Legal principles for controlling the quality of police services in Ukraine

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Abstract. *The article explains that the legal basis for monitoring the quality of police services should be understood as a set of regulatory and legal acts, the provisions of which, taking into account the legal force of a separate such act, constitute the legal basis that ensures the organisation, implementation and monitoring of the quality of police services in general and in individual areas, and also determines the relevant subjects of these social relations, their legal status and the main mechanisms of control in this area. It has been established that the legal basis for monitoring the quality of police services is enshrined in a number of regulatory and legal acts, which are classified as follows: 1) taking into account the legal status of the subjects authorised to adopt them, such acts are divided into those adopted by: the Verkhovna Rada of Ukraine; the President of Ukraine, including those that put into effect the relevant acts of the Security and Defence Council of Ukraine; the Cabinet of Ministers of Ukraine; the Ministry of Internal Affairs of Ukraine, including jointly with other subjects of this sphere of social relations; 2) taking into account the legal force of a separate regulatory legal act: the Constitution of Ukraine; international treaties of Ukraine; laws of Ukraine, including codified ones; subordinate regulatory legal acts; 3) taking into account the sphere of influence of legal norms: regulatory legal acts on general issues of exercising control over the sphere of providing police services; acts that determine individual areas of exercising such control; acts that establish the legal status of subjects of these social relations; acts that regulate individual areas and types of ensuring the functioning of this sphere of social relations; acts that establish individual opportunities and means of exercising such control; acts that determine various aspects of the functioning of this sphere of social relations; 4) depending on the number of subjects adopting such regulatory legal acts: those that were adopted individually or jointly by several subjects.*

Keywords: *police services, National Police, quality control, legal principles, administrative and legal regulation, administrative and legal norms.*

Problem statement. The proper functioning of any sphere of social relations is impossible without determining the rules of behaviour of their subjects, the grounds and procedure for carrying out certain activities, the course of relevant processes, etc. Public relations that arise and develop in connection with the implementation of quality control of police services are no exception in this case, within which the definition of the above-mentioned aspects acquires special importance, since they directly affect the level of public trust in the bodies and units of the National Police and the effectiveness of its performance of its functions. Such aspects find their objectification in the provisions of numerous regulatory legal acts that regulate activities related to the implementation of quality control of police services and, together, constitute the legal foundations of the functioning of this sphere of social relations. That is why, as a separate task to be solved within the framework of the presented scientific research, one should choose the definition of the essence of the legal foundations of the implementation of quality control of police services in Ukraine, as well as the establishment and implementation of the characteristics of the most important of them.

State and purpose of the study. Over the past decades, academic circles in Ukraine and abroad have been increasingly interested in the legal basis for monitoring the quality of police services. This is due to both the need to strengthen public trust in the National Police and the need to improve the efficiency of its activities in accordance with European standards. The study of the regulatory framework regulating control mechanisms has become one of the leading areas of modern legal science, and improving the quality of police services is the object of special attention of researchers. Particular attention is paid to the issues of regulatory consolidation of quality standards, transparency of inspection procedures, and public involvement in assessing police work, as well as responsibility for improper performance of official duties. In this context, the issues of unification of legal norms, development of effective monitoring tools and improvement of the system of professional training of police personnel are relevant. Therefore, the purpose of this article is to determine the legal basis for monitoring the quality of police services in Ukraine.

Presentation of the main material. Speaking about the category of "legal principles", it should be noted that on the pages of professional literature one can find several positions on its understanding. In particular, V.B. Pchelin notes that currently there are at least two approaches to understanding the essence of the category of "legal principles". The first approach involves a broad interpretation of this category, which covers a number of elements: the regulatory and legal foundations of the relevant activity and legal relations arising within it, with the corresponding system of subjects and their legal status. The second approach offers a narrow understanding of "legal principles" as exclusively regulatory and legal foundations, that is, a set of regulatory and legal acts interconnected by hierarchical relations depending on their legal force, on the basis of which the legal regulation of the relevant social legal relations is carried out. The second approach is the most widespread in modern legal science [1, p. 108]. At the same time, it should be noted that the approaches according to which the legal principles of the functioning of the relevant sphere of public relations are fully or to a greater extent associated with the principles of a certain activity. Given the specifics of the presented scientific research, we note that the greatest interest for us are those legal principles of monitoring the quality of police services in which administrative and legal norms are most concentrated. Administrative and legal norms are generally similar to legal norms of other branches of law. At the same time, as noted on the pages of professional literature, the norms of administrative law have certain features that distinguish them from the norms of other branches of law, among which the following should be mentioned: the subject of their regulation is social relations in

the sphere of functioning of administrative institutions of public authority, and accordingly, the purpose of these norms is to ensure both the organization and orderliness of the actions of the subjects of executive power, local self-government, some other subjects of administrative activity, and the conditions for the implementation and protection of the rights and freedoms of citizens in respect of whom this activity is carried out; The vast majority of administrative law norms are imperative in nature, since one of the parties in the relations regulated by these norms is always the bearer of power (state or self-government) powers, therefore, these relations are characterized by a unilateral expression of the will of the bearer of these powers. [2, p. 111; 3, p. 49].

At the same time, speaking about the essence of administrative law norms, administrative scientists point out that they are established, sanctioned or ratified by the state, formally defined, legally binding, protected by means of state coercion rules of behaviour of participants in public relations in the sphere of the exercise of executive power and the management activities of state bodies and local self-government bodies, which ensure the conditions for these participants to exercise their rights and fulfil the duties assigned to them [4, p. 68]. A somewhat similar definition of administrative law norms is indicated by L.S. Kryvoruchko within the framework of the study of the administrative-legal principles of the introduction of international standards in the field of ensuring the protection of human rights. According to the scientist, administrative-legal norms are generally binding and formally defined in the acts of the administrative branch rules and standards of behaviour and activity, the purpose of which is to regulate public relations of a managerial nature that arise in the context of the activities of state authorities and the performance of their functions stipulated by regulatory documents [5, pp. 105–106]. From which it follows that the main purpose of administrative-legal norms is the regulation of public relations of a managerial nature and content. That is why, from the position of exercising control over the quality of police services, such legal norms acquire special importance, since they indicate both the legal relations of the bodies and units of the National Police with the state in general, with its law enforcement sector in particular, as well as local government bodies and ordinary citizens and their associations.

Also interesting is the position on determining the essence of administrative legal norms proposed by E.Yu. Yakovchuk within the framework of the study of the features of the administrative legal principles of state policy in the field of mobilisation. The scientist reasonably believes that administrative legal norms are elementary particles of law that establish the rules of behaviour of subjects of administrative legal relations that arise during the formation and implementation of state policy in the relevant sphere of public relations. They determine the patterns of how these subjects should act and what legal instruments to use. At the same time, the scientist notes, administrative norms are enshrined in acts that constitute the legal basis for the formation and implementation of state policy in a certain sphere of public relations, that is, through them, the relevant processes and phenomena are actually regulated [6, p. 91]. We note that in aggregate such acts can be represented as administrative legislation, which establishes the legal principles for exercising control over the quality of police services.

In this context, we will present the position of the authors of the textbook "Administrative Law of Ukraine: Academic Course", who note that administrative legislation is a system of regulatory legal acts that contain the most general and important administrative legal norms. Therefore, it does not cover all regulatory legal acts, but only the relevant acts of the Verkhovna Rada, the President of Ukraine and the Cabinet of Ministers of Ukraine, that is, those regulatory legal acts that apply to the entire territory of the country. At the same time, scientists note that there are good reasons to add to this list also regulatory legal acts of ministries and other central executive bodies (i.e., the so-called departmental legislation), but only in cases where they determine the rights and obligations of citizens and are subject to registration in accordance with the procedure established by law [2, p. 147]. That is, in fact, we are talking about the fact that administrative legal norms are objectified in the provisions of the relevant regulatory legal acts, which should be considered taking into account the legal force of each of them, which will allow us to see a holistic picture of the regulatory legal regulation of the relevant sphere of public relations, including those related to the implementation of control over the quality of police services.

As is well known, the regulatory legal act of the highest legal force is the Fundamental Law of Ukraine – the Constitution of Ukraine of June 28, 1996. Of course, the provisions of this regulatory legal act do not contain direct references to both the implementation of control over the quality of police services and the general features of the activities of the bodies and units of the National Police of Ukraine. At the same time, the Fundamental Law of Ukraine contains a number of fundamental principles that affect the studied sphere of public relations. Thus, firstly, at the level of the Constitution of Ukraine, general legal principles for monitoring the quality of police services are enshrined, such as, for example: the rule of law (Article 8); legality (Article 19); equality and non-discrimination (Article 24) [7]. In addition, it should be noted that Section II, "Rights, Freedoms and Duties of Man and Citizen", of the Fundamental Law of Ukraine [7] defines the fundamental rights, freedoms and interests of a person, which are ensured by the bodies and units of the National Police of Ukraine in their daily activities by providing relevant police services.

It should also be noted that the provisions of the Constitution of Ukraine define the legal status of the main subjects of control over the quality of police services: the Verkhovna Rada of Ukraine (Section IV); the President of Ukraine (Section V); the Cabinet of Ministers of Ukraine and other executive bodies (Section VI); justice bodies (VIII) [7], etc. Finally, it should be noted that, being the fundamental legal basis for control over the quality of police services, the Constitution of Ukraine is the basis for the adoption of all other regulatory legal acts that determine the legal principles of the functioning of the studied sphere of

social relations. In particular, as stated in Art. 8 of the Fundamental Law of Ukraine, laws and other regulatory legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it [7]. Taken together, the above circumstances indicate a special place for the Fundamental Law of Ukraine among the legal principles for control over the quality of police services.

The second group of regulatory legal acts that establish the legal principles for monitoring the quality of police services are international treaties of Ukraine. The specified regulatory legal acts, given their specificity and significance, can be divided into several groups. Thus, the first of these groups will concern general issues of monitoring the quality of police services and will implement regulatory and legal regulation of this sphere of social relations in a manner somewhat similar to the Fundamental Law of Ukraine. As an example of such international treaties of Ukraine, the following should be cited: Universal Declaration of Human Rights of December 10, 1948; Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950; International Covenant on Civil and Political Rights of December 16, 1966; International Covenant on Economic, Social and Cultural Rights of December 16, 1966; etc. At the same time, the second group of international treaties of Ukraine concerns the implementation of control over the quality of police services in view of certain aspects of the functioning of this sphere of social relations. Examples of such international treaties of Ukraine include the following: International Convention on the Elimination of All Forms of Racial Discrimination of March 7, 1966; United Nations Convention on the Elimination of All Forms of Discrimination against Women of December 18, 1979; Convention on the Rights of the Child of November 20, 1989; Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) of May 11, 2011, etc.

In addition, a number of international bilateral and multilateral agreements should be mentioned, which determine certain aspects of monitoring the quality of police services, establish common standards for responding to offences, etc. As an example of such international agreements of Ukraine, the following should be mentioned: Agreement between Ukraine and the European Police Office on operational and strategic cooperation dated December 14, 2016; Memorandum of Understanding between Ukraine and the European Police Office on confidentiality and ensuring the preservation of information dated July 3, 2017; Memorandum of Understanding between the Government of Ukraine and the Organisation for Security and Cooperation in Europe (OSCE) on the establishment of a new form of cooperation dated July 13, 1999; Agreement between the Government of Ukraine and the Government of the United States of America on assistance in the field of law enforcement and criminal justice dated March 13, 2015, etc.

The next group of regulatory legal acts that determine the legal principles for monitoring the quality of police services is even more numerous and is represented by a significant array of laws of Ukraine that regulate the studied sphere of public relations in many areas. At the same time, the main regulatory legal act in this group will be the Law of Ukraine "On the National Police" of July 2, 2015 [8], which will contain both a list of such services and determine individual aspects of monitoring the quality of their provision. Also in this context, it is worth mentioning the Disciplinary Statute of the National Police of Ukraine approved by the Law of Ukraine of March 15, 2018, which determines the essence of service discipline in the National Police of Ukraine, the powers of police officers and their leaders to observe it, types of incentives and disciplinary sanctions, as well as the procedure for their application and appeal [9]. It is the provisions of this regulatory legal act that define the fundamental legal principles relating to issues of ensuring service discipline in the activities of bodies and units of the National Police regarding the proper and high-quality provision of police services.

In addition, we should talk about the laws of Ukraine that establish the legal status of individual subjects of control over the quality of police services; determine individual areas of activity of the National Police of Ukraine regarding the provision of police services and establish appropriate legal mechanisms for controlling their quality; and determine individual opportunities and means of controlling the quality of police services. Within this group of regulatory legal acts that define the legal principles of controlling the quality of police services, we should also consider acts of codified legislation. Among the acts of codified legislation that establish the legal principles of controlling the quality of police services are, first of all, those that determine the degree of legal liability for violation of the relevant rules of conduct, as well as the grounds and procedure for holding the persons guilty of this liable. Examples of such regulatory legal acts include the following: Code of Ukraine on Administrative Offences of December 7, 1984; Criminal Code of Ukraine of April 5, 2001; Criminal Procedure Code of Ukraine of April 13, 2012; Civil Code of Ukraine of January 16, 2003, etc.

The following group of regulatory legal acts that determine the legal principles for controlling the quality of police services is the most numerous. At the same time, it is in the provisions of these regulatory legal acts that administrative legal norms are most concentrated. In this case, we are talking about subordinate regulatory legal acts, which, given their number and the subjects of their publication, can themselves be presented as a certain system. At the same time, as V.B. quite reasonably notes, Pchelin, the presence of a subordinate level of regulatory and legal regulation of the relevant sphere of public relations is due to the need to determine the competence of various government bodies and the rights and obligations of their officials in a more operational manner than the laws of Ukraine [10, p. 18]. Thus, speaking of subordinate regulatory and legal acts that establish the legal principles for controlling the quality of police services, first of all, one should point out those adopted by the President of Ukraine, the Cabinet of Ministers of Ukraine, the Ministry of Internal Affairs of Ukraine, etc.

In particular, it was the decree of the President of Ukraine "On the introduction of martial law in Ukraine" dated February 24, 2022, No. 64/2022, that introduced the legal regime of martial law, which entailed significant

features of both the provision of police services and the control over their quality by authorised entities. Separately, attention should be paid to the fact that in accordance with Art. 107 of the Fundamental Law of Ukraine, the President of Ukraine, by his decrees, puts into effect the decisions of the National Security and Defence Council of Ukraine, which may also enshrine the legal principles for the control over the quality of the provision of police services. We also note that the regulatory legal acts of the Cabinet of Ministers of Ukraine and the Ministry of Internal Affairs of Ukraine enshrine the legal implementation of individual areas of control over the quality of the provision of police services, determine the legal status of entities in the studied sphere of public relations, establish the legal principles for ensuring the functioning of the studied sphere of public relations in the relevant areas (human resources, financial, logistical, information, etc. support), determine the legal principles on a wide variety of issues of monitoring the quality of police services, etc. It should be noted separately that in order to determine the legal principles for monitoring the quality of police services, the Ministry of Internal Affairs of Ukraine adopts relevant regulatory legal acts together with other state-authorized entities in this sphere of public relations, such as, for example: joint order of the Prosecutor General's Office and the Ministry of Internal Affairs of Ukraine dated November 22, 2021 No. 371/846, which approved the Procedure for electronic information interaction of the Prosecutor General's Office and the Ministry of Internal Affairs of Ukraine; joint order of the Prosecutor General's Office, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, the Ministry of Environmental Protection and Natural Resources of Ukraine, the Ministry of Agrarian Policy and Food of Ukraine dated June 16, 2022 No. 94/363/150/226/356, which approved the Procedure for interaction between the prosecutor's office, the National Police of Ukraine, the Security Service of Ukraine, authorized bodies of state supervision (control), state specialized institutions during the detection and conduct of pre-trial investigation of criminal offenses against the environment; joint order of the Ministry of Internal Affairs of Ukraine and the Ministry of Defense of Ukraine dated December 21, 2022 No. 833/443, which approved the Procedure for implementing priority measures for the neutralization (destruction) of explosive objects on the territory of Ukraine and the organization of interaction during their implementation; joint order of the Ministry of Internal Affairs of Ukraine and the Ministry of Economy of Ukraine dated June 19, 2024 No. 425/15051, which approved the Methods of forming prices for services provided by security police bodies; joint order of the Office of the Prosecutor General, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the Bureau of Economic Security of Ukraine dated October 28, 2024 No. 254/724/520/401/177/185, which approved the Procedure for organizing and ensuring pre-trial investigation of crimes resulting in the commission of which property (income), etc.

Conclusions. Therefore, the legal basis for monitoring the quality of police services should be understood as a set of regulatory and legal acts, the provisions of which, taking into account the legal force of each such act, constitute the legal basis that ensures the organisation, implementation and monitoring of the quality of police services in general and in individual areas, and also determines the relevant subjects of these social relations, their legal status and the main control mechanisms in this area.

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