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## FOREIGN EXPERIENCE OF THE LEGAL REGULATION IN POLICE MANAGEMENT AND ITS USE IN UKRAINE

*Based on the study and generalization of foreign experience in the legal regulation of police management, the article identifies the possibility of its borrowing and use in Ukraine. The article analyzed the legal foundations for various models of police management. It was established, that unlike the centralized model of management, characterized by directive style and rigid vertical subordination to the central body – the Ministry of Internal Affairs, the decentralized model of management is characterized by a significant number of legal acts regulating the relations between the police services of the national, regional and local levels. The attention is focused on the key features of the legal basis with regard to combined police management model of foreign countries, in particular on the normatively defined powers of the national governing body.*

**Keywords:** legal regulation, police, National Police of Ukraine, foreign experience, management.

Cardinal changes occurring recently in all spheres of society are objectively caused by the desire of building a democratic, legal and socially oriented state, as well as improving the mechanism of state power, establishment of civil society, etc. Currently, during the construction of the latest model of law enforcement system in accordance with international standards, principles and norms, the development and implementation of qualitatively new approaches in the management of law enforcement bodies has become urgent. For that purpose, in our opinion, it is appropriate to refer to the experience of leading countries of the world regarding the legal regulation of management in the police, in order to deepen awareness of the trends and patterns that determine the current state and prospects of development of the management of police units.

Certain aspects of the mentioned problems were the subject of studies by many scientists and administrativists, in particular: V. Averianova, M. Anufriieva, H. Ataman-

chuk, I. Aristova, A. Bandurka, A. Hubanova, M. Dyvak, V. Zarosylo, I. Zozulia, V. Kovalska, F. Krasnoiarova, V. Kryvolapchuk, N. Matiukhina, S. Petkova, A. Pronevych, I. Shopina and other scientists. However, the experience of foreign countries on the legal regulation of police management for its implementation in Ukraine needs more in-depth study, taking into account the European integration direction of our state. The purpose of this article consists in studying and summarizing the experience of foreign countries on legal regulation of management in the police and its use in Ukraine, which will contribute to the improvement of legal regulation of management by democratization of management, reduction of managerial apparatuses, expansion of powers of lower links, etc.

As A. Dovhan rightly points out, the specific purpose of the police within the state depends directly on the essence of the tasks of the policy it pursues. In other words, the activities of the police bodies to protect the internal security of the state and ensure the safety of its citizens considered in the context of international experience in the implementation of state police policy [1, p. 113]. Organizational forms of police and principles of state management of its activity are specifically conditioned by historical, economic, political, geographical and other features of each particular country.

Existing model of police management fully correlates with different forms of state structure: unitary, federal and even confederal [2, p. 44]. Currently, there are three models of internal security abroad: centralized, or a model with a dominant role of the Ministry of Internal Affairs, directive management style and a clear vertical subordination of lower levels to central authorities; decentralized model (absence of a single national body, plurality of police forces at the national, regional and local levels, predominant concentration of police control in the hands of regional state and local governments, significant role of municipal authorities in police management); semi-centralized model (existence of a ministry responsible for internal security; coordination of disparate police services; coexistence of state police services at the national and regional levels, as well as state and municipal police with priority for state police development) [3, p. 78].

The centralized model of the internal security system applies for a number of countries in continental Europe. For that reason, they referred to the continental model. This model of internal security system works in two forms. The first one is characteristic of the states that ensure their internal security with the efforts of civil police alone: Ireland, Finland, Sweden, Denmark, Norway. It is in these countries there is a low level of crime, absence of serious political and social conflicts, and therefore there is no need for special police formations [4].

The countries of the second (main) type of centralized model of police management comprise the states with special police units – gendarmerie: France, Spain, Italy, Portugal, Belgium, Holland, Luxembourg. These countries characterized not only by strict centralization of law enforcement agencies, but also by traditional use of national police and gendarmerie [5, p. 142].

We should note, that the centralized model of police management preserved for a long time in many post-socialist states of Central and Eastern Europe [6, p. 64]. This was due to the traditions of organization of law enforcement agencies. Militia in

these countries functioned as part of the ministries of internal affairs. Management of the police, as a rule, based on strict subordination of the central bodies to the subdivisions of regional (regional) and local levels. The practice of creating communal (municipal) police services was not widespread enough. The experience of public administration in Slovenia, in particular, testifies to this. According to the Police Act of Slovenia of July 18, 1998, all police services of the country subordinated to the Ministry of Interior, which authorized them to solve organizational, personnel and financial issues of police bodies functioning, as well as to ensure interaction of its units with other public authorities [7, p. 98–100].

The decentralized (fragmented) model of the state police system has been characterized for countries where the nation's fear of potential abuses by the state power structures leads to the creation of a number of independent police agencies at the regional and local level. In the EU countries the model of decentralized police, organized on the principles of self-government, is preserved only in Switzerland [8, p. 57]: absence of a single state police corps; their structure, number and principles of operation are determined by separate local (cantonal) agencies. Partial decentralization of police activities has been implemented in such countries as Bulgaria, Czech Republic, Romania.

In Hungary and Poland, the organizational structures of the police systems are characterized by a low level of decentralization. The management of the Polish police follows this pattern: Main police commandant's office – voivodship commandant's office – county (district) commandant's office. The Polish Police consists of the following services: criminal, preventive and auxiliary police activities. In the structure of the police there is also a judicial police, whose powers and organization principles are determined by the Minister of Internal Affairs and Administration in coordination with the Minister of Justice [9, pp. 385–386].

The combined (integrated) model of police management belongs to the United Kingdom, Germany and the Netherlands, which combine features of the two models mentioned above. In particular, in the UK the police system based on the combination of the powers of the state and local authorities in the field of law and order. The system of police units in England and Wales consists of independent formations of provincial police forces, the Metropolitan Police (the New Scotland Yard is part of it), the independent police of the London City, in Scotland – an association of police detachments and separate police units of cities. The Secretary of State for the Home Office does not directly supervise the county police (local police). According to the law of 1964 he is obliged to supervise the work of local police departments, has the right to dismiss Chief Constables who head territorial police departments and who are not suitable for their positions. In addition, independent special police organizations (transport police, police of the Atomic Energy Authority, military police) supplement the system of law enforcement management [10, p. 73].

Consequently, the legal principles of the centralized model of governance in foreign countries are characterized by a directive style and a rigid vertical subordination to a central authority, in particular the Ministry of Interior, which performs the functions of direct management of the police, plans, coordinates and adjusts its activities. However, the legal regulation of the decentralized model of governance

characterized by a significant number of legal acts regulating the relations between the police services of the national, regional and local levels. There is no single nationwide body for the management of police forces. A feature of the legal basis of the combined model of police management of foreign countries is, in particular, the fact that the normatively defined powers of the national governing body, which along with information-analytical and control functions exercises the power to direct the activities and actions of subordinate bodies, services and police units. At the national (federal) and regional (state, land) level, state police services coexist, as well as municipal police.

Moreover, bear in mind that in the sphere of legal regulation of police management in some foreign countries the main problem for today consists in ensuring the coordination of police services in a rapidly changing operational situation, which guarantees not only a rapid response, but also the legal selection of ways and forms of impact on the crime situation.

We should also note the exceptional importance for the police activities of foreign countries, which have international legal norms, defined, in particular, in such fundamental documents as: “The Police Declaration, adopted by the Parliament of the Council of Europe Assembly in Strasbourg on 8 May 1979, the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly on 17 December 1979, the Guidelines on Crime Prevention and Criminal Justice in the context of the New International Economic Order (resolution of the UN General Assembly of 4 December 1985), and the Guidelines on Justice in Matters Relating to the Prevention of Crime and Punishment in the Criminal Justice System. In the preamble to the UN International Standards on the Legal Protection of Human Rights and Freedoms we note that “the norms of international law in the field of human rights protection are binding on all States and their bodies, including law enforcement officials” [11, pp. 101–102].

In particular, in the Declaration on the Police, the vital role of the police for all participating States, who are frequently called upon to intervene in circumstances dangerous to their officers, and that their duties become more difficult if the rules of conduct of their officers are not sufficiently defined. The European system of human rights protection would benefit if there were generally accepted standards concerning the professional ethics of the police, taking into account the principles of human rights and fundamental freedoms, since the police force is a public service established by law, which should be responsible for maintaining and ensuring law and order [12, p. 18].

Article 1 of the Code of Conduct for Law Enforcement Officials states that law enforcement officials must always perform the duties imposed upon them by law, serving the public and protecting all persons against unlawful acts, in accordance with the high level of responsibility required by their profession. These provisions considered the first internationally established foundation for the development of the police and for the cooperation of these bodies among many nations. Article 2 indicates that, in the performance of their duties, law enforcement officials shall respect and protect the dignity of the individual and uphold and protect the human rights of all persons. The article reveals the protection of those human rights that defined and protected by national and international law [13, p. 582].

Despite the wide variety of legal bases for policing in modern state models of foreign countries, there are obviously common ones: ensuring the rule of law, depoliticization, demilitarization and decentralization of police bodies, organizing accountability and transparency of their work, establishing close cooperation with communities' professional training of police personnel [3, p. 79].

Fighting delinquency and thus managing the police force is the responsibility not only of the state, but also of the regional administration. Typical in foreign countries, a high degree of technical support of the police is the basis of its effective work. The measures taken in this direction allow achieving high efficiency in the work of the police units.

Distribution of expenditures on police from the budgets of the government or local authorities of one party or another is certainly conducive to savings. The police must achieve the greatest possible results with the least possible resources, therefore in developed foreign countries the transition to resource-saving technologies of management, which ensure highly efficient operation of police structures, is relevant.

Foreign experience shows that the most effective way to combat crime is through the introduction of special (national and regional) programs, which include legal, organizational, managerial and other interrelated measures with sufficient financial support. Undoubtedly, the creative use of such practices is interesting and quite promising for Ukraine. The strategic tasks of the police in the field of internal security of the state depend on a wide range of factors: the requirements and wishes of society regarding police activities; the needs of the authorities at the national and regional levels; capabilities of police forces, branch services and units.

With this as a background, we concluded that studying best practice from other countries in the legal regulation of police units, can be useful for Ukraine as a state, that aspires to have a European-style police force. However, we should not forget that each police system has its own specific features and its own history of development, which directly depend on the formation and development of a particular state. Therefore, the Ministry of Internal Affairs of Ukraine and the National Police of Ukraine are faced with the task of improving the domestic law enforcement system, taking into account the positive experience of police activities of leading European countries and domestic realities.

At the same time, taking into account the totality of the reform processes that have already taken place and that continue to take place in the activities of the National Police of Ukraine, we believe that there is a need for initiative and organization, on the part of the relevant authorities in the bodies and units of the police, expansion of the list of preventive measures. In particular, the police of Georgia have the right to identify a person for the protection of public safety in the cases stipulated by paragraph 1 of Article 19 of the Law of Georgia "On Police", if it is impossible to identify a person by applying preventive measures stipulated by this norm, if it is associated with certain difficulties or on sufficient grounds to consider that the person is directly related to the offence [14, p. 97; 15, art. 19].

Regarding personal identification the following measures are used: taking fingerprints and palm prints; taking photographs; recording physical characteristics; measuring height; recording voice; recording other biometric data.

Before applying identification measures to a person, he gets an opportunity for voluntary authentication of his person within a reasonable period. When carrying out identification measures, the police officer is obliged to draw up a protocol in which the grounds for the event and all important factual circumstances must be specified. The protocol of person identification shall be signed by the police officer who carried out the measure and the addressee of the measure. In case the addressee of the event refuses to sign the protocol, a corresponding entry shall be made in the protocol. The addressee of the event has the right to make comments to the protocol certifying his signature (Art. 20 of the Law of Georgia “On Police”) [14, Art. 20; 15, p. 97].

Thus, we deem it appropriate to suggest modifying part 1 of Article 31 of the Law of Ukraine “On National Police” [16] by extending the list of preventive measures that applied by the police with a new item “Identification of a person”. At the same time, section 5 of the mentioned law should be supplemented by a separate article “Identification of a person”, the content of which should provide a set of interrelated and interdependent rights and obligations of parties in the implementation of this preventive police measure.

Taking into account the priority of preventive work within the activities of the National Police, we should turn to the experience of legal regulation of the organization and activities of the police in France. Analyzing the French police management system through the prism of domestic realities, in our opinion, the question of creating a municipal police in the hierarchical management system of national law enforcement agencies can be quite constructive and appropriate. Of course, within the context of considering establishing a municipal police force, as well as adopting the relevant management decision, the question of duplication of functions and responsibilities of employees of the National Police of Ukraine and individual structural subdivisions arises quite naturally. Points of “overlap” between the functions and, respectively, the powers of employees of the National Police of Ukraine and the municipal police are closest in the activities of the territorial bodies and, accordingly, in the units of the block of patrol police. However, according to article 15 of the Law of Ukraine “On the National Police”, the jurisdiction of the territorial bodies of the National Police is much wider compared to the borders of individual settlements, which, in our opinion, is an evidence of the absence of direct duplication of the public security functions of the municipal police in the territorial aspect.

With those in hand, the experience of the Kingdom of the Netherlands can also be useful, because it allows us to adopt management models of co-functioning of both the National Police and the municipal police. For example, by the early 1950s, the National Police and municipal police coexisted in this country. The units of the State Police played a supplementary role in the protection of public order. They were subordinate to the Minister of Justice, and in matters of public order, they were subordinate to the requirements of local governments. The municipal police did not operate in all cities. In each case, the matter decided based on conversations with the Minister of the Interior. In the case of the creation in the municipal police station of a criminal investigation unit, further approval must be obtained from the Minister of Justice, etc. A major reform of the Dutch police completed in 1994, merging the municipal police force and the State police into a single, integrated institution. The

country's police since then has consisted of 25 regional corps, divided into districts [17, pp. 64–65; 18, p. 166].

In the northern regions of the European Union, municipal police also very successfully integrated into the management system of the state police. At the same time, interestingly enough, in our opinion, the police in Finland, for example, as in other Scandinavian countries, functions as a central body of state power. It is subordinate to the Minister of the Interior. The structure of the Finnish Interior Ministry consists of several departments: Administration, Municipal Affairs, Regional Development, Emergency Situations, Immigration, Border Guard, and Police [19]. The structure of the Finnish police consists of: The Police Department, three nationwide divisions: the Central Criminal Police (Keskusrikospoliisi), the Traffic Police (Liikkuva poliisi), the State Security Police (Suojelupoliisi), five regional police departments, local police, the Technical Department (Poliisin tekniikkakeskus) and the Police Information and Computer Support Department [20]. The Police Department manages the organizationally separate police services: criminal police, security police, mobile (road) police and local police agencies [21, p. 12]. This department is an interdepartmental body of intrasystemic management and combines the functions of collecting and analyzing information, preparing justifications for the decisions of the highest state and political leadership and control over the activities of subordinated units, and has the authority to manage their actions [22, p. 658]. They planning their work closely cooperates with the provincial authorities and public institutions in the form of various police committees and councils. Management of the subordinate units belongs to the Police Department according to the territorial and functional principle. Its organizational structure based on a functional principle. The Department is also subordinate to specialized training institutions. The Department headed by the chief, who at the same time presides over the Bureau of Law Enforcement and Criminal Police, he has two deputies; all of them are appointed to their posts by the President on the recommendation of the head of the MIA [23, pp. 112–113].

With these matters cleared away, we should note that the existing system of the Ministry of Internal Affairs of Finland has a number of similarities with the system of the Ministry of Internal Affairs of Ukraine. In particular, both the national and the Finnish systems were created to ensure the performance of functional responsibilities in the provision of police services, protection of state borders and emergencies. However, considering the existence of an organizationally separate local police commanded separately, municipal police work could be planned and implemented in close and constructive cooperation with local authorities and public institutions in the form of police committees and councils. Such approach to the organization and implementation of police functions by municipal police officers, in case of introducing them in Ukraine, in our opinion, may have a number of positive foundations for the prevention of crimes and offenses at the level of individual administrative units such as cities, which, in turn, will certainly be reflected in the positive dynamics of crime rate reduction at the state level.

The experience of the United Kingdom of Great Britain and Northern Ireland in introducing special mechanisms by which the public can monitor the activities of state law enforcement agencies, including the police department, deserves special attention.

Analyzing their experience regarding the effectiveness of installing video surveillance equipment in police departments to monitor the activities of police personnel as a mechanism by which the public can monitor police activities, we believe that the introduction of such foreign experience in the activities of the National Police of Ukraine would be not only another means of implementing the principle of openness and transparency enshrined in Article 9 of the Law of Ukraine “On National Police”, under this law, the police conduct their activities on the basis of openness and transparency within the limits defined by the Constitution and laws of Ukraine, but also a kind of step towards society, which is due to the need of the law enforcement agency in the trust of the population. We should add, that introducing a video surveillance system for the purpose of daily, stationary control over the activities of police officers can be an auxiliary factor, which will allow to retain and increase the existing level of public confidence in the National Police against the background of increased workload and understaffing of the relevant bodies and units of the police.

Legal regulation of management in the police structures of foreign countries operates through a number of normative acts of varying legal force. In particular, these are constitutions or special laws of foreign countries relating to the police, international legal acts, other laws adopted at the appropriate level by the legislative bodies of foreign countries, decrees of the Presidents or senior officials of the states in certain areas, resolutions of the main executive authorities (governments of countries), normative acts of ministries of law enforcement agencies, in particular the Ministry of Interior, and in some countries the Ministry of Justice, etc.

Analysis of the practices from other countries in the legal regulation of the police testifies that with the help of legal norms determined and legally enshrined: 1) the system of powers of police officers to exercise their rights; 2) forms, types, directions and limits of police activities; 3) systems of objects and subjects of law enforcement activities of police officers; 4) distribution of supervisory functions between the units of a particular body and their employees; 5) the main parameters of interaction and coordination of subjects of law enforcement activities; 6) legal protection of the interests of participants in police relations; 7) system of legal coercive measures to ensure the stability of public [24, p. 35].

Summing up all the foregoing, we should note the fact that the experience of legal regulation of management in police departments of foreign countries based on national features, which are crucial for the formation of appropriate state mechanisms. Moreover, some models of management organization in police bodies and units of foreign countries have a number of common characteristics with the domestic system of the Ministry of Internal Affairs of Ukraine, which, in our opinion, should contribute to the process of implementation of experience in case of making the appropriate decision.

The essence of management in the National Police of Ukraine as an object of legal regulation is the internal and external daily managerial impact of specially created apparatuses and appointed officials (managers) on the hierarchical system of territorial (including interregional) police bodies. Providing effective solution of assigned tasks to ensure the protection of human rights and freedoms, interests of

society and the state, countering crime, maintaining public safety and order, providing other police services is aimed at the optimal organization and streamlining of functions of this central body of executive power.

Finding directions for implementing proven European standards of police activity and ways of borrowing positive foreign experience, including on the legal regulation of police management, should take into account the national situation of functioning and further reform of the National Police of Ukraine, in particular, it would be advisable to borrow the experience of organization and implementation in the activities of bodies and divisions of the Ukrainian police additional preventive measures – identity; beginning of management models of co-functioning National and municipal; planning and implementation of municipal police work in close and constructive interaction with local authorities and public institutions; introduction of special control mechanisms not only by the police leadership, but also by society.

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## **ЗАРУБІЖНИЙ ДОСВІД ПРАВОВОГО РЕГУЛЮВАННЯ УПРАВЛІННЯ В ПОЛІЦІ ТА ЙОГО ВИКОРИСТАННЯ В УКРАЇНІ**

Проаналізовано чинні моделі управління, притаманні поліцейським органам зарубіжних країн, та їх правове регулювання. Встановлено, що правові засади централізованої моделі управління характеризуються директивним стилем і жорсткою вертикаллю підпорядкування центральному органу, зокрема Міністерству внутрішніх справ, яке виконує функції безпосереднього керівництва поліцією, планує, координує й коригує її діяльність.

Наголошено, що правовому регулюванню децентралізованої моделі управління притаманна значна кількість нормативно-правових актів, що врегульовують відносини між поліцейськими службами загальнодержавного, регіонального та місцевого рівнів. Відсутній єдиний загальнонаціональний орган управління поліцейськими силами.

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Акцентовано увагу на особливостях правового підґрунтя комбінованої моделі управління поліцією зарубіжних країн, зокрема на нормативно визначених повноваженнях загальнонаціонального органу управління, який поряд з інформаційно-аналітичними та контрольними функціями здійснює владні повноваження щодо керівництва діяльністю і діями підпорядкованих органів, служб і підрозділів поліції.

Відзначено, що на загальнонаціональному (федеральному) та на регіональному (штат, земля) рівнях співіснують державні поліцейські служби, а також муніципальна поліція. Обґрунтовано, що наразі у сфері правового регулювання управління поліцією деяких зарубіжних країн головною проблемою є забезпечення координації дій поліцейських служб в умовах швидкої зміни оперативної обстановки, що гарантує не лише оперативне реагування, а й правовий добір способів та форм впливу на криміногенну ситуацію.

На основі дослідження правового регулювання управління в поліції країн Європейського Союзу аргументовано доцільність запозичення окремих аспектів досвіду зарубіжних країн з огляду на вітчизняні реалії управління органів та підрозділів Національної поліції України.

Зауважено, що вивчення зарубіжного досвіду щодо правового регулювання поліцейських підрозділів може бути корисним для України як держави, що прагне мати поліцію європейського зразка.

Звернуто увагу на те, що, деякі моделі організації управління в органах та підрозділах поліції зарубіжних країн мають низку спільних із вітчизняною системою МВС України характеристик, що сприятиме процесу імплементації досвіду в разі прийняття відповідного рішення. Водночас зауважується, що пошук можливих напрямів запровадження апробованих європейських стандартів поліцейської діяльності і напрямів запозичення позитивного досвіду, в тому числі щодо правового регулювання управління в поліції, має відбуватись, по-перше, з урахуванням того, що кожна з поліцейських систем має свою специфіку та власну історію, яка безпосередньо залежить від особливостей становлення та подальшого розвитку конкретної держави, по-друге, через призму врахування вітчизняних реалій функціонування і подальшого реформування Національної поліції України.

**Ключові слова:** правове регулювання, поліція, Національна поліція України, зарубіжний досвід, управління.

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