

# The concept of the administrative and legal status of internal security units as a subject of preventive activities

Oleksandr Bolily,

Postgraduate degree seeker at Kharkiv National University of Internal Affairs

ORCID ID: <https://orcid.org/0009-0005-5250-5339>

---

**Abstract.** It has been established that the administrative and legal status of internal security units as a subject of preventive activity is derived from the administrative and legal status of the National Police as a whole. It characterises the legal position of the specified units in the system of the National Police of Ukraine and their role in ensuring its activities. Its features are manifested in a number of specific elements, which in their aggregate determine the role of the internal security units of the National Police of Ukraine in ensuring such functioning of the National Police, which allows it to effectively and impartially fulfil its purpose - to ensure the protection of human rights and freedoms, combat crime, and maintain public safety and order.

It has been argued that the elements of the administrative and legal status of the internal security units of the National Police of Ukraine as a subject of preventive activity should include: the goal - eliminating the causes and conditions of offenses among the National Police of Ukraine employees, as well as minimizing factors that create an illegal obstacle to their activities; tasks and functions determined by this goal, competence and authority that allow the implementation of functional tasks; guarantees of their activities (for example, legal - the presence of a regulatory framework regulating the activities of such units; organizational; financial and economic, etc.).

**Key words:** administrative and legal status, units, internal security, preventive activity.

---

**Problem statement.** One of the important tasks of the Ukrainian legislator is to ensure the legal and effective activities of the National Police of Ukraine (hereinafter NPU). For this purpose, special units operate in the structure of the latter, the competence of which includes ensuring internal security. In this context, the position of V.V. Garbuzov is correct, who emphasises that it is the internal security units that are one of the determining factors of the effectiveness of the work of the National Police of Ukraine. Accordingly, the level of work of the entire system of the National Police of Ukraine directly depends on the level of organisation of these units [1, p. 45]. At the same time, the study of the activities of the latter will be incomplete without a meaningful analysis of their administrative and legal status.

**State of the study.** Individual problematic issues related to ensuring the activities of the National Police of Ukraine were considered in their scientific works by: V.M. Vats, M.V. Dzharfarova, M.M. Dyvak, P.V. Yevdokimov, V.Yu. Kikinchuk, A.M. Klochko, N.A. Lytvyn, N.P. Matyukhina, O.M. Muzychuk, and many others. However, despite significant theoretical achievements, the theoretical study of the administrative and legal status of internal security units as a subject of preventive activities is not of sufficient quality in the scientific literature.

**Purpose and objectives of the study.** The purpose of the article is to define the concept of the administrative and legal status of internal security units as a subject of preventive activity. To achieve this goal, it is necessary to solve the following tasks: to reveal general theoretical approaches to the definition of the concepts of "legal status" and "administrative and legal status"; to summarise scientific opinions on the list of elements of the corresponding administrative and legal status.

**Scientific novelty of the study.** The scientific novelty of the article lies in the fact that it further elaborates the theoretical approach to defining the concept of the administrative and legal status of internal security units as a subject of preventive activities.

**Presentation of the main material.** It is advisable to begin the description of the administrative and legal status of internal security units in the context of their

preventive activities by considering what legal status is. Yu.Yu. Chupryna considers legal status as a multifaceted, complex, universal category that has a clear, stable structure and establishes the nature and principles of interaction between subjects of social relations, and also by defining rights, obligations, and guarantees of their implementation, determines the place of the subject in the system of legal relations [2, p. 271-272]. Thus, the author bases legal status on rights, obligations, and those guarantees that allow them to be implemented.

A similar definition is provided by M.V. Kocherov, who characterises legal status as a complex category with a clear structure that regulates the relationships between subjects, establishing the principles and nature of interaction between subjects of social relations, and establishing the place of each subject by regulating their guarantees, rights, and obligations, establishing the degree of interaction between the state, society, and a certain person, thus ensuring the vital activity of the social environment as a whole [3, p. 295].

According to T.V. Stepanova, legal and procedural statuses include rights, obligations, and liability for failure to fulfil obligations arising in the course of participation, respectively, in material or procedural legal relations [4, p. 39]. In other words, the researcher removes guarantees from the range of elements of legal status and adds retrospective liability for their failure to fulfil rights and obligations. S.Yu. Zhila includes the rights and obligations of subjects as the main elements of legal status and legal personality, legal liability, guarantees, and other elements as additional elements [5, p. 99]. Thus, the author does not limit the content of legal status to some exclusive list of elements, distinguishing between mandatory and a number of additional elements.

According to a rule generally recognised in legal literature, in order to participate in certain legal relations, a person must have legal personality. T.V. Stepanova rightly notes that the legal capacity and capacity of an individual (which arise, respectively, from the moment of birth and reaching a certain age), as well as the legal personality of a business entity (which arises at the moment of its state registration), belong to the legal position. Entering

into specific legal relations, individuals are endowed with a certain legal status (rights, obligations, and liability for failure to fulfil obligations), and when entering into a process, depending on which participant in the process the specified person becomes, the corresponding procedural status [4, p. 38]. Thus, the legal capacity of internal security units arises at the moment of their creation; it does not seem appropriate to include legal capacity as an independent element in the legal status of internal security units, since its content is revealed through other categories that constitute independent content.

Therefore, regarding legal status, we can agree with the presence in its composition of basic (rights and obligations) and additional elements (such as guarantees and legal liability), the final range of which has not found a unanimous definition among scientists.

O.I. Mykolenko and O.M. Mykolenko emphasise the fact that administrative-legal status is one of the most complex categories of administrative law, which is due to the following factors: 1) scientific sources are full of discussions about the elements that make up the content of administrative-legal status; 2) the lack of a differentiated approach to the characterisation of the structural elements of administrative-legal status, depending on which subject of administrative law is being discussed; 3) each part of administrative law (substantive and procedural) will provide its subjects with a specific legal status. Therefore, as the authors rightly point out, administrative-legal status, depending on the subject of administrative law and the areas of administrative-legal regulation, may have different content and structural content [6, pp. 70-71].

Ya.S. Kovalchuk rightly notes that the administrative and legal status of an official of any state body or local government body has certain features determined by the tasks and functions assigned to the relevant body [7, p. 53-54]. A similar opinion is expressed by S.Yu. Zhyla, who notes that the administrative and legal status of police units is determined by their activities in implementing assigned tasks, state functions [5, p. 99]. Therefore, the task is an important element of the administrative and legal status, which has a determining value for other elements. This is confirmed by the works of other scientists; for example, T.G. Kravchuk notes that the administrative and legal status of the National Police of Ukraine at the territorial level is a set of tasks, powers, functions, and areas of activity of this law enforcement agency, defined in the provisions of administrative legislation, the implementation of which is ensured by the possibility of being held legally liable, and is carried out within the relevant administrative and territorial units, which indicates its place, role, and significance in the system of subjects of social relations that arise and develop at the territorial level [8, p. 170].

I.K. Khozlu characterises the administrative-legal status of a certain body (subdivision) and its content as follows: 1) normative certainty, mainly by the norms of administrative law; 2) definition of the goal, tasks and functions inherent in a certain body (subdivision), which distinguish it among other bodies of public administration or other units within a specific body; 3) the presence of a

structural and organizational structure that allows for the effective implementation of the goal, tasks and functions of the body (subdivision); 4) the granting of competence, that is, a set of specific rights and obligations inherent in a certain body (subdivision), which it implements in certain areas and administrative-legal relations [9, p. 18]. The idea of including in the administrative-legal status such a feature as the presence of a certain organisational structure defined by law should be called correct. After all, the Department of Internal Security includes territorial (separate) units in the Autonomous Republic of Crimea and the city of Sevastopol, regions, and the city of Kyiv. It is appropriate to emphasise the correctness of the opinion of I.A. Volkov that ensuring the internal security of the National Police of Ukraine involves the effective use of the entire organisational and managerial potential of the department in order to counteract crimes committed by employees of the National Police in connection with the performance of their official duties. Thus, the ultimate goal of combating crimes committed by internal security units by employees of the National Police is to ensure the effectiveness of the functioning of the department [10, p. 101]. Therefore, the achievement of effective police work as a whole depends on the quality of work of each of the structural elements.

M.V. Kocherov, studying the administrative and legal status of the National Police, emphasises that it is determined by the sphere of public relations related to the protection and defence of the rights and legitimate interests of individuals and legal entities, the interests of the state, the established public order of management, prevention of offences, etc. The general administrative and legal status of the National Police determines the position of the police in the system of public authorities as a whole, as well as in the system of central executive authorities. The sectoral administrative and legal status of the National Police characterises the legal position of the police in certain legal relations (for example, as a subject of ensuring public order and security, as a subject of implementing state policy in certain areas, etc.) [3, p. 295]. Thus, the author distinguishes between general and sectoral administrative and legal status, the latter being determined by the specifics of specific legal relations in which the NPU participates. In the context of our study, we are talking about such a sectoral status of the internal security units of the NPU.

M.M. Rudenko provides a broader interpretation of the administrative and legal status of the National Police of Ukraine, which, in his opinion, consists of: 1) general, which determines the place and role of the National Police in the system of executive authorities, law enforcement agencies, and society as a whole; 2) targeted, which is determined by the mission of the police to serve society by ensuring the protection of human rights and freedoms, combating crime, maintaining public safety and order; 3) organizational, which reflects the procedure for the emergence (change and termination) of the legal status, the structure of the National Police, which consists of such branch units and has complex structural units in the field; 4) structural, which includes a system of tasks, functions, powers (administrative and other duties and rights); 5) public-preventive, which consists of ethical rules of conduct,

as well as the degree of responsibility of units and employees of the National Police, in case of improper performance of their duties or abuse of power; 6) special (emergency) that establishes the features of ethical behavior and powers when introducing a state of emergency in Ukraine, for example, the legal regime of martial law [11, p. 236]. It seems that the target status is precisely what finds its manifestation in relation to a specific area of police activity in the context of implementing the tasks assigned to it.

V.V. Garbuzov notes that internal security units do not have, in the classical sense for us, a public nature of work. The latter is due to the specifics and nature of the activities of this state structure, which by virtue of its purpose must work in a secret and clandestine mode. It is quite difficult to talk about the “social ties” of internal security units of the National Police of Ukraine, since such ties are clandestine in nature. All areas of activity of the studied state structure are clearly defined by departmental documents intended for official use [1, p. 49]. At the same time, one cannot talk about complete “closure” as the basis of the activities of these units. After all, firstly, they rely on interaction with society not only for the purpose of identifying offences among police officers (they must promptly respond to reports of offences); secondly, such interaction is necessary to establish the conditions that affect corruption and other offences by NPU employees, including conducting preventive measures of a public nature (for example, regarding the formation of an intolerant attitude towards bribery with mandatory reporting of such offers).

Therefore, based on what has been stated regarding the administrative and legal status of the internal security units of the National Police, it should be noted that this is a set of elements defined by the legal norms of the current legislation, which in their aggregate reveal the place of these units both in the National Police system (organizational and target characteristics) and in specific legal relations (industry and functional characteristics). Considering the organisational and target characteristics, it should be noted that according to the Regulations [12], the Department of Internal Security is an interregional body

within the Criminal Police of Ukraine, which carries out its activities in the direction of the internal security of Ukraine. Compliance with internal security in the activities of the National Police of Ukraine is implemented through internal control and ensuring the own security of the police bodies and consists in implementing a set of legal, organizational and practical measures aimed at identifying, preventing, admonishing and terminating the facts of violation by police officers, civil servants and other employees of the National Police of Ukraine of the requirements of the legislation of Ukraine when performing their official duties, facts of unlawful obstruction of police officers in the performance of their assigned tasks and powers, as well as identifying and eliminating other factors that negatively affect the activities of the police [12]. Thus, the direction of internal security activities in general is manifested in the neutralisation of factors that impede the implementation by the police of the tasks assigned to it.

**Conclusions.** Summarising the above, we note that the administrative and legal status of the internal security units of the NPU as a subject of preventive activity is derived from the administrative and legal status of the National Police as a whole. It characterises the legal position of the specified units in the NPU system and their role in ensuring its activities. Its features are manifested in a number of specific elements, which in their aggregate determine the role of the units in ensuring such functioning of the National Police, which allows it to effectively and impartially fulfil its purpose - to ensure the protection of human rights and freedoms, combat crime, and maintain public safety and order. Such elements include the goal - eliminating the causes and conditions of offences among NPU employees, as well as minimising factors that create an unlawful obstacle to their activities; tasks and functions determined by this goal; competence and authority that allow them to implement functional tasks; and guarantees of their activities (for example, legal - the presence of a regulatory framework regulating the activities of such units; organisational; financial; and economic, etc.)

REFERENCE:

1. Garbuzov V.V. Administrative and legal status of internal security units of the National Police of Ukraine. Dissertation Candidate of Law Sciences. 12.00.07. Zaporizhzhia. 2016. 241 p.
2. Chupryna Yu.Yu. On the definition of the content of the concept of administrative and legal status. Bulletin of the V. N. Karazin Kharkiv National University. Series "Law". No. 21. 2017. 268-272.
3. Kocherov M.V. The concept of administrative and legal status of the National Police of Ukraine as a subject of reform support. Legal Scientific Electronic Journal. No. 3. 2019. Pp. 294-296
4. Stepanova T.V. On the correlation of the concept of "legal status" and related categories. Rule of Law. No. 19. 2015. Pp. 35-40
5. Zhila S.Yu. Administrative and legal status of police units that ensure public safety. South Ukrainian Legal Journal. No. 4. 2015. Pp. 98-101
6. Mykolenko O.I., Mykolenko O.M. Administrative and legal status as a category of administrative law. Rule of Law State. No. 52. 2023. Pp. 65-73
7. Kovalchuk Ya.S. Concept and elements of the administrative and legal status of employees of the Bureau of Economic Security of Ukraine. Academic notes of the Tavrida National V.I. Vernadsky University. Series: legal sciences. Vol. 34 (73). No. 1. 2023. Pp. 49-55
8. Kravchuk T. G. Administrative and legal status of the National Police of Ukraine at the territorial level. Legal science. No. 11(113). 2020. Pp. 165-171
9. Khozlu I. K. Administrative and legal status of water police units. Ukrainian police science: theory, legislation, practice. No. 2(4). 2022. Pp. 17-21
10. Volkov I. A. Priority areas of research into the features of operational and investigative counteraction by internal security units to crimes committed by employees of the National Police. Modern problems of legal, economic and social development of the state. Kharkiv. 2018. Pp. 101-103
11. Rudenko M. M. Administrative and legal status of the National Police of Ukraine in the system of ensuring the organization and activities of the Ministry of Internal Affairs of Ukraine. Law and Society. No. 3. 2023. Pp. 232-237
12. Regulations on the Department of Internal Security of the National Police of Ukraine. Order of the National Police of Ukraine dated 09.11. 2015. No. 83 (as amended by the order of the National Police of Ukraine dated 31.07.2019 No. 765). URL: [https://dostup.org.ua/request/55439/response/132816/attach/3/pdf?cookie\\_passthrough=1](https://dostup.org.ua/request/55439/response/132816/attach/3/pdf?cookie_passthrough=1)