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COMPARATIVE LEGAL ANALYSIS OF THE MUNICIPAL POLICE ACTIVITIES OF EUROPEAN STATES AND EXPERIENCE OF UKRAINE

Вікторія Пилип. МУНІЦИПАЛЬНА ПОЛІЦІЯ: ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ДІЯЛЬНОСТІ ДЕЯКИХ ЄВРОПЕЙСЬКИХ ДЕРЖАВ ТА ДОСВІДУ УКРАЇНИ. Досить вагому роль у забезпеченні належного рівня безпекового середовища в європейських громадах відіграє муніципальна поліція. Основним завданням останньої є взаємодія з населенням та здійснення превентивної діяльності. За схожим принципом зараз відбувається реформа поліції України, яка ставить собі за завдання забезпечення кожної територіальної громади поліцейським офіцером. Виходячи з потреби впровадження найкращих зарубіжних практик, метою статті стало проведення порівняльно-правового аналізу діяльності муніципальної поліції держав Європи на прикладі: Австрії, Англії, Уельсу, Нідерландів, Франції.

За результатами аналізу зарубіжного досвіду функціонування муніципальної поліції таких країн як Австрія, Англія, Нідерланди, Франція, Уельс, встановлено, що у діяльності останніх превалюють дві основні тенденції. Однією з таких є розширення завдань діяльності та функціональних повноважень муніципальної поліції до тих, якими наділені національні поліцейські органи, що власне кажучи призводить до закріплення іншої тенденції – віддалення таких поліцейських від населення, що негативно позначається на їхній взаємодії з населенням. З'ясовано, що в країнах Європи фінансування муніципальної поліції може здійснюватися як за рахунок державного бюджету, так і місцевими силами. При визначенні штатного розпису муніципальної поліції місцева влада також виходить з потреб громади. Констатовано, що розширення повноважень муніципальних поліцейських Європи певною мірою підриває переваги плюралізації державної поліції, а новостворені підрозділи місцевої поліції стають прототипом національної поліції, що ускладнює процес розподілу повноважень і завдань останніх.

У контексті діяльності поліцейських офіцерів громади України варто підкреслити, що вони є штатними працівниками територіальних підрозділів Національної поліції, що наділяє їх досить широким спектром повноважень, однак чи дозволяє це їм здійснювати ефективну взаємодію та комунікацію з мешканцями територіальних громад, питання також досить неоднозначне, а тому наголошено на потребі проведення подальших ґрунтовних досліджень у контексті цієї проблематики.

Ключові слова: правоохоронна діяльність, муніципальна поліція, національна поліція, зарубіжний досвід, повноваження, органи місцевого самоврядування, взаємодія.

Relevance of the study. Law enforcement agencies play a significant role in creating an appropriate level of security environment. They perform the tasks of protecting human rights and freedoms, maintaining public safety and order, combating crime, etc. The national legislation of Ukraine entrusts the solution of these tasks to the National Police of Ukraine. This same body of executive power interacts with the population more often than any others. Currently, a whole complex of legal means and methods has been developed, which are aimed at involving citizens in the implementation of the law enforcement function.

Currently, the reform of the National Police continues in Ukraine. One of the tasks of these reforms is to provide each territorial community with a police officer. The activity of such an entity should take place in close interaction with the population of the community and

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be aimed at meeting its needs. That is, it is somewhat similar to the activities of the municipal police of European countries. Because an effective way of carrying out reforms is the use of proven international experience, we consider it necessary to compare the experience of the functioning municipal police in Austria, England, Wales, the Netherlands, France and Ukraine.

Recent publications review. Problems related to the activities of national law enforcement agencies are considered urgent among Ukrainian and foreign scientists. Among these bodies, the police also is a subject of separate analysis. Some aspects of the police activities of foreign countries have always been the subject of research by Ukrainian scientists. A. Bilas (2016) conducted a comprehensive comparative legal study of the law enforcement activities of the France, Germany, and Poland police. O. Perederii (2009) paid thorough attention to the analysis of the legal status of the France, Germany, and Poland police. V. Chumak (2019) carried out a comparative analysis of the administrative and legal bases of Georgia, the Baltic countries, and Ukraine police activity [3]. S. Myronyuk (2019) studied social models and service functions of the Western European countries police and their adaptation in Ukraine. Scientific searches of Ukrainian scientists are aimed at researching various aspects of the European countries police activities. However, the peculiarities of the functioning municipal police of European states have not yet been the comprehensive research subject by Ukrainian scientists.

The activity of the municipal police European countries is one of the discussion topics among foreign scientists. This is related to the questions regarding its armament, staffing, types of tasks and limitations in legal powers, etc. In this context, the works of A. Baker (2014), E. Bervoets (2013), F. Bonnet, J. Maillard and S. Roché (2015), T. Eikenaar (2019), Gr. Wenda (2013), M. O'Neill, J. Maillard and R. van Steden (2023) are important [1-10].

The article's objective is a comparative legal analysis the municipal police of European states activities (on the example of: Austria, England, Wales, the Netherlands, France and Ukraine). We consider this direction of scientific research to be quite relevant. Because the study of proven international experience can be recognized as a guarantee of improving the activity of the national practice of Ukraine.

Discussion. The establishment of municipal police is guaranteed by the provisions of the current legislation many European countries. Such legal principles are embodied in the laws of Austria, England, the Netherlands, France, etc. Municipal police agencies are established in the public sector as auxiliary forces. However, there are significant differences in the features of their creation and functioning. We consider it necessary to find them out.

The municipal police of England and Wales are similar in principle to Ukraine. It is understood that the latter function as part of the state police, and are not maintained at the expense municipal authorities. The latter are called "Police Community Support Officers (PCSO)". These units have been in operation since 2002. Among the fundamental differences between PCSO is that they do not have the authority to arrest citizens and are not empowered to keep, carry or use weapons. Thus, the scope of their powers is limited. It is significantly different from those vested in the main police forces of the state.

Regarding the duties of Community Support Officers in England and Wales Police, their main task is to deal with minor offenses and anti-social behavior. At the same time, they remain accountable to the public and partner organizations, because they also have to solve problematic issues at the local level that belong to their competence.

The activities of community support officers of the police in England and Wales have already undergone significant changes after 2017. This happened in connection with the adoption of the Law on Policing and Fighting Crime. This law expanded their powers. However, their main task remains prevention, carried out by establishing compatible communication with communities.

Unlike the municipal police in England and Wales, municipal authorities employ auxiliary agents in France and the Netherlands.

The French municipal police are quite numerous. As of July 2019, France had approximately 22,700 municipal police officers (civil servants with some police powers who work in municipalities and are thus independent of the national police and gendarmerie).

The French municipal police law of 1999 establishes the general principles governing the procedure for its operation (in particular, weapons, coordination with state forces, training, rules for granting powers, skills, etc.).

The coordination of the actions of the municipal police and the national police of France is achieved by signing a coordination agreement on the division of roles by the police (or the gendarmerie in rural and suburban areas). Unlike the police in England and Wales, French

municipal police may be armed.

The mayors of France have the right to arm the municipal police with the permission granted by the prefect. The number of armed officers (including all types of weapons) increased from 46 % in 2005 to 82 % in 2014. For firearms, the increase is more recent, with 53 % of officers carrying a firearm in July 2019, up from 39 % at the end of 2015 [9, p. 1683].

Several cities in France have established municipal police with large numbers of personnel and a clear mandate. This is designed for anti-crime tasks accompanied by particularly aggressive rhetoric from the mayor (such as Cannes, Nice in the southeast or Levallois-Perret in the suburbs of Paris). This growing similarity between Municipal and National Police has various implications for the relationship between them. In some cities, this can lead to increased cooperation between two organizations with similar mentalities and goals, but it also increases tensions. After all, the officer's national police have lost their traditional monopoly on the implementation powers aimed at combating crime [7, pp. 286-291].

The rhetoric of the French municipal police, particularly in Paris, is more radical. Among the demands of the latter and their unions are the right to access the radio files and airwaves the national police, as well as the authority to keep, carry and use weapons [9, p. 1685-1686]. At the same time, a significant difference in their activities is the lack of powers to investigate criminal cases, as well as closer interaction with the public.

It should be noted, that the Netherlands Municipal Police has been created in the 2000s, in order to combat mass riots. The insufficient number of police officers led to the need to find an alternative, which led to the formation of units' municipal law enforcement officers. Currently, they have the judicial status of special investigative officers, have the right to impose fines and make arrests [8, pp. 146-153].

Legal literature states that municipal law enforcement officers are currently a mature version of previously created city supervisors. The latter did not have any police powers at all. Ensuring public order is one of their main tasks.

As for the special tools that municipal law enforcement officers in the Netherlands are authorized to use, they are handcuffs, batons and body cameras, but the monopoly on the use of force is reserved for the national police.

A significant trend observed in the policy of local self-government bodies in the Netherlands and noted in the specialized literature is the concentration of control over community policing by local mayors in their municipal areas. They will likely be able to obtain the right to use force if will be successfully expand the boundaries of their professional activities [6; 9, pp. 1687-1689]. The question arises as to how this will affect the activities of the national police.

According to the Austrian Federal Constitution, municipalities have the right to establish municipal police departments that are responsible for police matters within their jurisdiction. Each locality in Austria uses its own names for the municipal police, including "Public Guard", "Municipal Police", "Municipal Guard", "City Police" (in large municipalities with city status). The most common general term for all municipal police services is "community watchdogs".

Austrian municipal police departments report to the mayor of the municipality, and all members are municipal employees. However, their powers are not limited by territorial boundaries, as they are "support agents" for various administrative, security agencies, and criminal justice agencies.

In addition to patrolling and enforcing local ordinances, they respond to calls under to the Act about the Security Police, perform road safety duties and even conduct investigative work. Some municipal police forces have motorcycles, radar control teams, bicycles, e-bikes or patrol their assigned areas on roller skates. Several departments use police dogs, although the federal police usually provide canine services.

In the structure of the municipal police, units with the status of "corps" (Public Security Authority) can also be created. They are vested with many of the powers of the federal police. In particular, this is the fulfillment of the requirements of the Law on the Security Police, the conduct of criminal investigations and certain actions provided for by the articles of the Criminal Procedure Code. A municipal police force that does not have "Corps" status. Technically, it is called "Ordinary Municipal Guard". The set of their duties and powers is quite limited and focused on issues of local public safety [10, pp. 55-59].

Thus, Australia, England and Wales, France and the Netherlands represent different policing and policy contexts. These jurisdictions were chosen because they each have a

subsidiary police authority in the public sector, but these authorities oscillate around two key points. Municipal authorities employ first, auxiliary agents in France and the Netherlands, while the state police employ agents in England and Wales. Second, the auxiliaries in the Netherlands, England and Wales are staff rather than police, while the agents in France are municipal police, albeit with limited powers compared to those of the national police. Despite these key differences, a primary focus on "law enforcement" becomes apparent. This calls into question the extent to which pluralistic policing offers a genuine alternative to "state" policing (Baker, 2014). Because the adoption of many of its core components potentially calls into question the symbolic dominance of state police as key agents of security, control and trust.

Multiple policing and the presence of auxiliary police officers have been the cause of scholarly debate about their position vis-à-vis "regular" police. On the one hand, these new government agents can be considered alternative ways to patrol the streets and interact with citizens. On the other hand, they can be seen as agents of the state, trying to imitate the traditional police, their powers and appearance. According to this second interpretation, they would try to be like the more prestigious state police, especially with regard to law enforcement orientation and the use of force. Since these are aspects of their powers that are more limited, but still prioritized in the political direction.

That is, there is currently a trend in the reform of the municipal police of European states. The central idea is the expansion of the powers of the latter in the context of the use of force, entrusting them with the performance of additional functions, in particular, such as the investigation of criminal offenses, etc. This trend continues despite the distinct institutional and political contexts of policing in the countries outlined. It also questions whether auxiliary police services can be considered an alternative form of policing or whether they should be equated with national police authorities.

Conclusions. There is considerable diversity in the way municipal police are organized and empowered in some European countries. Some give priority to relations with local residents and a preventive focus of activity. Others put them the first and even assign them tasks related to the fight against crime. Such newly created bodies do not always function and are financed at the state budget expense. In some cases, the local communities' forces carry out the full support of the latter.

The staff list of municipal police officers is determined taking into account the needs of the community. However, the question regarding their powers, the distribution of functions assigned to them are debatable. If the powers of the municipal police are expanded, it will to some extent undermine the advantages of the pluralization of the state police. The newly created units, which should provide for the needs of the community, will turn into the usual prototype of the national police, thereby distancing them from the population. In general, the reality does not correspond to the fundamental idea of creating a municipal police.

There is currently no such threat in Ukraine, because community police officers are actually full-time employees of territorial police departments. However, whether this interaction of police officers with the population corresponds to the criteria and ideas that were laid down during the reform. This question is also debatable. Positive in this aspect is the list of services that a police officer community can offer to residents of Ukrainian citizens. After all, he does not turn into the municipal police officers of England, Wales, and the Netherlands, who are the prototype of the employees of their national police bodies. We believe that for an objective analysis the mentioned trends, an analysis of their strengths and weaknesses, further comparative legal studies are necessary.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

Municipal Police plays a key role in ensuring an adequate level of security environment in European communities. Its main task is interaction with the population, prevention of misdemeanors. Ukraine is also reforming the National Police. The main task of this reform is the creation of similar units in the structure of the National Police of Ukraine. In the future, it is planned that each territorial community of our state will have its own police officer.

Two trends prevail in the activities of the municipal police in Austria, England, the Netherlands, France, and Wales. One of these is the extension of Municipal Police powers to those of National Police authorities. The second trend is related to the distancing of such police officers from the population, which negatively affects their interaction with the population.

In the context of the activities of police officers of the community of Ukraine, it should be emphasized that they are full-time employees of territorial divisions of the National Police. This gives them a wide range of powers. However, this does not allow them to carry out effective interaction and communication with the residents of territorial communities, because they see them as civil servants who can act from a position of strength. The problem of expanding the powers of munitions police officers is quite complex, and therefore requires further thorough research.

Keywords: law enforcement, Municipal Police, National Police, foreign experience, legal powers, self-government bodies, interaction.