect dignity and honor (Article 297 of the Civil Code of Ukraine), the right to freedom of literature, art, scientific and technical creativity (Article 309 of the Civil Code of Ukraine), the right to freedom of movement (p Article 313 of the Civil Code of Ukraine), the right to freedom of association (Article 314 of the Civil Code of Ukraine), the right of peaceful assembly (Article 315 of the Civil Code of Ukraine), the right of private property (Article 325 of the Civil Code of Ukraine), the right of individuality (Art. 300 of the Civil Code of Ukraine), right of information (Art. 302 of the Civil Code of Ukraine).

Thus, in particular, the ways of violating the rights and freedoms of a person and a citizen can be distinguished: the urging of the courts to restrict the right of peaceful assembly by filing a statement by the police regarding the impossibility of securing public order during their conduct; deliberate action to prevent people from attending meetings; unreasonable detention of participants on the meetings; excessive and unjustified use of force and special means against the participants of the meeting; restricting the protesters movement; the use of force and other restrictions to journalists and observers reporting on the meeting; the inaction of police officers during clashes that arise between different parties during peaceful assemblies and the conscious preference of one of the counter meetings; persecution of participants after the peaceful assembly; the inability to identify law enforcement officers who provide public order during peaceful rallies [5, p. 237].

For example, in 2016, the governance of Ministry of foreign affairs attempted to prohibit believers of the Ukrainian Orthodox Church (Moscow Patriarchate) from walking through the streets of Kiev during so-called “crusade” [5, p. 239].

On November 16, 2016, in Kiev, special police officers in unmarked uniform tried to rip the camera of photographer from the LB.ua edition Maxim Trebukhov and hit a torso when a photojournalist recorded a clash between activists and police officers near Palace of Arts “Ukraine”. Moreover, the police did not respond to the request of journalists and deputies “to introduce themselves who are these people in masks and where their identification marks” [5, p. 241]. It should be noted that such violations happen not so rarely.

However, the most dangerous encroachments on personal human rights include the unlawful use of physical or mental violence, including torture, which means any act of any person intentionally causing severe pain, or suffering, physical or moral, to gain from person information or recognition, to punish for the act he or the third party did or for which this person is suspected [1, c. 175].\

Described above cases not only violate public relations on protection of life, health, honor and dignity of the person, but also constitutional principles of the state activity, discredit the law enforcement system, reduce the level of trust, undermine the international authority of Ukraine as country who wants become a legal one. Therefore, at the same time it is necessary to develop and implement recommendations on problem solving regarding observance by law enforcement agencies, in particular, bodies of the National Police of Ukraine of human and citizen's rights and freedoms in the terms of ensuring public order and security.

Taking in the account the aim, first of all it is necessary to improve the legal and regulatory support for police officers professional activity in the direction of protection of human and citizen's rights and freedoms. In order to fully implement the requirements of the Law of Ukraine "About National Police", in particular, it is highly important to develop a series of legal acts (regulations, instructions, programs) that would regulate issues related to ensuring the rule of law and the continued observance of human rights by the police; transparency and openness of police work; demilitarization, depoliticization and decentralization of activities;

police cooperation with the population and local communities; organization and conduction of professional training and psychological selection of police officers, organization of psychological support service for police activities, etc. [2, p. 53].

The National Police and individual police officers as human rights defenders role in particular should be spelled out in more detail. The power limits of the police officers to arrest, search, etc. should be clearly defined. Ethical requirements for the National Police as a public service should be more clearly spelled out.

One of directions for improving for National Police activities is to develop an algorithm for peaceful assembly in order to ensure citizens right to freedom of expression and beliefs. For police units should be introduced special training just to ensure human rights during their service. Cases of force and physical coercion use during such activities should be clearly regulated by objective regulations, overwhelmingly sanctioned and carefully considered by the police, together with other bodies that have control on police activities, with mandatory public involvement. In general, Parliament should adopt a law on the freedom of peaceful assembly, which provides action for all police in situations that arise during peaceful assembly.

In this context, needs special attention foreign experience. Best practice of European states has shown the effective regulation, that is the maximum regulation of the officials actions through the development of detailed regulations (guidelines, recommendations), which provide possible behavior of police officers in standard and emergency situations. In addition, it seems promising to integrate such documents into a comprehensive document, following the example of European codes of conduct for police [2, p. 49].

Presented above statements confirm that the nowadays problem of human rights and freedoms observance by law enforcement agencies in the course of ensuring public order and security in Ukraine is systemic and needs to be addressed promptly by formation and taking a number of practical measures designed on the basis of Ukrainian realities and progressive foreign experience.