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**ADMINISTRATIVE AND LAW SUPPORT OF A LEGALITY IN THE
SYSTEM OF LIABILITY OF THE EMPLOYEES OF THE CRIMINAL
MILITIA**

Fundamental principles of the support of law and discipline in the system of the reliability of the criminal militia employees are considered. Several concepts are analyzed. The interpretation of key rules for the fundamental legal acts of administrative and legal reliability of the criminal police employees.

Keywords: *administrative and legal maintenance, legality, discipline, reliability, criminal militia employees.*

Definition of a Problem The reliability of criminal militia is a key category of their personal and professional characteristics. Along with this, it is concretized with the help of some concepts that have been consolidated and the definition in the regulations.

Study of Researches and Publications Several aspects of law and discipline in the organs of internal affairs have been investigated by such authors as M. Anufriêv, O. M. Bandurka, V. S. Venediktov, V. G. Liholob, M. V. Parasyuk, S. S. Slivka, Vladimir Shcherbina. However, administrative and legal maintenance of law and discipline in the system of reliability of the criminal militia employees has not been fully implemented.

Goal of the Research is the analysis of key concepts in the system of the reliability of criminal militia: law and discipline.

Report of Basic Material Understanding of the issue of the reliability of the criminal militia employees provides the usefulness of focusing on the administrative and legal support of the activities of the organs of internal affairs of Ukraine as an organ of executive power. It is well known that the executive power has a special place among the existing powers of the State in Ukraine.

This feature, according to V. Aver'ânov, is that "it is in the process of its implementation is the actual implementation of laws and other normative-legal acts of the state, the practical application of all the levers of the state regulation and control of the important processes of social development" [1, p. 17].

Current domestic legislation provides the existence of a number of the state executive bodies.

Today the list of ministries and the structure of central executive bodies defined by the Decree of the President of Ukraine dated 09.12.2010 No. 1085/2010 "About the Optimization of the System of Central Executive Bodies" [2].

In paragraph 1 of the Annex to the Ordinance the list of ministries, which heads are included to the Cabinet of Ministers of Ukraine (CMU). Among them is the Ministry of Internal Affairs of Ukraine.

Decree of President of Ukraine dated 06.04.2011 No. 383\2001 "About an Approval of the Disposition of the Ministry of Internal Affairs of Ukraine" it is stated that the Ministry of internal affairs of Ukraine is the central body of the Executive power, which activities are directed and coordinated by the Cabinet of Ministers.

"The Ministry is a system of organs of executive power and is the main body in the system of central executive bodies in forming and implementing of the state policy in the sphere of protection of the rights and freedoms of man and citizen, interests of society and the State from crime, crime prevention, solution and investigation of crime, the protection of public order, public safety, traffic safety, as well as on the formation of state policy in the field of migration (immigration and emigration), including counteracting illegal (illegal) migration, citizenship, registration of physical persons, refugees and other migrants defined by law"[3].

Undoubtedly, one of the most important legal acts, which directly generate the standards-principles in a modern democratic society, in particular, the activities of executive authorities, is the Constitution of Ukraine, which, among other things, activates the levers of legislative regulation of the criminal militia reliability as an integral part of internal affairs bodies at the national level.

Thus, article 3 of the Constitution of Ukraine defines the man, his life and health, honor and dignity, inviolability and security as the highest social value [4].

Ukrainian scientist V. E. Telipko states that this position briefly reproduces the content of the conceptual foundations of the preamble of the Universal Declaration of human on which actually, depends the compliance with the prescriptions of the Constitution of Ukraine, international standards of human rights [5, p. 15].

The author rightly observes that among these principles must be defined, in particular, "faith in fundamental human rights, the dignity and importance of the human person" and "the recognition of the dignity associated with all members of the family as well of the equal and inalienable rights".

These postulates are reproduced in the preambulah of the International Covenant on Civil and political rights and the International Covenant on economic, social and cultural rights [5, s. 17].

In addition, the Constitution of Ukraine guarantees state protection of the rights and freedoms of citizens.

A broad approach to the guaranteeing of the state protection of life, health, rights and freedoms, property, the environment, interests of society and the state against unlawful interference was applied while the structuring of the Law "About Police", Art. 1 of which specifies that for the employees of the criminal militia units of the fulfillment of this statement of the Constitution is under the content of their activities [6].

Analysis of the tasks and functions that are executed by different units of the criminal police of Ukraine founds to argue that the problems of their reliability were directly reflected in the Art. 2 of the Law of Ukraine "About Militia", according to which the tasks of the criminal militia employees are: ensuring the personal safety of citizens, protecting their rights and freedoms, and legal interests; preventing crime and their termination; protection and ensure public order; detection of criminal offences; part in uncovering criminal offences and tracing of persons who have committed them, in the manner prescribed by the criminal

procedural law; ensuring the safety of traffic; protecting property from criminal and criminal illegal encroachments; enforcement of administrative penalties; involved in providing social and legal assistance to citizens, assistance within its competence of State bodies, enterprises, institutions and organizations in the performance of tasks assigned to them by law.

The listed tasks are general and obligatory for an execution by all the departments and services of the criminal police, regardless of the directions of the work performed, and imposed upon them obligations.

From the analysis of Art. 3 of the Law "About police", it follows that the reliability of the criminal police as the separate special units of the executive bodies consists in the activities based on "the principles of legality, humanism, respect for individuals, social justice, the interaction of labor collectives, public organizations and the population" [6].

Taking into consideration above mentioned, it is important to focus special attention on the legality of their activities and research of the legislative support of this sector. Legality means legal nature of the socio-political life, organic relationship of law and Government, as well as law and society.

Legitimacy concerns both the spheres of lawmaking and legal realization, because the requirement for keeping within the law concerns both higher authorities and other state bodies that adopted according to their competence, by-laws, and direct performers of laws: officials, public organizations and citizens. Legality is a fundamental principle of the state and public life, as it is embodied in Art. 68 of the Constitution of Ukraine.

Legality can be considered the criterion of a legal society because it reflects legal peculiarities of its organization [7, p. 498] and is a complex socio-legal phenomenon that characterizes the structural construction and functioning of the society and the State on a legal basis. You can understand the legality as well as the general principle of a democratic political system, that is the rule of law, strict observance of laws and other legal acts of the State authorities, officials,

associations of citizens and private citizens, ending the violations, the inevitability of legal liability in the rights and freedoms support [8, p. 31].

Legality is obligatory for the State institutions and is expressed in the legislation, which is the system of legal acts, which are reflected in the norms of law. Laws should correspond to the objective social regularities, consider the state values and be based on the ensuring of the rights and freedoms of man and citizen [9, p. 345].

Legitimacy, reflected in legal regulations, ensures the realization of citizens' rights and public formations and limits everyone's freedom for the freedom of everybody [10, p. 237.] The term "enforceability" is derived from the word "law" and covers all the sides of the law – from the role in the creation of the law for the implementation of its norms in legal practice. Interpretation of the concept "legality" of different authors is ambiguous.

The most common interpretation of the term "enforceability" is its understanding as precise, strict, steady implementation by all the subjects of laws and based on them by-laws [11].

Also this term is interpreted as the mode of the correspondence of public relations with laws and by-laws of the State, which is established as a result of a strict compliance with their requirements of subjects of law [12].

Legality is interpreted as a strict regulatory compliance by the subjects of law [13, p. 363], the principle of the state and social life that consists in the implementing regulations [14, p. 369], or as a mode of social and political life that involves realization of legal norms by all the members of public relations [15, p. 401].

Legality includes understanding, application, unconditional, strict and exact fulfillment of by-laws and based by all the state bodies, officials, citizens, community groups [9, p. 345; 16, p. 659; 17, p. 157].

The interpretation of the term "legitimacy" covers only its understanding to wide extent, when the legality is interpreted as the fulfillment of laws and by-laws

by natural and legal persons, i.e. it can be understood as a way of behavior of the population, necessary for the State.

We agree with the opinion of N. Aleksandrov that this term should be considered, also taking into account its narrow meaning when the legality is the principle of the activities of the State Apparatus exercising its functions [18, p. 105].

In our opinion, this understanding of the legality requires the accents within the subject of a study, i.e., concerning the activities of the criminal police employees, and ensures their reliability. One of the activities of the executive bodies, related to the legality, is the discipline, which can be understood as a certain order behavior of people, which correlates with the norms of law and morality prevailing in society or with the requirements of organizations [19, p. 318]. Discipline (lat. *disciplina*) can be interpreted as a sort of people behavior that meets law and morality or the requirements of a particular organization [20; 21] and is set as an obligatory for the society as a whole or a particular social group [22].

It should be noted that the notion of discipline is observed in normative legal acts. Unlike the concept of the legitimacy, discipline is considered as a wider category and covers the behavior of people not only in the sphere of legal regulation of public relations (business, financial, labour, etc.), but also in the sphere of acting of other norms, functioning in the society (e.g. labor). Significant differences regarding the definition of the concept of law and discipline in the studies of contemporary authors do not exist. The views of scholars on this occasion was summarized by Dmitriy Starodubtsev, who determined the legality in the activities of internal affairs bodies as such a mode of their functioning, which ensures a precise and strict observance (performance) of the requirements of the Constitution, laws and other acts of legislation by all the services and units, as well as the individual employees in all directions, forms and methods of the activities [23].

The concept of the "discipline in the organs of internal affairs" scientist understands as regulated with normative acts, instructions, affidavit, norms of moral behavior, which is a clear duty and ethical requirements in service and off-duty time.

Legality and discipline relate as general and specific, because legality can be seen as static one (a set of legislative acts), and the discipline as the dynamics of legitimacy (specific actions for the implementation of the requirements of norms and regulations) [10, p. 237]. Using the legality and discipline as a set of norms and methods of a public management, the State regulates social relations and provides the law-abiding behavior of the objects of management [10, pp. 238-239].

The essence of discipline in the criminal police units provides the fulfillment of the laws, decrees and orders of the President of Ukraine, decrees and orders of Cabinet of Ministers, court decisions, internal regulations, job descriptions (statutes), orders and directives of the Heads of agencies, as well as the terms of service. Legality and discipline are the obligatory features of the legal State, the set of forms and methods of public management, which are reflected in the current legislation; by using them, the State regulates social relations and achieves law-abiding behavior of the objects of management [24, p. 6].

Legitimacy is the basic category, fixed in the part 1 of art. 68 of the Constitution of Ukraine as a principle of the activities of executive bodies, bodies of local self-government, citizens and their associations, which obliges them to abide strictly the norms of the Constitution and the laws of Ukraine, i.e. legality only requires the observance of legal regulations.

Unlike the legality, discipline is another category, because its regulation is carried out by not only the laws of Ukraine and decrees of the President and other sub-legal acts, and its implementation is based on the requirements of both legal and other social norms.

A comparative analysis of legislative and other legal acts allows you to establish that a single legislative act, which fixes the notion of service discipline, is the Law of Ukraine of February, 22, 2006 No. 460-VI "About the Disciplinary

Statute of the Internal Affairs Bodies of Ukraine". In accordance with art. 1 of the Disciplinary Statute of the internal affairs bodies "About Discipline" it is "the respect of the rank and command staff for the Constitution and laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, orders and other regulatory acts of the Ministry of Internal Affairs of Ukraine, subordinate organs and subdivisions, as well as the oath of the employees of Internal Affairs of Ukraine" [25]. You need this to draw attention to gaps in the current legislation. Of course, legal status (and therefore the reliability in the national area) of the criminal militia employees takes the clear definition by applying the concepts of "official" and "government representative". Despite this, in making the Law of Ukraine "About Militia" in 1990 the editorial mentioned issues have not received their fixation in the novels of the Act [6]. In our opinion, these phrases are the essential components of the legal status not only of the police but of other employees of internal affairs bodies as well. Unfortunately, the further changes that were introduced to the Bill of Ukraine "About Militia", don't diminish these significant legal problems.

In our opinion, taking into account the fact, that the legality and discipline are more regulated, categories in the domestic legislation about the activities of the officials and representatives of the authorities, several essential amendments to art. 16 of the Bill "About Militia" and the statement of its first part in the following wording: "police officers in Ukraine are the citizens of Ukraine who are inducted into the organs of internal affairs as the rank and command staff, are the officials and representatives of the authorities, whom in the statutory order is to the special ranks are assigned" are necessary and important.

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