

The essence and system of legal bases for ensuring preventive activities of the National Police of Ukraine

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Abstract. *The article highlights the system of normative legal acts of different legal forces, which make up the legal basis for ensuring the preventive activities of the National Police of Ukraine. Attention was focused on the fact that today the regulation of preventive activities of the National Police needs improvement, in view of which it is proposed to make appropriate changes to the Law of Ukraine "On the National Police."*

Attention is focused on the fact that the system of legal bases for ensuring the preventive activities of the National Police of Ukraine consists of a large number of normative legal acts of different legal force, the provisions of which regulate: 1) the powers, directions and tasks of the National Police of Ukraine in the context of preventing and combating crime, and also other offenses, etc.; 2) the procedure and features of the interaction of specially authorized subjects in the researched field; 3) legal status and role of structural bodies and divisions of the National Police in the process of implementing operations and measures of a preventive nature; etc.

It was noted that the regulation of preventive activities of the National Police today needs improvement. In particular, there are no provisions in the current regulatory documents that would accurately determine the nature, inner essence and clear internal structure of the specified direction of police law enforcement work. Despite the fact that most of the presented documents establish mechanisms and measures that are logically related to prevention, none of them explicitly mentions this. In addition, even in the targeted Law of Ukraine "On the National Police" preventive activity is used as a concept, but there is no concrete description of this legal phenomenon. Such a negative aspect needs to be eliminated by making changes to the above-mentioned Law in the form of supplementing it with norms that would clearly and fully disclose the legal status of the subjects of preventive activity, as well as the specifics of its implementation as a direction of law enforcement activity.

Key words: *legal principles, normative legal act, legal regulation, preventive activity, National Police of Ukraine.*

Problem statement. The basis for the effective implementation of preventive activities by the National Police of Ukraine is the proper legal regulation of this issue, which is based on legal principles. A separate place in the system of the latter belongs to administrative and legal norms that regulate social and legal relations related to the performance of state functions by the police. However, to date, certain components of the administrative and legal regulation of the activity of the NPU are still at the stage of formation, in particular in the aspect of preventive activity of the law enforcement body. This necessitates the study of the legal basis for ensuring the preventive activities of the National Police in order to identify directions for further improvement and the development of legislation in this area.

State of the study. It is worth noting that certain questions, dedicated to the preventive activities of the National Police of Ukraine, have repeatedly come into the field of view of various scientists. In particular, attention was paid to it by: V.M. Vats, S. G. Gasparyan, V. Yu. Gritchina, M.V. Jafarova, P.V. Evdokimov, V.O. Ivaha, V.V. Kyrchenko, V.Yu. Kikinchuk, R.S. Melnyk, S.V. Nikolaychuk, and many others. However, despite significant theoretical development, the problem of researching the legal basis for ensuring the preventive

activities of the National Police is insufficiently studied in the scientific literature.

Purpose and objectives of the study. The purpose of the article is to provide a description of the system of legal bases for ensuring the preventive activities of the National Police of Ukraine. In order to achieve this goal, it is necessary to solve the following tasks: to outline the range of regulatory and legal acts that make up the system of legal bases for ensuring the preventive activities of the National Police of Ukraine and provide a description of the relevant regulatory documents.

Scientific novelty of the study. The scientific novelty of the article lies in the fact that it further developed the characteristics of the system of subjects for ensuring the preventive activities of the National Police of Ukraine.

Presentation of the main material. It should be emphasised that the legal basis of the preventive activities of the NPU is quite broad and includes regulatory documents of various levels and legal force. Thus, the first and most important of them is the Constitution of Ukraine, which is a legal source in accordance with the norms of which legal regulation mechanisms are formed for all, without exception, social and legal relations on the territory of Ukraine, including in the field of law

enforcement and preventive activities with the participation of the National Police of Ukraine. Regarding this issue, the document establishes several important provisions. For example, Article 17 of the document states: "Protecting the sovereignty and territorial integrity of Ukraine and ensuring its economic and informational security are the most important functions of the state and the business of the entire Ukrainian people" [1]. Article 19 of the Constitution is devoted to the issue of ensuring the legal order in our country, where it is stated: "The legal order in Ukraine is based on principles, according to which no one can be forced to do what is not provided for by law. Bodies of state power and bodies of local self-government, their officials are obliged to act only on the basis, within the limits of authority, and in the manner provided for by the Constitution and laws of Ukraine" [1]. Thus, the Basic Law is the foundation of the legal construction of state power as a whole, as well as the functioning of its bodies in the relevant directions, for example, law enforcement. It establishes the main purpose of the subjects of the law enforcement system, their initial sphere of competence, the basis of their management and affiliation to the relevant branches of state power, as well as the legal framework of activity beyond which the latter cannot go.

The main legal document whose norms regulate the preventive activities of the police at the national legislative level after the Constitution of Ukraine is the Law of Ukraine "On the National Police of Ukraine." This law defines the legal principles of the organisation and activities of the National Police of Ukraine, the status of police officers, as well as the procedure for serving in the National Police of Ukraine. In addition to the powers, structure, and procedure for the application of police measures, in particular the preventive content, the law defines the aspects of the interaction of the NPU with other agencies. In this regard, Article 5 states that the police, in the course of their activities, interact with law enforcement agencies and other state authorities, as well as local self-government bodies, in accordance with the law and other regulatory legal acts [2].

In Chapter II of the Law, the key principles of the NPU's activity are enshrined. For example, it is noted that the police is guided by the principle of the rule of law in its activities, according to which a person's rights and freedoms are recognised as the highest values and determine the content and direction of the state's activities. In addition, during the performance of their tasks, the police ensure the observance of human rights and freedoms guaranteed by the Constitution and laws of Ukraine, as well as international treaties of Ukraine, the binding consent of which was given by the Verkhovna Rada of Ukraine, and promote their implementation, amongst others. [2].

Despite the fact that the above-mentioned law is the main regulatory document in the field of preventive and other areas of activity of the National Police of Ukraine, it is not the only legal act included in the system of researched legal bases. This is also confirmed by Article 3 of the Law: "In its activities, the police is guided by the Constitution of Ukraine, international treaties of Ukraine,

the binding consent of which was given by the Verkhovna Rada of Ukraine, this and other laws of Ukraine, acts of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, as well as acts of the Ministry of Internal Affairs of Ukraine issued in accordance with them, and other normative legal acts" [2].

Thus, the law of Ukraine "On operative and investigative activities" is included in the legal basis of the preventive activities of the National Police of Ukraine. The provisions of the document define: operative investigative activity as a system of overt and covert investigative and counter-intelligence activities carried out using operational and operational-technical means. The task of investigative activity is to find and record factual data about the illegal actions of individuals and groups, the responsibility for which is provided for by the Criminal Code of Ukraine, and the intelligence, as well as subversive activities of special services of foreign states and organisations, with the aim of stopping offences in the interests of criminal justice and obtaining information in the interests of the safety of citizens, society, and the state.

According to Article 6 of the Law, the grounds for operational investigative activities are: 1) the availability of sufficient information, obtained in accordance with the procedure established by law, which requires verification using operational investigative measures and means; 2) requests from authorised state bodies, institutions, and organisations to check persons in connection with their admission to state secrets and to work with nuclear materials and at nuclear installations, as well as persons who are granted permission to stay unaccompanied in controlled and sterile zones, protected or restricted access areas, and critical parts of such airport areas; 2-1) the need to check persons in connection with appointment to positions in intelligence agencies of Ukraine or involvement in confidential cooperation with such agencies; 3) cases provided for by legislation on intelligence; 4) availability of generalised materials of the central executive body, which implements state policy in the field of prevention and countermeasures against the legalisation (laundering) of proceeds (incomes) obtained through crime or the financing of terrorism, obtained in accordance with the procedure established by law. The specified reasons can be contained in statements, reports of citizens, officials, public organisations, the media, in written orders and resolutions of the investigator, instructions of the prosecutor, decisions of the investigating judge, the court, materials of law enforcement agencies, requests and reports of law enforcement agencies of other states and international law enforcement organisations, as well as requests from authorised state bodies, institutions, and organisations, determined by the Cabinet of Ministers of Ukraine, to check persons requests and reports of law enforcement agencies of other states and international law enforcement organisations, as well as requests from authorised state bodies, institutions, and organisations, determined by the Cabinet of Ministers of Ukraine, to check persons in

connection with their admission to state secrets, to work with nuclear materials, and at nuclear installations. It is forbidden to make a decision on the implementation of operational search measures in the absence of the grounds provided for in this article [3].

The subjects of the operative investigative activity are operational units of the criminal police of the NPU, which, according to Article 8 of the Law, have the right to: interview persons with their consent, use their voluntary assistance; raise, in accordance with the procedure established by law, the issue of conducting audits of the financial and economic activities of enterprises, institutions, organizations, regardless of the form of ownership, and persons engaged in entrepreneurial activity or other types of economic activity individually, and participate in their implementation; visit dwellings and other premises with the consent of their owners or residents in order to find out the circumstances of the crime being prepared, as well as to collect information about the illegal activities of the persons who are being checked, etc. [3]. By exercising the rights provided by the law, special police units can receive data on the illegal activities of individuals and groups in advance, i.e., before the actual commission of criminal acts, and stop them accordingly, thus preventing potential dangerous consequences for the society, which expresses the preventive nature of the operative investigative activity.

Attention should also be paid to the Law of Ukraine "On the Organisational and Legal Basis of Combating Organised Crime." In the document, organised crime is defined as a set of criminal offences committed in connection with the creation and activities of organised criminal groups. The purpose of combating organised crime is: establishment of control over organised crime, its localisation, neutralisation, and liquidation; elimination of the causes and conditions of the existence of organised crime. The National Police of Ukraine is included in the state bodies involved in the fight against organised crime.

The department's activities in this field are multi-dimensional and include directions of a preventive nature, namely: "1) creation of a legal basis, organizational, material and technical and other conditions for the effective fight against organized crime, organization of international cooperation in this field; 2) identification and elimination or neutralization of negative social processes and phenomena that give rise to organized crime and contribute to it; prevention of harm to a person, society, state; 3) prevention of the emergence of organized criminal groups; 4) detection, investigation, termination, and prevention of offences committed by members of organised criminal groups, bringing the culprits to justice; provision of compensation for damage to individuals and legal entities, the state; 5) prevention of the establishment of corrupt ties with public servants and officials and their involvement in criminal activities; 6) opposition to the use by members of organised criminal groups in their own interests of associations of citizens and the media; 7) prevention of the legalisation of funds obtained through criminal means, the use of business entities for the

realisation of criminal intentions" [4].

A similar regulatory document is the Law of Ukraine "On Combating Human Trafficking." In its provisions, it is determined that human trafficking is the implementation of an illegal agreement, the object of which is a person, as well as the recruitment, movement, hiding, transfer or receipt of a person, committed for the purpose of exploitation, including sexual one, with the use of deception, fraud, blackmail, the vulnerable state of a person or with the use or threat of use of violence, with the use of an official position or material or other dependence on another person, which are recognized as a crime in accordance with the Criminal Code of Ukraine. Combating human trafficking includes a system of measures aimed at overcoming human trafficking by preventing and combating it and providing assistance and protection to persons affected by human trafficking. The main directions of state policy in the field of combating human trafficking are: 1) prevention of human trafficking by increasing the level of public awareness, preventive work, reducing the level of vulnerability of the population, and overcoming demand; 2) combating crime related to human trafficking by identifying human trafficking crimes and persons involved in the commission of the crime and bringing them to justice; 3) providing assistance and protection to persons affected by human trafficking by improving the system of restoring their rights, providing a range of services, and implementing a mechanism for the interaction of subjects in the field of combating human trafficking [5].

The next large group of normative legal acts, which form the legal basis for the preventive activities of the National Police of Ukraine, are made up of the sub-legal documents of the Cabinet of Ministers of Ukraine, the Ministry of Internal Affairs, and the National Police of Ukraine directly. These documents are mainly of an organisational and administrative nature and establish and specify the powers and specifics of the activities of the participants in social and legal relations in the field of police prevention. These include the Resolution of the CMU "On the Approval of the Regulations on the National Police," the Order of the Ministry of Internal Affairs "On the Approval of the Instructions on the Procedure for Detecting Signs of Alcoholic, Narcotic, or Other Intoxication or Being Under the Influence of Medicines that Reduce Attention and Reaction Speed in Drivers of Vehicles," the Order of the NPU "On approval of the Regulation on the Patrol Police Department," and others.

Conclusions. A comprehensive study of the legal bases for ensuring the preventive activities of the National Police of Ukraine showed that they consist of a large number of normative legal acts of different legal force, the provisions of which regulate: 1) the powers, directions, and tasks of the National Police of Ukraine in the context of crime prevention and counteraction, as well as other offences, etc.; 2) the procedure and features of the interaction of specially authorised subjects in the researched field; 3) the legal status and role of structural bodies and units of the National Police in the process of implementing operations and measures of a preventive

nature; etc.

At the same time, it should be noted that the regulation of preventive activities by the National Police today needs improvement. In particular, there are no provisions in the current regulatory documents that would accurately determine the nature, inner essence, and clear internal structure of the specified direction of police law enforcement work. Despite the fact that most of the presented documents establish mechanisms and measures that are logically related to prevention, none of them

explicitly mentions this. In addition, even in the targeted law of Ukraine, "On the National Police," preventive activity is used as a concept, but there is no concrete description of this legal phenomenon. Such a negative aspect needs to be eliminated by making changes to the above-mentioned law in the form of supplementing it with norms that would clearly and fully disclose the legal status of the subjects of preventive activity, as well as the specifics of its implementation as a direction of law enforcement activity.

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