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ADMINISTRATIVE AND LEGAL REGULATION OF POLICE COOPERATION WITH LOCAL AUTHORITIES AND THE POPULATION UNDER MARTIAL LAW IN UKRAINE

This article is devoted to the research of administrative-legal regulation of cooperation between the National Police with local authorities and population under martial law in Ukraine. The authors described the main problems arising in the interaction of the police with local authorities and the population in Ukraine, which is currently under martial law, and identified ways to solve them. The directions for improvement and the establishment of effective cooperation between the police, local authorities and the public are outlined, taking into account the introduction of changes to the Ukrainian legislation.

Keywords: *administrative and legal regulation, police, National Police, local government, population, interaction, cooperation, martial law.*

The development of democracy, guaranteeing the rights and freedoms of citizens is inextricably linked to improving the quality and effectiveness of the National Police of Ukraine, whose agencies and departments perform a wide range of tasks to protect public order, to protect the life, health, rights and freedoms of citizens, property, the natural environment, the interests of society and the state from unlawful infringements, prevent and suppress offenses, etc. The effectiveness and quality of the work of the National Police also depends on the proper interaction with both local self-government bodies and the population. Current legislation, in particular the Laws of Ukraine “On the National Police” and “On Local Self-Government in Ukraine”

and others, do not fully ensure the establishment of effective cooperation and maintenance of organizational relations between the police and local councils and the population under martial law in Ukraine. Therefore, taking into account the latest updates and improvements of the regulatory framework regarding the protection of public order, crime prevention, and the minimization of their negative manifestations, it is relevant to highlight the problems of the interaction of the police with local self-government bodies and the population in the conditions of martial law in Ukraine.

Separate aspects of interaction of bodies and units of police with local authorities and the public were considered in their works by domestic researchers, in particular such as M. Anufriev, V. Bielous, A. Bandurko, I. Holosnichenko, A. Kliuiev, V. Kovalska, A. Komziuk, N. Matiuhina, M. Tishchenko, O. Siniavskaia, I. Shopina, H. Yarmak, O. Yarmysh and other scientists. However, a review of the scientific literature demonstrates that the current study of the problems of interaction in the sphere of law enforcement activities of the police with local authorities and the population under martial law in Ukraine remains sporadic and incomplete, and the existing gaps of both theoretical, organizational, and legal nature in this area do not contribute to the effectiveness of the activities of the National Police. Furthermore, the lack of an appropriate theoretical basis and imperfections in the current national legislation on interaction in the sphere of public order protection and preventive activities under martial law in Ukraine necessitate the search for new approaches to assessing the social role of the police, the creation of a new model of relationship with citizens and society as a whole in modern conditions. By the Decree of the President of Ukraine No. 64/2022 dated February 24, 2022 in connection with the military aggression of the Russian Federation against Ukraine martial law was introduced from 05.30 a.m. on February 24, 2022 for the period of 30 days. Thereafter, by the corresponding presidential decrees № 133/2022 of 14.03.2022, № 259/2022 of 18.04.2022, № 341/2022 of 17.05.2022, № 573/2022 of 12.08.2022 duration of martial law in Ukraine until 19 February 2023 [1].

According to Article 1 of the Law of Ukraine “On the legal regime of martial law”, “martial law is a special legal regime introduced in Ukraine or in certain areas thereof in case of armed aggression or threat of attack, danger to the state independence of Ukraine, its territorial integrity, and provides for giving the relevant state authorities, military commanders, military administrations and local self-government bodies the powers necessary to prevent the threat, repulse armed aggression and to prevent the threat of attack”. [2]. Article 10 of the aforementioned Law, in turn, provides for the inadmissibility of terminating the powers of public authorities and other state bodies under martial law.

We should note that according to Article 9(2) of the Law, local self-government bodies continue to exercise the powers granted to them by the Constitution of Ukraine, this and other laws of Ukraine. The Military Command, together with the Ministry of Internal Affairs of Ukraine, other executive authorities, and local self-government bodies, must ensure the measures and powers provided for by the Law of Ukraine “On the Legal Regime of Martial Law” necessary for ensuring the defense of Ukraine, protecting the security of the population and the interests of the state [2].

On territories under martial law, for the purpose of enforcing the Constitution and laws of Ukraine, ensuring, together with the military command, the implementation and execution of measures of the legal regime of martial law, defense, civil protection, public safety and order, and protection of rights, freedoms and legitimate interests of citizens, the President of Ukraine may establish temporary state bodies – military administrations. Military administrations of settlements are formed in one or more settlements (villages, settlements, cities) where village, settlement, city councils and/or their executive bodies do not exercise the powers assigned to them by the Constitution and the laws of Ukraine, including as a result of actual self-dissolution or self-execution of their powers, or their actual non-execution, or termination of their powers by law.

Decree of the President of Ukraine No. 68/2022 of 24.02.2022 established 24 regional and Kyiv city and district military administrations for exercising leadership in the sphere of ensuring defense, public safety and order. In connection with the formation of the military administrations mentioned in this article, the regional and Kyiv city state administrations and the heads of these administrations acquire the status of the respective military administrations and heads of these military administrations [16]. The powers of the formed military administrations include the introduction and implementation of measures of the legal regime of martial law together with the military command independently or with the involvement of executive authorities and local self-government bodies, as well as the exercise on the relevant territories of the powers of local state administrations. They will exercise their powers of terminating or cancelling martial law.

In accordance with Article 8 of the Law of Ukraine “On the Legal Regime of Martial Law”, the military command together with military administrations (in the case of their formation) may independently or with the involvement of executive authorities, local self-government bodies introduce and implement within the limits of temporary limitations constitutional human rights and freedoms and the citizen, as well as the rights and legal interests of legal entities, provided for by the decree of the President of Ukraine on the introduction of martial law, certain measures of the legal regime of martial law [2].

In turn, the police, in accordance with the tasks assigned to it and in accordance with paragraph 24 of part 1 of article 23 of the Law of Ukraine “On the National Police”, participates in accordance with the powers in ensuring and implementing measures of the legal regime of martial law or state of emergency, the zone of an ecological emergency in in the case of their introduction on the entire territory of Ukraine or in a separate area. In addition, part 2 of Article 24 of this Law defines additional powers of the police and establishes that in the event of a threat to the state sovereignty of Ukraine and its territorial integrity, as well as in the course of repelling armed aggression against Ukraine, bodies and units that are part of the police system, in accordance with of the legislation of Ukraine participate in the performance of territorial defense tasks, ensuring and implementing measures of the legal regime of martial law in the event of its declaration on the entire territory of Ukraine or in a separate area [3].

As stated in Article 5 of the specified Law, the Police, in the course of its activities, interacts with law enforcement agencies and other state authorities, as well as with local self-government bodies, in accordance with the law and other regulatory legal acts, and part 1 of Article 11 of this Law emphasizes that police activities are carried out in close cooperation and interaction with the population, territorial communities and public associations on the basis of partnership and are aimed at meeting their needs. In addition, part 2 of Article 89 of the said Law stipulates that “police cooperation and interaction with the public is a necessary condition for effective police work, since cooperation between the police and the public is aimed at identifying and eliminating problems related to the implementation of police activities and promoting the application of modern methods for increasing the effectiveness and efficiency of such activities” [3].

As we can see, the legislator generally reduces the problem of interaction to coordination and harmonization, which means the development of joint measures. At the same time, the main purpose of cooperation is to ensure unity of action, mutual assistance and unification of efforts for the successful solution of common tasks to ensure and implement measures of the legal regime of martial law on the territory of Ukraine, i.e. cooperation and mutual assistance should be clearly agreed upon both in terms of goals and objectives, as well as the place and time of joint activities.

Considering the foregoing, *the purpose of the article* lies in clarifying the theoretical foundations and practical developments of administrative and legal regulation of interaction between the National Police and local self-government bodies and the population under martial law in Ukraine, and in developing proposals and recommendations aimed at improving national legislation and its application in this area.

Not only the quality of police work, but also the proper execution of police duties, based on the principles of humanity and respect for the rights and freedoms of citizens, depends to a large extent on the legal regulation. Administrative and legal regulation of the activity of the National Police is a complex social phenomenon due to the existence of a significant number of intermediate systems, but none of the systems associated with the processes of regulation of their activity cannot be used without a regulatory mechanism, that is, functions, processes, etc. Considering the above, proper administrative and legal regulation of interaction between police bodies and local self-government bodies and the public makes it possible not only to strengthen the legal culture of police officers by improving the forms of organization and stimulation of their activities, strengthening discipline, enhancing control and responsibility, but also to establish effective cooperation with local self-government bodies and the public. Therefore, taking into account the changes that are currently taking place in Ukrainian society under martial law, which are characterized, first of all, by radical transformations of human existence, the emergence of new forms of communication, the formation of a new system of personal orientations in the world of values, because during the period of the legal regime of martial law, the constitutional rights and freedoms of a person and a citizen, provided for by the Constitution of Ukraine, may be limited, as well as temporary restrictions on the rights and legal interests of legal entities may be imposed within the limits and to the extent necessary to ensure the

possibility of introducing and implementing measures of the legal regime of martial law. In our opinion, especially under martial law, effectively countering delinquency and ensuring law and order in the state is impossible without the support and participation of the population. As it was proved as a result of many scientific studies and practical experiments conducted recently on the activities of the police, they can achieve significant success in ensuring law and order in the state and combating offenses only if an atmosphere of mutual respect and cooperation between the police and citizens is built. It should also be noted that well-organized interaction between the population and the police has a significant impact on the level of civic engagement.

Separately we should focus on the consideration of such concept as “interaction”, because being a philosophical category it reflects a special type of relationship between objects, in which each of the objects acts (influences) on other objects, leading to their change, and simultaneously exposed to action (influence) from each of these objects, which, in turn, leads to a change in its state [4, p. 77]. Some authors refer to the category of interaction to administrative-legal [5, p. 25], which, in our opinion, can be done only with the proviso “in a special sense”. Generally accepted in scientific society is that, when solving controversial and broad in content issues, should be based on the recognized in the theory of law idea of interrelated approaches – philosophical, special-legal and sociological. Thus, in the philosophical sense, “interaction”, as noted above, means a category that reflects the processes of impact by various objects on each other. The action of each object on another object is caused by both the object’s own activity, the manifestation of its dynamics, and the object’s reaction to the action of other objects (“response” or “reverse action”) [4, p. 77–78]. However, notwithstanding such a comprehensive characterization, it is not entirely clear what exactly is meant by “social interaction”. We believe that from a philosophical point of view, the category of “interaction” includes: first, the existence of actual and stable relations; second, such relations that allow objects to influence each other; and third, the existence of the influence itself, which results in mutual change of the interacting parties. In turn, it is the special legal approach that allows us to analyze the legal acts that have been in force and are still in force in the field of interaction between the National Police and local self-government bodies and the population. Therefore, a special legal approach to the concept of “interaction” demonstrates that its essence is not limited to joint activities of subjects, but includes a wider range of relations and contacts (exchange of information, coordination of independent actions, work planning, etc.) Regarding the sociological approach to the interaction of police with local self-government bodies and the public, it consists in studying interaction as a legal phenomenon based on empirical materials of sociological research. Such studies demonstrate how the practice of combating offenses involves a wide range of sustainable relations between the police and local governments and the public to achieve common goals, namely, protecting the life, health, rights and freedoms of citizens, property, the natural environment, the interests of society and the state from illegal encroachments, etc.

Thus, based on the above, interaction as a managerial concept can be viewed as a form of connection of system elements, through which they complement each other and create conditions for the successful functioning of the entire system as a whole.

Moreover, we should keep in mind that interaction as a managerial category is manifested not only in the internal organizational activities of the system, but also in its external functions [6, p. 50]. Analyzing the different approaches of scholars in the legal literature on the nature of interaction, we should point out that we do not share the opinion of some authors that interaction is assistance, since this idea was laid down in the principles of the activities of people's guards, whose functions were limited to assisting the former police and providing it with assistance. Currently, according to Article 11 of the Law of Ukraine "On the National Police", police activities are carried out in close cooperation and interaction with the population, territorial communities and public associations based on partnership and aimed at meeting their needs. In other words, interaction between the police and the public occurs only on a voluntary and equal basis in the respective territory and at a certain time to achieve a common goal – ensuring public safety and public order, protecting the rights and freedoms of citizens, in which both the police and the public are interested.

According to L. Mohylevska, interaction is a joint mutually agreed activity of the National Police of Ukraine with the public and other public authorities aimed at achieving a common goal – ensuring proper protection and realization of rights and freedoms (human rights in Ukraine) [7, p. 226]. In the opinion of S. Medvedenko, the interaction of the National Police of Ukraine with the public is a socially conditioned, coordinated activity, which is expressed in cooperation between the subjects of interaction using appropriate forms and methods to achieve a common goal [8, p. 65]. Noteworthy is the position of O. Voluiko, who, analyzing the concept and meaning of law enforcement together with the analysis of the concept of interaction in the field of police activity, defines the features inherent in the concept of "interaction of the National Police of Ukraine with the population", namely "a) the subjects of interaction are bodies and units of the National Police of Ukraine, and/or individual police officers and local self-government bodies, and/or territorial communities, individual citizens; b) such interaction is socially conditioned; c) is carried out in a coordinated manner, in accordance with the principle of partnership; d) has a common goal and defined tasks; e) implemented in the form of cooperation, using appropriate forms and methods; e) has a permanent character" [9, p. 207].

Supporting the position of Yu. Khatnyuk and K. Hurkovska that the interaction between the police and the public is socially conditioned, jointly coordinated activity expressed in close cooperation between the subjects of interaction with the application of certain forms and methods to achieve a common goal [10, p. 92], we believe that the interaction between the National Police and the population is not cooperation, not mutual assistance, but an independent activity, purposeful, coordinated in purpose, time and place, that is, it is a common, interrelated activity of two equal, independent subjects, aimed at achieving a certain result.

Regarding cooperation between the police and local self-government bodies, the Law of Ukraine "On the National Police" contains a number of provisions that regulate their interaction. In particular, the police, within the limits of its powers, assists local self-government bodies in ensuring the protection of the rights and freedoms of citizens, the observance of law and order, and supports the development

of civic initiatives in the field of crime prevention and law enforcement. At the same time, local governments must assist the police in the performance of their duties. Furthermore, the police are responsible for informing senior officials of the executive branch of Ukraine and elected officials of local self-government about the state of law and order in the respective territory.

According to Articles 26 and 43 of the Law of Ukraine “On Local Self-Government in Ukraine”, village, town, city, district and regional councils are authorized to hear information from the heads of the National Police on the state of law, crime, public safety and order, and the results of their activities in the respective territory. Based on the results of considering the respective request, the respective council may adopt a decision, which may contain relevant assessments and recommendations. Particular attention should be paid to Article 38 of the aforementioned law, which defines the powers of the executive bodies of village, settlement, and city councils in the field of ensuring law and order and protecting the rights, freedoms, and lawful interests of citizens. In particular, sub-paragraph 1 of paragraph “a” of part 1 of Article 38 states that the competence of the executive bodies of village, settlement, and city councils includes: a) own (self-governing) powers: 1) preparation and submission for consideration of the council of proposals for the creation, in accordance with the law, of the militia, which is maintained at the expense of local self-government, resolving issues on the number of employees of such militia, on the costs of their maintenance, implementation of material technical support for their activities, the creation of the necessary living conditions for them” [14]. As S. Shevchenko notes, “improvement of interaction between local self-government bodies and the police depends on changes in its organizational structure. In particular, the formation of the local (municipal) police – an independent police structure, which is financed from the local budget with the subordination of certain services and the provision of duties appropriate to local conditions. On the one hand, it will decentralize the MIA, and on the other hand, it will become an opportunity for local self-government bodies to independently influence the state of ensuring public order” [15, 579]. [15, c. 579]. However, so far there is no legally enshrined mechanism for the formation of local police or police, although the separation of powers between the municipal and state police should be carried out in law.

Thus, the current legislation already contains sufficient legal prerequisites for cooperation between the National Police and local governments and the public, and for strengthening the role of local democracy institutions in public assessment of police performance. At the same time, it should be emphasized that with the introduction of martial law in Ukraine, new powers were granted to police bodies and units, in particular, amendments to the Law of Ukraine “On the National Police” came into force, which provide for the expansion of police powers for the period of martial law in Ukraine and 60 days after its termination or cancellation, namely: 1) upon written request, the Police receives free of charge from state bodies, local self-government bodies, legal entities of state ownership information necessary for the performance of tasks and powers of the Police, including those related to prisoners of war. The request must be fulfilled within three days, and if this is not possible, no later than ten days from the date of receiving it. In case of reasons preventing the fulfillment of

the request, the police must be informed of these reasons; 2) during martial law, in case of need to repel an attack or when detaining a person who has committed an offense and/or resists a police officer, the latter has the right to use both coercive measures and improvised means; 3) police officers are entitled to apply coercive measures to persons participating in armed aggression against Ukraine, without taking into account certain restrictions and prohibitions specified by law. In particular, it allows the use of coercive measures without warning, strikes with special means without restrictions on the location of their application, and the use of firearms; 4) police have the right of using information obtained with the help of photo and video equipment that is in someone else's possession; 5) police have the right to use technical devices, and photo and video equipment may be attached to uniforms, unmanned aerial vehicles, official vehicles, ships or other floating vehicles, as well as placed on the outer perimeter of roads and buildings; 6) police officers are not certified during martial law; 7) public control over police activities is also not carried out.

At the same time, the legislator added a new section to the Disciplinary Statute of the National Police of Ukraine, approved by the Law of Ukraine “On the Disciplinary Statute of the National Police of Ukraine”, which regulates the procedure for conducting an official investigation during wartime. That is, even during wartime, if a police officer violates official discipline, an official investigation may be conducted against such a person by order of the police chief [11].

Particular attention should be paid to the provisions of the Law of Ukraine “On the participation of citizens in the protection of public order and the state border”, which, taking into account the international experience of the establishment and implementation of the institution of public participation in law enforcement activities, defines the main functions, rights and duties of citizens who participate in it. According to Article 1 of this law, “citizens of Ukraine, in accordance with the Constitution of Ukraine, have the right to establish public associations in accordance with the procedure established by this Law to participate in the protection of public order and the state border, to assist local governments, law enforcement agencies, the State Border Guard Service of Ukraine and executive authorities, as well as officials in preventing and suppressing administrative and criminal offenses, protecting the life and health of citizens, the interests of society and the state from unlawful encroachments, as well as rescuing people and property in the event of natural disasters and other emergencies. Public formations for the protection of public order and the state border can be created on the basis of public amateurism as consolidated units of public formations, specialized units (groups) to assist the National Police and the State Border Guard Service of Ukraine, associations of public formations, etc.” [12]. The specifics of this law are reflected in the Model Statute of a public formation for the protection of public order and the state border, which states that the involvement of citizens in the association of public formations of law enforcement orientation should be carried out only on a voluntary basis [13]. Such public formations primarily assist the bodies of the National Police in ensuring public order and public safety and preventing criminal and administrative offenses; inform the National Police about criminal offenses committed or being prepared, places of concentration of criminal

groups, as well as assist the National Police in the detection of criminal offenses, search for persons who committed them, protecting the interests of the state, enterprises, institutions, organizations and citizens from criminal offenses; participation in ensuring road safety and combating offenses among children.

Law enforcement civil society groups can: mobilize the masses and advocate for the inclusion of public order and security issues in government and public programs; support the broad dissemination of information on crime prevention; create initiative groups to protect the rights and freedoms of citizens; monitor and cooperate with other non-state organizations to promote and support programs for the prevention and prevention of offenses; promote the application of knowledge and evidence in practice. All of this will ultimately contribute to the formation of public opinion about the need to improve law and order and the culture of behavior in public places, changing the public consciousness of citizens regarding the responsible attitude to their own lives and health, the well-being of others, as well as the motivation to protect the rights and freedoms of other citizens. In turn, police officers, in carrying out their duties, must through their actions, behavior and lifestyle affirm the high principles of unselfishness, honesty and modesty, be intolerant of any immoral manifestations, and actively combat these phenomena. In addition, police officers should conduct explanatory work with the population, in particular to convince citizens of the need to consciously and voluntarily comply with legal requirements, stop anti-social behavior, conduct preventive work in labor collectives and with individuals, which will ultimately contribute to the effective implementation of mobilization. At the same time, we must note that explanatory work can be combined with coercion, when it is necessary to take certain important objects under protection, to close communication routes, to ensure the blocking of the location, the documentation of illegal activities, the identification of the person and so on.

As O.M. Koropatov rightly notes, martial law regime implies new forms and methods of interaction between police and territorial defense forces, such as: planning and development of joint activities, increased patrolling, escorting relevant cargo (humanitarian aid, explosives, refugees, temporarily displaced persons, weapons), study and use of military weapons, and service at roadblocks, protection of property of injured persons, protection of places of destruction, delivery of offenders, proper response to explosive substances, restriction of traffic in dangerous directions, holding drills with representatives of the population, protection of premises of state bodies, etc. [17, c. 129]. In view of this, it is necessary to develop a normative legal act on the organization of interaction between the National Police units and local self-government bodies and the population, in which the goal and objectives of such interaction should be defined, the definition of individual concepts, the definition of subjects and heads of interaction bodies, the types of interaction, peculiarities of mutual information, channels of information transfer, peculiarities of the use of special means and police forces that are available in the units, ways and timing of checking the effectiveness of interaction, define the principles and directions of such interaction under martial law in Ukraine.

Based on the foregoing, we can conclude that under the administrative and legal regulation of interaction between the National Police and local self-government

bodies and the population under martial law should be understood a system of administrative and legal means (elements), a set of techniques and methods of legal impact on social relations arise during such interaction, through which a set of organizational and special measures aimed at protecting against unlawful encroachments, as well as ensuring the personal safety of citizens and combating offenses are determined. The specifics of administrative-legal regulation of the mentioned interaction under martial law in Ukraine lies in the fact that, on the one hand, it takes place in special internal organizational conditions (staffing, service, certification, use of special means by police officers, etc.), and, on the other hand, directed to provide both permanent or temporary (situational) and national and regional phenomena or processes.

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АДМІНІСТРАТИВНО-ПРАВОВЕ РЕГУЛЮВАННЯ ВЗАЄМОДІЇ ОРГАНІВ ПОЛІЦІЇ З ОРГАНАМИ МІСЦЕВОГО САМОВРЯДУВАННЯ ТА НАСЕЛЕННЯМ В УМОВАХ ВОЄННОГО СТАНУ В УКРАЇНІ

Стаття присвячена дослідженню адміністративно-правового регулювання взаємодії органів Національної поліції з органами місцевого самоврядування та населенням в умовах воєнного стану в Україні.

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