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POWERS OF THE NATIONAL POLICE OF UKRAINE TO APPLY POLICE MEASURES

PODERES DA POLÍCIA NACIONAL DA UCRÂNIA PARA APLICAR MEDIDAS POLICIAIS

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Abstract: Guaranteeing human rights and freedoms, ensuring national security and law and order, and combating crime are a priority for every European state governed by the rule of law. In this regard, an important role is assigned to law enforcement agencies, which are authorised to restrict the rights and freedoms of persons committing offences on the grounds and in accordance with the procedure provided for by national legislation. One of the stages of law enforcement reform in Ukraine was the creation of the National Police in 2015, which replaced the Soviet punitive police. The police are empowered to apply police measures, the list of which is enshrined in the Law of Ukraine "On the National Police". This article provides a list of police measures, highlights the purpose and procedure for their application in accordance with the law. The problematic aspects of the practical application of certain police measures are highlighted and the ways to eliminate the existing legislative gaps in terms of the possible procedure for the application of police measures are proposed.

Keywords: National Police. Police measures. Police custody. Entering homes and other property. Superficial inspection. Public safety and order. Ensuring human rights and freedoms.

Resumo: Garantir os direitos humanos e as liberdades, garantir a segurança nacional e a lei e a ordem, e combater o crime são uma prioridade para todos os Estados europeus governados pelo Estado de direito. A este respeito, um papel importante é atribuído às agências de aplicação da lei, que estão autorizadas a restringir os direitos e liberdades das pessoas que cometem crimes com base e de acordo com o procedimento previsto na legislação nacional. Uma das etapas da reforma da aplicação da lei na Ucrânia foi a criação da Polícia Nacional em 2015, que substituiu a polícia punitiva soviética. A polícia está habilitada a aplicar medidas policiais, cuja lista está consagrada na Lei da Ucrânia "Sobre a Polícia Nacional". Este artigo apresenta uma lista de medidas policiais, destaca a finalidade e o procedimento para sua aplicação nos termos da lei. São realçados os aspectos problemáticos da aplicação prática de determinadas medidas policiais e

propostas as formas de eliminar as lacunas legislativas existentes ao nível do possível procedimento de aplicação de medidas policiais.

Palavras-chave: Polícia Nacional. Medidas policiais. Custódia policial. Entrada em residências e outros bens. Fiscalização superficial. segurança e ordem públicas. Garantia dos direitos humanos e das liberdades.

1. Introduction

Today, for every European country, ensuring public security and order is a priority for public authorities. The transformation of modern Ukrainian society, the emergence of fundamentally new social relations, globalization and systematic European integration processes, and the targeted fight against corruption have led to an urgent need to change the militarized system of internal affairs agencies into a European-style law enforcement agency that meets public expectations, updated democratic and social values, economic and political realities, and can effectively protect the rights and freedoms of the population and the interests of the state. This mission was assigned to the newly created central executive body, the National Police. Thus, the adoption of the Law of Ukraine "On the National Police" in July 2015 was an important step in the reform of the law enforcement system of Ukraine. The new paradigm of this Law was the reorientation of the nature of police work from punitive and repressive to service-oriented. The Law introduced such concepts as "police services", "police measures", etc. to domestic legislation. Meanwhile, the police legislation of a number of European countries does not directly mention police services and police measures, but the content of these concepts clearly indicates that the police performs power functions. The main goal, the social purpose of the police is to assist the public in solving certain problematic issues. In other words, the police does not interfere unnecessarily in social relations and processes, but only monitors them, taking appropriate measures in case of relevant threats to social goods or when a person applies to it.

The observance of human rights by the National Police of Ukraine is increasingly becoming the subject of discussion in the media, in academic community, and is the focus of contentious political debate. Certain cases of torture, ill-treatment, use of evidence obtained through inhuman treatment, lack of effective investigation of applications and communications on this issue cause a serious public response and adversely affect the credibility of the police authorities and the entire national law enforcement system (Voitsikhovskyi, Bakumov, Ustymenko, Seliukov, 2019).

In each country the appropriate model of police management and its staffing is formed taking into account historical background, national experience of law enforcement reform, features of legal, political, social, economic and other factors (Kaganovska, Buhaichuk, Vasyliev, Serohin, 2020). It is worth noting that the analysis of police legislation in foreign countries shows the peculiarities of legal regulation of police activity related to the historical tradition, socio-political and socio-economic development of these countries. It also has certain shortcomings. At the same time, there are a number of positive aspects, which, if taken into account and implemented at the level of domestic legislation, could significantly improve the quality of police services.

An in-depth analysis of the essence and peculiarities of public administration by the National Police became possible due to the results of separate monographic studies by the author:

K. L. Buhaichuk (2020), who for the first time comprehensively studied the problem of public administration in the bodies of the National Police of Ukraine;

B. O. Lohvynenko (2017), who clarified the theoretical and practical aspects of public administration of health care in Ukraine;

V. V. Sokurenko (2016) defined the essence of public administration of the defense sector in Ukraine;

O. H. Strelchenko (2019) devoted her research to public administration in the sphere of circulation of medicines.

Despite significant progress in the scientific development of the problem of public administration, in particular, in the National Police, we are forced to state that certain scientific and theoretical constructs remain controversial and therefore require further research; legal support for public administration by the National Police contains a number of problems, in particular, in the context of regulatory and legal regulation of the activities of public administration entities, and building the optimal structure of the National Police bodies.

2. Research Methodology

In accordance with the set goal and tasks, a set of both general and special methods and techniques of scientific knowledge were used in the work. Their application is determined by a systematic approach, which makes it possible to investigate problems in the unity of their social content and legal form. With the help of the logical and semantic method,

the conceptual apparatus was deepened. Using the method of analysis and synthesis, a list of subjects of application of police measures was determined. The comparative legal method made it possible to identify the advantages and disadvantages of legal support for the use of police measures. The comparative method and the method of documentary analysis were used to form directions for improving the legal regulation of the application of police measures.

Scientific works of experts in the field of management theory, general theory of the state and law, administrative law, public management and administration, and other legal sciences form the scientific and theoretical basis for the work. The normative basis of the work is legislative and by-law normative legal acts.

3. Results and Discussion

The modern state is characterized by a variety of tasks and functions, the professional and accurate performance of which depends on the existence of the entire political system. The entire world experience and the state of social relations, even in the most democratic countries, show that modern society cannot function and develop normally outside the state established by its borders. This leads to the need for a qualified and powerful state apparatus, the ability of the state to effectively perform its economic, social and legal functions, which is determined primarily by an effective structure of public administration and the quality of human resources. Public administration consists of measures taken by the government to create and ensure the conditions for citizens to exercise their rights and obligations.

The powers of governing bodies, as well as the specifics of the exercise of powers by state executive authorities and local self-government bodies, are regulated by administrative law. Administrative and legal relations may arise between bodies representing all branches of government, as well as private law entities, associations of citizens, and individuals. Mostly these are relations of the "power - subordination" type that arise at the will of one party - the holder of power. The above also applies to the activities of the National Police of Ukraine, whose powers are enshrined in the mentioned Law of Ukraine "On the National Police". A. Ivanova and O. Samoilenko, analyzing the novelties of the above-mentioned law, emphasize that its important innovation is a fundamental change in the understanding of the place and role of the police in the "police - person (society)" relationship. The tasks of the police are based on the general concept of public service provision by the state. This provision is in

line with the understanding of the police as a civilian organization, and thus will contribute to achieving the goal of the reform - to transform the system of state coercion, which was previously embodied by the militia, into a service service that should be represented by the police.

Analyzing the Law of Ukraine "On the National Police", O. Banchuk points to a number of positive innovations. According to the researcher, a rather important aspect is the regulation of procedures for the use of police measures, special means, etc. Previously, this area was regulated mainly at the bylaw level. The definition at the level of the law significantly minimizes the risks of abuse during their application.

The powers of the National Police units in the area of public security are exercised through the means and methods they are vested with. The use of police measures, on the one hand, affects the most important rights of citizens enshrined in the Constitution of Ukraine, as it involves direct physical impact and, in some cases, harm to health or loss of life. On the other hand, it allows for an effective impact on unlawful behavior while minimizing collateral damage to persons who deliberately and often grossly violate the law. It is an effective means of protecting the legitimate interests of law-abiding citizens from socially dangerous encroachments, as well as the life and health of police officers (Korol, 2022, p. 430). Thus, police measures are one of the means by which the police exercise their powers in the field of public security. For the first time at the legislative level, it was defined that police measures are an action or set of actions of a preventive or coercive nature that restricts certain human rights and freedoms and is used by police officers in accordance with the law to ensure the exercise of their powers. According to O. M. Soloviova (2020, p. 273), the key phrase in this definition is "restriction of rights". The very concept of "restriction of rights" should be clearly distinguished from the concept of "violation of human rights". While at the theoretical level this distinction is clearly visible, at the practical level it often causes problems (any unlawful restriction of human rights automatically becomes a violation of human rights). Therefore, today the problem of practical application of police measures is becoming increasingly relevant.

In our opinion, police measures should be attributed to administrative and coercive measures, which are understood as measures of moral, property, personal and other nature provided for by administrative and legal norms, carried out by public administration bodies in order to prevent and stop offenses, bring perpetrators to justice (Ivannikova, 2011; Bytiak, Zui, Komziuk, 1994).

The purpose of applying police measures is to ensure that the police fulfill their powers. Police measures are divided into preventive and coercive measures. The former ensure preventive, prophylactic police activities (checking a person's documents; questioning a person; superficial inspection and examination; stopping a vehicle; demanding to leave a place and restricting access to a certain territory; restricting the movement of a person, vehicle or actual possession of a thing; entering a person's home or other property; checking compliance with the requirements of the permit system of internal affairs bodies; police guardianship, etc.) Coercive measures include the use of physical force, special means, and firearms. As we can see, police measures of both prevention and coercion are used by the police to protect human rights and freedoms, prevent threats to public safety and order or stop their violation.

It is worth paying attention to the fact that the term "preventive measures" is of a preventive (precautionary) nature. By the way, the term "preventive measure" is used in various spheres of public life. For example, in relation to business activities, preventive measures are measures aimed at reducing risk and influencing the result. In military law, preventive measures are joint actions of the community of states aimed at preventing external threats, disorder or aggression, calculating (forecasting) the probability of danger over a certain period of time. Most often, preventive measures are used in insurance, they are taken in advance according to a predetermined forecast (the probability of occurrence for a certain time interval is calculated). There is even a classification of preventive measures by risk factors, purpose and other criteria (Pohrebyska, 2015, p. 82-83).

Preventive police measures are an action or a set of actions that restrict certain human rights and freedoms, the use of which is not always associated with the unlawful behavior of specific individuals and which are applied in accordance with the law to ensure the exercise of the powers vested in the police in compliance with the requirements established by law. The application of preventive measures by the police is not an end in itself; it complements educational, informational, and explanatory measures and is carried out on the basis of legality, necessity, proportionality, efficiency, and respect for human rights and freedoms. Preventive police measures provide for the application of restrictions on certain rights and freedoms to people and organizations in cases established by law, which manifests their coercive nature, although there are no offenses. Therefore, these measures have a clear preventive focus and are aimed at protecting the interests of public safety and order, preventing the commission of offenses (Syniavska, 2021).

From the perspective of the principle of proportionality, preventive measures should be more lenient towards the person against whom they are applied, since there are no obvious signs of an offense, and there are only grounds to believe that the person has committed or is committing illegal acts. When it comes to the legal restriction of a person's rights, the law granting such powers to law enforcement agencies should contain an exclusive list of such grounds and avoid evaluative concepts.

The legislation defines the grounds and conditions for the use of police measures, as well as the principles, including legality, necessity, proportionality, and effectiveness, which determine the legality, equivalence, and validity of their use in the mechanism of ensuring public security by the National Police units. At the same time, according to the researchers, certain norms need to be clarified or officially explained. Based on the fact that police measures, regardless of their preventive or coercive nature, contain a share of restrictions on the rights and legitimate interests of persons to whom they are applied, the grounds for their application should be defined in the law more specifically. Instead, most provisions contain the general wording "reasonable grounds to believe". For example, Art. 32 of the Law of Ukraine "On the National Police" states that a police officer has the right to demand that a person present his/her identity documents and/or documents confirming the relevant right of the person, including if there are sufficient grounds to believe that the person has committed or intends to commit an offense; Art. 34 of the same Law, a police officer may stop and/or inspect a person for a superficial check of the person if there are sufficient grounds to believe that the person is carrying an item which circulation is prohibited or restricted or which poses a threat to the life or health of such person or other persons.

Therefore, we are convinced that the definition of the grounds for applying these police measures should be more specific. So that not only the police officer, but also the person to whom this measure is applied, clearly understands the grounds for its application.

A new police measure for Ukrainian law enforcement practice is police custody. Article 41 of the Law of Ukraine "On the National Police" defines the following list of subjects to whom this police measure may be applied:

1) a minor under the age of 16 who has been left without care;

2) a person suspected of escaping from a psychiatric institution or specialized medical institution where he or she was held on the basis of a court decision;

3) a person who has signs of a severe mental disorder and poses a real danger to others or himself or herself; a person who is in a public place and, as a result of intoxication,

has lost the ability to move independently or poses a real danger to others or himself or herself.

Scholars note that the list provided in the Law can also be called the grounds for applying this type of preventive measure, because: firstly, these grounds are not separately spelled out in the law, and secondly, Part 2 of Article 41 of the Law of Ukraine "On the National Police" indicates that the police officer's reaction should be immediate, and he is obliged to inform the person in a language that he understands the grounds for applying this police measure. In addition, he is obliged to explain to the person the right to receive medical assistance, give explanations and appeal his actions. The police officer must also immediately notify relatives or friends of the person's whereabouts (Dzhahupov, 2018; Buhaichuk, 2020).

Minors shall be handed over to their parents or adoptive parents, guardians, trustees, guardianship and custody authorities. Persons referred to in paragraphs 2 and 3 shall be transferred to the relevant institution, and those referred to in paragraph 4 shall be transferred to a special medical institution or to their place of residence. There are some comments on the range of persons to whom police custody may be applied. In the first version of the law, this category also included persons who attempted suicide and were caught by police officers. We believe that these persons may also be included in the subjects to whom police custody may be applied.

Another part of this provision is noteworthy: a police officer is prohibited from searching a person subject to police custody (Part 3 of Article 41 of the Law of Ukraine "On the National Police"). At the same time, Article 45 of the Law of Ukraine "On the National Police" does not provide for the use of handcuffs for such a person. On the one hand, this is logical, as this measure is not considered coercive. On the other hand, it raises the question of ensuring the personal safety of a police officer. These comments, in our opinion, require amendments to Article 41 of the Law of Ukraine "On the National Police" and the provision of appropriate regulatory clarifications on the mechanism of application of this measure. It is necessary to develop an appropriate mechanism for the application of certain police measures. This mechanism should be envisaged and detailed in bylaws: regulations, instructions, etc.

In our opinion, the use of such a police measure as entering a person's home or other property is quite difficult to implement from a practical point of view, and it is regulated by the provisions of Article 38 of the Law of Ukraine "On the National Police". In particular,

it is established that the police may enter a person's home or other property without a reasoned court decision only in urgent cases related to:

1) saving lives and valuable property during emergencies;

2) direct prosecution of persons suspected of committing a crime;

3) suppression of a crime that threatens the lives of persons in the home or other property.

From this perspective, it should be noted that the interpretation of the concepts of "dwelling" and "other possession of a person" is disclosed in Part 2 of Article 233 of the CPC of Ukraine. It should also be borne in mind that according to the case law of the European Court of Human Rights, the concept of "home" in the context of the content of paragraph 1 of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms covers not only the homes of individuals. It may also cover office premises owned by individuals, as well as offices of legal entities, their branches and other premises. In turn, "other possession" should be understood as objects (natural and artificially created) that, by their properties, allow for entry and the preservation or concealment of certain items (things, valuables). They may include, in particular, a land plot, a barn, a garage, other outbuildings and other buildings for household, industrial and other purposes, a storage room at a railway station (airport), an individual bank safe, a car, etc.

Having analyzed the Law of Ukraine "On the National Police", first of all, we note that it is not the police (as it is a state body), but a police officer who penetrates.

Secondly, Article 30 of the Constitution of Ukraine, Part 3 of Article 233 of the CPC of Ukraine obliges the prosecutor, investigator, in agreement with the prosecutor, to immediately apply to the investigating judge with a request for a search after such actions. The investigating judge considers such a motion in accordance with the requirements of Article 234 of the CPC of Ukraine, checking, among other things, whether there were indeed grounds for entering a person's home or other property without an investigating judge's order. At the same time, the provision of Part 3 of Article 38 of the said Law stating that after entering a person's home or other property, a police officer must draw up a report is not clear. Therefore, it is unclear what kind of protocol this is, as well as the guarantees of the person when drawing it up: whether it is handed to the person; whether he or she is familiarized with it; whether he or she must sign it; whether he or she has the right to make comments and additions to it.

Thirdly, the Law refers to valuable property, while the Constitution of Ukraine refers only to property. In this regard, it is unclear what exactly is meant by "valuable property", since no legislative criteria for its definition are provided. We believe that it would be advisable to exclude the reference to valuable property from the text of the law, which would contribute to a uniform understanding of the urgent grounds for entering a home or other property.

Also, in this regard, the provisions of Part 4 of Article 236 of the CPC of Ukraine should be taken into account, which states that a search may be conducted in the absence of a person in a dwelling or other property. In this case, the investigator is obliged to leave a copy of the investigating judge's decision to conduct a search in a conspicuous place, as well as to ensure the safety of property in the person's home or other possession and the impossibility of access to it by unauthorized persons. At the same time, as V. I. Halahan and O. I. Halahan (2013, p. 17) rightly pointed out, the CPC of Ukraine only provides for the possibility to conduct a search in the absence of persons in their homes or other property, but other fundamental issues of this procedural action are left out of consideration. Thus, the following provisions on conducting a search in urgent cases are unclear: 1) which procedural document and by which official should be drawn up. If it was conducted without the decision of the investigating judge, it is the investigator's decision, his/her request for a search, agreed with the prosecutor, or another document; 2) whether this document should be left in a prominent place, as provided for in the law regarding a copy of the investigating judge's decision; 3) whether a copy of the protocol is left at the place of the search in urgent cases. This is due to the fact that according to Part 1 of Article 104 of the CPC of Ukraine, the course and results of the procedural action are recorded in the protocol. However, the above law does not specify the need to hand the searched person or leave a copy of the protocol on the search of the person's home or other property in a conspicuous place. At the same time, this person has the right to know not only that a search was conducted in his/her absence, but also about its results - what exactly, in what quantity and under what circumstances was seized, who was present at the time.

In the practical activities of a police officer, a very important issue is ensuring the right to freedom and personal integrity, which, incidentally, is constitutional, so when the Law of Ukraine "On the National Police" was adopted, the tasks of the police included the protection of human rights and freedoms, as well as the interests of society and the state. At the same time, in order to effectively fulfill the tasks assigned to the police, the legislator

provides for the possibility of applying preventive measures, one of which is a superficial inspection, the conditions and procedure for which are established in Article 34 of the Law of Ukraine "On the National Police". Thus, a surface inspection means that a police officer has the right to conduct a visual inspection of a person, to conduct a hand, special device or tool over the surface of a person's clothing, as well as to visually inspect things or a vehicle. In addition, according to Part 5 of Article 34 of the Law of Ukraine "On the National Police", a police officer, when conducting a surface inspection, has the right to demand that the trunk lid and/or interior doors be opened. Regarding the practical application of this preventive measure, O. Banchuk and I. Dmytriieva noted that such powers bring this police measure closer to a search, but there is no requirement to obtain a court order. In their view, this contradicts Article 30 of the Constitution of Ukraine, which prohibits entry into a person's home or other property, inspection or search thereof except by a reasoned court decision. The scientists believe that since a vehicle is recognized as "other property of a person", the grounds and conditions for conducting a superficial inspection should be similar to those used for inspection. They also noted that the grounds for conducting a surface inspection are broader than those provided for in Article 30 of the Constitution of Ukraine and Part 3 of Article 233 of the CPC of Ukraine. In this regard, scholars propose to exclude from the text of the law such cases as: 1) the existence of sufficient grounds to believe that the vehicle contains an item whose circulation is prohibited or restricted; 2) the existence of sufficient grounds to believe that the item or vehicle is an instrument of an offense and/or is located in a place where a criminal offense may be committed, to prevent which it is necessary to conduct a superficial inspection. However, in our opinion, it is difficult to fully agree with this statement, because a superficial inspection and a search of a person, things or documents are different legal institutions. Therefore, the grounds and conditions for their application should not be mixed. However, an analysis of the content of the above provisions does indicate possible violations of human rights and freedoms during the implementation of the measure under study. This conclusion is based on the fact that the Law lacks a clear mechanism for implementing the following provisions.

The question also arises as to whether the right to demand that the trunk lid and/or interior doors be opened can be considered a superficial inspection, since the vehicle is indeed "other property of the person". In view of this, we believe that it is necessary to have the actual owner of the vehicle present, since the latter does not always drive it. At the same time, it should be noted that this institution ensures the fulfillment of the tasks assigned to

the police, in particular, on the one hand, ensuring public safety and order and combating crime, and on the other hand, protecting human rights and freedoms, as well as the interests of society and the state. In this regard, the legislator has a difficult task - to introduce an effective legal mechanism for the practical application of such measures.

From this aspect, the provisions of Article 22 of the Law of Georgia "On Police", which provides that:

«6. The actual item possessor or a family member of the possessor of the item or the vehicle must attend the examination.

9. A police officer shall prepare a report when he/she applies the measure defined by this article. A police officer who prepares the report and the person against whom the measure is conducted shall sign the report. If a person does not attend the examination of an item or vehicle, his/her family member shall sign the report; if the family member does not attend the examination, a neighbour shall sign the report. Persons participating in the measure and the factual circumstances shall be indicated in the report. If a person against whom the measure is conducted refuses to sign the report, a relevant entry shall be made in the report. The

signatory has the right to add a note to the report that is endorsed by his/her signature. If the owner of an item or a vehicle subject to examination cannot be identified, a police officer shall conduct the measure defined by this article without the presence of the persons provided for by this paragraph.

10. If the grounds for search originate during a frisk and search, a police officer shall conduct the search as provided for by the Criminal Procedure Code of Georgia».

In addition, having studied the legislation of Ukraine, we can distinguish four types of body searches:

1) superficial inspection, which is carried out in accordance with the Law of Ukraine "On the National Police";

2) personal inspection and inspection of things, which is provided for in Article 264 of the Code of Ukraine on Administrative Offenses and Article 340 of the Customs Code;

3) personal search, provided for in Part 8 of Article 191, Part 6 of Article 208 of the CPC of Ukraine;

4) search of a person, provided for in Part 3 of Article 208, Part 5 of Article 236 of the CPC of Ukraine.

That is, these types differ from each other both in terms of legislative orientation and guarantees of the rights and freedoms of a person during the relevant inspection. In view of this, in our opinion, it is not advisable to enshrine the reference norms, as is done in Part 7 of Article 34 of the Law of Ukraine "On the National Police".

We agree with the conclusion of V. Osadchyi (2015) that, in our opinion, the provisions of paragraph 2 "b" of Part 3 of Article 45 of the Law of Ukraine "On the National Police" are not fully consistent: "rubber and plastic batons are used to detain a person who has committed an offense and is maliciously disobeying the lawful demand of a police officer" with the requirements of Section VIII of the General Part of the Criminal Code of Ukraine - "Circumstances that exclude the criminality of an act". As is well known, malicious disobedience is a refusal to comply with persistent, repeatedly repeated lawful demands or orders or a refusal expressed in a defiant manner that shows a clear disregard for persons performing official or public duties. According to paragraph 2 "b" of Part 3 of Art. 45 of the Law of Ukraine "On the National Police", the offense has already been committed. No violence is committed. There is only ignoring the requirements of the police officer. Based on the requirements of the circumstances that exclude the criminality of the act, there are no grounds for the use of rubber or plastic batons under the conditions described in paragraph 2 "b" of Part 3 of Article 45 of the Law of Ukraine "On the National Police". In this situation, there should be a different response, which should be stated in the Law of Ukraine "On the National Police". This example shows an inaccuracy in the legislation, but there are more interesting examples, especially with the use of firearms. Its use is the most severe measure of coercion, and accordingly, if a police officer uses it in a manner not specified by law, he or she will most likely be subject to criminal proceedings. Paragraph 5 of Part 4 of Article 46 of the Law of Ukraine "On the National Police" authorizes a police officer to use firearms to detain a person who is caught committing a serious or especially serious crime and is trying to escape. However, not all crimes will require its use, as there are crimes where weapons may not be used, or vice versa, their use, even in accordance with the law, will look wrong and unethical.

For example, if a member of an election commission or other official uses his or her official position to prevent a citizen from exercising his or her right to vote without violence (part 3 of Article 157 of the Criminal Code, i.e., a serious crime is committed) and then tries to escape, is it appropriate to use firearms in such circumstances? Such a person is known and can be detained at another time, without the use of firearms. We believe that the use of

firearms is appropriate in the case of not only a grave or especially grave crime, but necessarily a violent or selfishly violent crime, provided that such a person is trying to escape (Osadchyi, 2015). Therefore, according to the current legislation, a police officer independently determines the type and intensity of coercive measures, which in turn imposes on him/her the obligation to be able to instantly determine the nature of the offense, individual characteristics of the person and other factors, as well as, in the process of application, to determine the sufficiency of the coercive measure, which in turn should lead to its termination or change.

As we can see, despite the positive provisions of the Law of Ukraine "On the National Police," the practical application of some of them raises certain doubts about the observance of human rights and freedoms. In order to avoid possible abuses, it is necessary to make appropriate changes, taking into account foreign experience. In particular, a clear form of preventive measures, including surface inspection, should be enshrined in law.

Thus, modern reform of the law enforcement system should be multidimensional, structurally and logically interconnected within all branches and institutions of law. At the same time, the provisions of the newly adopted laws should not be just a mere duplication of the previous ones, as they need to be specified, interpreted and detailed based on the specifics of a particular branch of law. In this case, it is important to ensure that the relevant legislative provisions are balanced, deliberate and objective to the current realities. Only if such an approach is followed will the updated legislation not become a declarative provision, but an effective tool for observing human rights and freedoms in the applied plane.

4. Conclusions

The analysis of the peculiarities of police measures, through the prism of administrative and legal methods, allows us to assert that the application of one or another administrative and legal method must correspond to a number of features, namely: the peculiarity of the equipment of the police unit that performs tasks in the field of ensuring public safety; peculiarities of criminogenic and other situations in the service area of the police unit; the goal facing the National Police unit when choosing one or the other; development of effective strategic, operational and current plans in order to create a model of the algorithm of actions of a police officer when performing the tasks assigned to him, etc.

It is extremely relevant for Ukraine in the period of decentralization to study the experience of combining centralized and decentralized approaches to regulating the provision of police services. Most often, the essence of this approach is that the organizational and legal aspects of their implementation are regulated by both national and regional legal acts. In the context of current trends in Ukraine, this approach may be quite appropriate, as it will allow the development of general provisions of police legislation in accordance with local needs and requests, thus creating an effective and meaningful mechanism for the implementation of police services in each particular region. At the same time, it is important to keep in mind that strict unification of legislation should be observed, which provides for: supremacy of national laws; clear definition of the subjects of jurisdiction and powers of police bodies; development and approval of programs for the development of police services both nationally and within a particular region; development and approval of instructions on the behavior of police officers in typical situations; establishment of effective public and judicial control over the provision of police services.

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