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Administrative legal principles of human rights-based approach by the police

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Abstract

One of the priority tasks of reforming law enforcement agencies is to build a preventive mechanism based on the observance of human and civil rights and freedoms, protection of society from violence and discrimination, and creation of barrier-free space for people with limited mobility. The multidimensional nature and complexity of the issues requiring statutory regulation in these areas determine the relevance of the subject under study. The purpose of this study was to model the administrative legal mechanism of police activity in which human rights would be optimally and effectively implemented. To fulfil this purpose, the methodology used included a combination of comparative rule-making, system analysis, internal and external induction, constructive cognition and content analysis. It was found that the observance of human rights in police activities is inextricably linked to the implementation of the rule of law and the provision of protective police services. Numerous cases of violations revealed during journalistic investigations and widely discussed by the public have become one of the reasons for the rapid decline in public trust in state law enforcement institutions, and as a result, a substantial obstacle to Ukraine's integration into the European space. The study analysed the key reasons affecting the effectiveness of administrative legal strategies for ensuring a human rights-based approach in the practical activities of the National Police bodies (units). Specifically, these include transition processes related to the harmonisation of national legislation with international and European standards, low level of material and social security of police officers, insufficient level of professionalism, influence of negative environment, narrow understanding of administrative legal activities in the field of human rights related to the prevention of administrative and criminal offences. The study concluded that the principles of the rule of law, respect for human rights and freedoms and partnership-based interaction with the public are crucial and interrelated in the preventive activities of police. The study outlined the key areas of improvement of national legislation in the field of development and/or optimisation of administrative legal systems for ensuring the functioning of organisational, technical, information, and economic resources as guarantees of the implementation of the declared constitutional rights and freedoms. The results of this study can be used

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to formulate and improve the norms of national legislation that regulate the activities of law enforcement agencies and determine the content of its guidelines

Keywords:

personal data; police services; administrative responsibility; rights and freedoms; police officer; information and communication system; rule of law

Introduction

In all periods of human history, security has been one of the basic human needs, and its deficit in Ukraine in the context of the war with the Russian Federation has gradually turned into a total crisis. The address of the Minister of Internal Affairs of Ukraine Ihor Klymenko (Ministry of Internal Affairs, 2024) on the occasion of the professional holiday of police officers refers to the significance of their work in performing combat missions at the front, ensuring the stabilisation of the security situation in the Ukrainian territories liberated from the occupation regime. By continuing to provide police services, they are trying to keep the population hopeful for a quick victory and peace. Despite the diversity of police activities in challenging conditions, the criterion of their effectiveness is still the level of public trust. According to official data published by the Kyiv International Institute of Sociology (2023), compared to December 2022, when the percentage of Ukrainians who trusted the bodies (units) of the National Police was 58%, as of December 2023, the number of such citizens has substantially decreased to 41%. Against the backdrop of absolute trust in the Armed Forces, distrust in police officers in Ukrainian society has increased from 14% to 29%. As a dynamic indicator assessed by the existence of a fine line between the exercise of human rights and abuse of power in the performance of official tasks, the level of public trust is not only determined by the specifics of interaction between police officers and citizens. It is influenced by the well-coordinated regulatory mechanisms of social relations arising in the law enforcement sector. The decline in public trust in state institutions hinders the building of the rule of law, and therefore the need to improve administrative legal support for human rights in the activities of the National Police has made the topic relevant.

Human rights-based approach and its fulfilment in policing have been extensively investigated in academic circles. As a subject of research, they are considered not only in works on constitutional, international law, criminal law and procedure, but also by researchers of administrative law. A. Voitsikhovskiy *et al.* (2019) emphasise that compliance of police institutions with Ukrainian legislation, the Convention for the Protection of Human Rights and Fundamental Freedoms¹, and the case law of the European Court of Human Rights is a crucial step towards increasing public trust and respect

for law enforcement agencies. According to O. Tyshchenko & I. Titko (2020), the issues of human rights observance during the detention of certain categories of persons, specifically those suffering from mental disorders, are complex and undeveloped. According to V. Senyk *et al.* (2021), the vulnerability of personal data to processing and use requires innovative approaches to the statutory regulation of the use of information support in law enforcement, the functioning of information systems, databases, information and communication technologies, the development and implementation of innovations in the collection of evidence, and the investigation of criminal offences committed using modern advances in science and technology.

According to L. Kalashnikova *et al.* (2022), the ability of a society to maintain and develop living conditions for humans within the security corridor determines its guidelines and potential for sustainable development. In such circumstances, the interconnection initiated, established, and maintained simultaneously by the bodies (units) of the National Police and the public is not just evident. It is becoming a determinant of the growth of public trust in law enforcement beyond the constant influence of various internal and external factors, which appeared in Ukraine due to the introduction of martial law. Public opinion, becoming an integral part of the rule of law and civil society, naturally begins to play the role of a barometer in reforming the law enforcement system in the country and initiates new research, seeking to enhance the human rights-based concept of policing. V. Boniak (2023) points out that issues related to ensuring the rights of internally displaced persons are of particular relevance. The service orientation of the functions of officials and authorised persons of the National Police bodies (units) in this area is continuous and requires coordination of police actions with other entities, and therefore it requires improvement of the relevant regulatory framework. P. Dikhtievskiy (2022) focuses on the mechanism of exercising the rights and freedoms of citizens, protecting their interests and ensuring law and order. The ability of citizens to exercise the right to personal inviolability, P. Dikhtievskiy (2022) notes, is a key element in the system of national interests, and just as personal inviolability is not limited to the personal security of a particular person, it is a defining guideline in the development of state policy

¹ Convention for the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights). (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_004?lang=uk#Text.

in the security sector. According to V. Kravchuk (2023), the provisions of the legislation regulating public mechanisms for processing private information and protecting personal data, including from their misuse in social media, require bringing them in line with international standards. K. Gorelkina (2021) believes that the legislator's reaction should be to address the contradictory positions of current regulations in terms of human rights during the compulsory collection of biological samples.

S. Khodak *et al.* (2024) emphasised the need to improve the national mechanism for protecting the rights of children as the most vulnerable category of the population. L. Massez *et al.* (2024) identify police presence as a significant factor in reducing the fear of crime for citizens in their place of residence, and therefore in their study, the researchers insist on improving the regulatory framework for the interaction between the public and the police based on partnership. O. Voluiko *et al.* (2024) see further development of Ukrainian society through mobilisation of efforts and effective collective interaction.

Therefore, researchers assign a special role to legislative regulation of humanitarian and social aspects of law enforcement functions to create such conditions. In the variety of aspects raised by them within the framework of scientific research on administrative law, respect for human rights appears as a criterion for the effectiveness of police services provided by law enforcement agencies to the population, which at the same time requires a rethinking of the regulatory mechanism. Accordingly, the purpose of the present study was to identify the principal administrative legal areas for improving the current regulatory framework to implement a human rights-based approach in police activities. The following objectives were identified: to assess the significance of human rights as a criterion for the effectiveness of police service delivery, to characterise its content in national legislation, to outline promising areas for further research, and to identify the legal provisions regulating police activities that need to be improved.

Literature Review

A. Tanko (2020) explains the increased public attention to the topic of human rights-based approach in police activities by the integration processes that accompany Ukraine's steps towards joining the union of democratic European countries. Interference by the state in the person of a police officer with the rights of citizens, specifically in cases of restriction of movement or house arrest, should be clearly regulated and not lead to abuse of power by law enforcement officers. Recognition

of human rights-based priorities in line with international standards, such as The Universal Declaration of Human Rights¹, the Convention for the Protection of Human Rights and Fundamental Freedoms², etc., in the regulatory framework and law enforcement is urgent for further implementation of democratic principles in Ukraine and establishment of social stability.

According to D. Hladchuk (2020), the observance of human rights and freedoms should be assessed by the consequences of the results of police activities in the field of law enforcement. Society and the state are interested not only in the actual result of police officer's actions, but also in how this result is achieved, the legality of the methods and means applied or used, including police coercive measures. Understanding violations of human rights by police officers as physical or mental violence, fabrication of evidence in cases of administrative delinquency and/or criminal proceedings, the researcher attributes the causes of cases that discredit law enforcement agencies and reduce their credibility to low material and social security of employees, insufficient professional level and the influence of a negative environment, lack of ethical standards, imperfect selection and training of personnel, and improvement of their professionalism.

Y. Vityk (2021a) argues that respect for human rights is a fundamental condition for law enforcement. Since the three-component institutional state and legal status of the police is conditioned by the legislative assignment of police services to the population, professional law enforcement by police officers is impossible if they absolutize their service goals and completely ignore the fact that an offender, regardless of the gravity of the act committed or its public danger, has rights constitutionally guaranteed by national legislation and international legal acts. In this sense, the issues of observance of rights and freedoms in social relations arising between an individual and the authorities, according to the researcher, are necessarily related to the problem of applying administrative and legal measures to prevent their violation.

Providing statistical data on the results of the inspection of the Internal Security Department of the National Police of Ukraine, T. Varga (2023) convincingly argues that the human rights-based approach of police activity is inextricably linked to the strengthening of guarantees of such constitutional values as the inviolability of a person, protection from encroachments on their rights and freedoms by others. Human rights violations, which are systemic in nature in police activities, are mostly classified as offences against the person, abuse of power, abuse of authority, etc. They are primarily manifested in the unlawful detention of

¹ The Universal Declaration of Human Rights. (1948, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_015#Text.

² Convention for the Protection of Human Rights and Fundamental. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_004?lang=uk#Text.

citizens to obtain confessions to offences. To achieve the desired result, police officers use unregistered detention, violation of the detention period, refusal to provide a defence lawyer, and psychological pressure. T. Varga (2023) believes that the implementation of the provisions of Article 7 of Law No. 580-VIII¹ requires a review of the legal regulation of social relations arising between police structures and the population, with a complete reorientation of law enforcement powers to European values.

R. Blahuta *et al.* (2024) point out that the effectiveness of law enforcement tasks is determined by the police officer's personal respect for the individual, providing them with constitutional guarantees as an authorised person from the state authorities. The observance of fundamental freedoms is closely linked to their enforcement as a priority and strategic area of police service delivery. The means and methods used in such activities, their professional level determine the legitimacy of the National Police bodies (units) in the system of state functioning institutions and need to be improved and brought in line with international standards. R. Blahuta *et al.* (2024) identify the lack of a unified concept and generally accepted norms of morality and ethics that serve as a role model for all police officers without exception (doctrinal factor), lack of a normative definition of basic ethical norms and standards of police behaviour (legislative factor), level of legal culture and psychophysical state of the police officer (personal factor), police officers' sense of security and the availability of legal guarantees for their actions (security factor), contact with criminals, job conflict and job satisfaction, prestige of the profession (socio-psychological factors), and police performance in terms of statistical indicators (evaluation factor).

Thus, researchers consider the practice of implementing human rights in law enforcement from the standpoint of administrative and jurisdictional powers of executive authorities and the negative consequences of the use of coercive measures by law enforcement officers. The indirect understanding of the protection of human rights and freedoms through the absence of their violations has led to the factual equation of terminological units of national legislation in this area, as well as the analysis of legal definitions through phenomena that cause the replacement of the subject of research with an antagonist. As a result, despite the plurality of opinions on the content of the term "respect for human rights and freedoms" in the scientific literature, the latter still lacks a unanimous wording. It is pointed to as one of the criteria for the effectiveness of police service

delivery, but the researchers avoid addressing the issue of assessing its significance among other criteria, such as the level of public trust, openness, and transparency of police activities.

Materials and Methods

The purpose and objectives set out in the introductory part of this study were fulfilled by investigated the current provisions of national legislation, information from the section "Human Rights Observance" posted on the official website of the National Police of Ukraine (2024), and scientific publications of Ukrainian researchers. The substantive understanding of the principle of human rights was formed based on the examination of the text of the Law of Ukraine No. 580-VIII². The possibility of using it as a criterion in assessing the effectiveness of police services was determined by the results of a study of the provisions of Laws of Ukraine No. 580-VIII³, No. 2337-VIII⁴, Code of Ukraine on Administrative Offences⁵, which establish liability for police officers for human rights violations. The key areas of law enforcement activity in which police services are provided and which make provision for the establishment of administrative legal regulation in the field of human rights were systematised according to the information website of the National Police of Ukraine (2024). The empirical materials obtained helped to formulate promising areas for further research and identify provisions of national legislation that need to be improved.

The study used the methods of comparative analysis, systematic approach, legal modelling, and content analysis. The analysis of current national legislative acts and scientific publications helped to create a holistic view of the administrative legal framework of police human rights-based approach. Using the method of comparative analysis, the study identified the key differences and common features in the use of terminological units in the legal framework governing the activities of the National Police bodies (units) in the field of human rights observance. As O. Dolzhenkov (2022) notes, the positive aspect of the comparative approach is the ability to compare two (or more) objects under study (or their parts) that have similarities and conclude that there are common or different properties of the analysed phenomena. The effectiveness of the comparative analysis tools allows covering a wide range of information about the object of scientific cognition, and therefore the study considered not only the content of such terminological units as "observance of human rights", "ensuring human rights", "protection of human

¹ Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

² *Ibidem*, 2015.

³ *Ibidem*, 2015.

⁴ Law of Ukraine No.2337-VIII "On the Disciplinary Statute of the National Police of Ukraine". (2018, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/2337-19#Text> 1-10#Text.

⁵ Code of Ukraine on Administrative Offences. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

rights”, “security of human rights”, “protection of human rights”, but also the frequency of their use in legal provisions and the context.

The systemic approach provided a comprehensive vision of the problem, considering the interconnection of various elements of administrative legal regulation manifested at the internal and external levels (Yusifova, 2023). The internal aspect reflects the specific features of interconnection and interaction of elements of the legal regulation system, the specifics of its mechanisms, and the stages at which police officers implement administrative legal measures related to the observance of human rights in their professional activities. The external aspect determines the significance of human rights as a criterion for the effectiveness of the National Police in providing police services to the public, the nature of interaction between police officers and society within a given space and time frame. The application of a systematic approach helped to identify gaps in the administrative legal regulation of human rights-based approach in policing and to monitor the official website of the National Police of Ukraine, highlighting areas that need to be improved in national legislation or consolidated in regulations.

The method of legal modelling was used to formulate proposals for improving the regulatory framework. Kh. Kmetyk-Podubinska (2020) emphasised the characteristic stage-by-stage nature of this method, which allows using it in close systematic connection with other methods of scientific research, expanding the horizons of legal cognition, obtaining conclusions valuable for theory and practice not only regarding the imitation of legal behaviour of subjects, but also regarding the creation of new and correction of existing legal norms and institutions. The use of legal modelling in the study contributed to the identification and systematisation of promising areas for further research and provisions of administrative legal regulation of police activity which are human rights-oriented and need to be improved.

The method of content analysis was used in its conventional sense to test the research hypothesis through statistical calculations. According to O. Semotiuk (2020), content analysis allows providing reliable objective results in the interpretation of social reality and presenting the words and texts of legal acts, transferring them to the categories of validity and reliability.

The results of the study should reveal the subordination of the concepts of human rights and the rule of law, the architectonics of the terminological fields “human rights in police activity” – “police officer responsibility”, identify the determinants of effective activity of the National Police in the field of human rights, highlight the gaps in administrative legal support that need

to be addressed and find ways to improve to increase the level of public trust in law enforcement agencies.

Results

Police human rights-based approach is the basis of law enforcement. In Law of Ukraine No. 580-VIII¹, it is prescribed in Article 7 as a binding obligation for police officers in the performance of their duties, while specifying in Article 6 that it is a constituent element in the meaning of the term “rule of law”. Considering that the text of the Law on the implementation of human rights and freedoms in police activity contains at least 5 verbal nouns, the frequency of use of which is presented in Figure 1, this indicates that Article 7 is of key significance, which allows it to be perceived as an interpreter of the content of the administrative legal framework for the observance of human rights in the activities of bodies (units) of the National Police. It is here that the legislator indirectly explains that police human rights-based approach means that an individual with their rights and freedoms is of the highest social value, and this approach should accommodate the case law of the European Court of Human Rights.

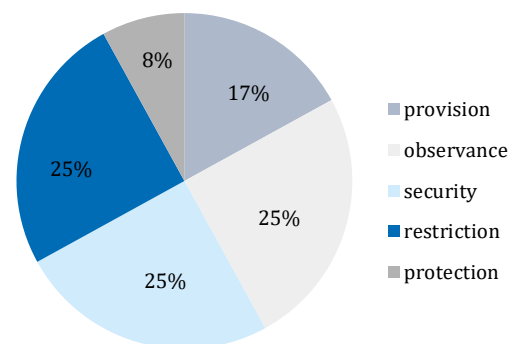


Figure 1. Distribution of powers of the police in the field of human rights, prescribed in the Law of Ukraine “On the National Police”

Source: developed by the author of this study based on the analysis of Law of Ukraine No. 580-VIII²

The graphical representation of the frequency of use of terminological combinations with the constituent elements of “human rights” in the Law of Ukraine No. 580-VIII³, presented in Figure 1, indicates that the police powers in the field of human rights are focused on their provision, observance, and protection. The “restriction – protection” ratio looks quite specific considering that the arithmetic sum of their percentage parts is equivalent to the terminology “ensuring human rights”, “observance of human rights”, “security of human rights”. In this respect, it makes sense to discuss

¹ Law of Ukraine No. 580-VIII “On the National Police”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

² Ibidem, 2015.

³ Ibidem, 2015.

the lack of differentiation of the terminology in the field of human rights in this Law.

The list of human rights and freedoms that the police must ensure in the performance of their tasks is not prescribed in part one of Article 7 of the Law of Ukraine No. 580-VIII¹. The legislator defines them as constitutionally guaranteed, legally prescribed in national regulations and international treaties, the binding nature of which is agreed at the highest legislative level. Part four of Article 7 of the law clarifies that the facts of facilitating, committing, inciting, or tolerating any form of torture, cruel, inhumane, or degrading treatment or punishment² entail the need to initiate an internal investigation and hold the perpetrators accountable.

O. Razdolska (2022) notes that one of the most effective ways to prevent human rights violations or restore already violated rights is the internal consistency of principles and standards for their enforcement as a holistic, undisturbed, and logically constructed system. Provided that the absolute prohibition of a particular act is defined by the supreme law³, the competence of a police officer is determined by identifying “the relevant act, stopping its commission with the subsequent possibility to prove the cause-and-effect relationship” between the identified structural elements, since “it is the evidence base of a particular event” that is an argument for the presence of an orientation towards the affirmation of human values guaranteed by the state in the actions of an authorised person from the bodies (units) of the National Police.

Y. Vityk (2021b) emphasises the integral functional property of human rights-based approach as a permanent component of police activity. Multiple rules of conduct for police officers that do not degrade a person’s

dignity affect the holistic assessment of the overall level of public trust in law enforcement. Being a normatively formalised obligation, the principle of human rights observance establishes a dynamic balance between legal regulation of police services provision to the public and the exercise of human rights and freedoms guaranteed by the constitution and prescribed in national regulations and international instruments, the binding nature of the latter being agreed at the highest legislative level.

The official web portal of the National Police of Ukraine (2024) presents three areas of police activity in the field of human rights observance in the section “Human Rights Observance”, namely creation of a barrier-free space for people with reduced mobility, implementation of the pilot project “Custody Records Information Subsystem of the Information and Communication System “Information Portal of the National Police of Ukraine” in territorial units”, prevention and counteraction to gender discrimination and sexual harassment in the workplace in law enforcement agencies. The relation of “respect for human rights” to their protection in connection with their violation or the probability of such a violation (regardless of the reason: whether as a result of illegal activity or as a result of restriction or lack of ability to perform activities in the manner or within the limits considered normal for a person⁴) clearly leaves the prevailing position that the human rights-based approach is the principle of police activity, while ensuring and protecting constitutional guarantees of a person is associated with concrete decisive actions of law enforcement officers. Figure 2 presents a system of components through which police human rights-based approach is implemented in practice in the bodies (units) of the National Police.

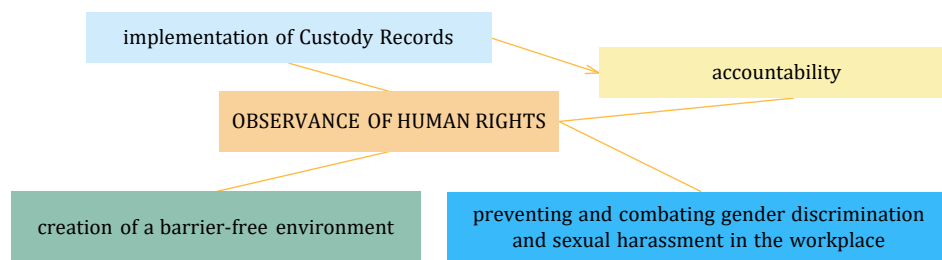


Figure 2. Component areas of human rights observance in police activities and their interrelation with the establishment of accountability

Source: developed by the authors of this study

The five-pillar framework presented in Figure 2 indicates that a breach of the chain of command between its elements necessarily triggers liability for human

rights violations. The single location of the pilot project “Information subsystem “Custody Records” of the information and communication system “Information Portal

¹ Law of Ukraine No. 580-VIII “On the National Police”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

² *Ibidem*, 2015.

³ Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/en/254k/96-вр?lang=uk#Text>.

⁴ Declaration on the Rights of Disabled Persons. (1975, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-rights-disabled-persons>.

of the National Police of Ukraine” in territorial units” (National Police of Ukraine, 2024) is conditioned by the existence of autonomous rules establishing liability for violations of human rights and freedoms related to information processing. Specifically, part two of Article 28 of the Law of Ukraine No. 580-VIII¹ prescribes personal disciplinary, administrative, and criminal liability for police officers and persons who have access to the information resources of the unified information system of the Ministry of Internal Affairs of Ukraine and other information and communication systems (information resources) and whose actions have led to a violation of human rights and freedoms related to information processing. Part one of Article 11 of the Law of Ukraine No. 2337-VIII² prescribes disciplinary liability for violation of official discipline for police officers regardless of their position and special rank. In the area of human rights observance, this may be manifested in the improper performance of the police officer’s basic duties to respect human rights, honour, and dignity, and to refrain from statements and actions that violate human rights or degrade human honour and dignity.

The Code of Ukraine on Administrative Offences³ establishes administrative liability for violation of part one of Article 188³⁹, which is expressed in “failure to notify or late notice of the Ukrainian Parliament Commissioner for Human Rights on the processing of personal data or on changes in information subject to notification according to the law, notice of incomplete or inaccurate information”, Article 212⁶, which is manifested in “unlawful access to information stored, processed, or transmitted in information (automated) systems” (part one), “in relation to information (automated) systems intended for storage and processing of restricted information” (part three), unlawful copying (part four), free illegal distribution of “information stored in information (automated) systems, in paper or electronic form” (part five), and its illegal sale (part six).

Establishing legal liability for officials for violation of the protective obligations provided by the state to a person reflects the conventional approach to building administrative legal mechanisms for ensuring human rights in the activities of law enforcement agencies. With its focus on legal regulation of practical activities, it effectively neglects the significance of legal culture and legal awareness of police officers. V. Postryhan (2022) emphasises that the latter play an essential role in shaping the human rights-based approach of police activity. Legal awareness determines the quality of law enforcement, and a prominent level of legal culture raises the police activity from the standpoint of the law to higher levels and makes it more effective.

Discussion

L. Servatiuk (2021) notes that the commonality of tasks for law enforcement agencies in Europe and the world places the same requirements on police structures to prevent and counteract offenders, promote a safe environment, and provide prompt assistance, considering the powers vested in them by the authorities. Accordingly, this necessitates the introduction of international and European standards of human rights protection into police activities. In this respect, it is appropriate to assess the quality of police services provided to the public by the level of protection of the rights, freedoms, and legitimate interests of citizens in their daily activities, as well as the possibility of exercising the rights and freedoms prescribed by the Constitution of Ukraine and national legislation in the interaction of each individual with a law enforcement officer. According to L. Servatiuk (2021), the administrative, fiscal, and punitive functions of law enforcement should be replaced by law assurance. The researchers sees the principal ways of forming the administrative legal framework for the human-centred orientation of the activities of the bodies (units) of the National Police in the consolidation of regulatory guarantees for the protection of the rights of the law enforcement officers themselves, namely: fair financial compensation for overtime work, insurance of risks to life and health, and meeting the needs of daily official activities.

E. Morozov (2023) believes that European standards of human rights observance are the most acceptable for adoption in the administrative legal activities of authorised units. In this sense, the model for implementing projects to ensure constitutional rights should be based on the direct initiative of police officers and have the ultimate purpose of creating parity between law enforcement agencies and stable local communities. The introduction of social engineering and extensive use of restorative justice methods are undoubtedly effective ways to combat crime, but the researcher’s thesis that the success of police activities should be assessed by the results of social change and reduction of crime in society is debatable, and the police officer’s own dignity with an argument in favour of the commitment they have made – the police oath⁴ – is a guarantee of human rights-based approach in the performance of official duties.

T. Marchuk & M. Babiy (2024) advocate the position that ensuring constitutionally guaranteed human rights and performing human rights functions in relation to them should not be entirely relied upon by state executive authorities. Citizens themselves should be involved. Researchers see the contribution of the latter as

¹ Law of Ukraine No. 580-VIII “On the National Police”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

² Law of Ukraine No. 2337- VIII “On the Disciplinary Statute of the National Police of Ukraine”. (2018, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/2337-19#Text>.

³ Code of Ukraine on Administrative Offences. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

⁴ Law of Ukraine No. 580-VIII “On the National Police”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

respecting the general order and the rights of others, following the principles of social coexistence, and not causing harm to the normal functioning of public authorities. The fundamental task and legitimate monopoly of the state is to establish and regulate safe social relations and stable order. The task of the police is to prevent threats to public safety and prevent crime. According to T. Marchuk & M. Babiy (2024), the activities of law enforcement officers must follow international and European standards in the field of human rights, but the protection of citizens from violations of their rights is primarily ensured by the legality of the actions of the governing principle of public administration and management. The key provisions of the current Law of Ukraine No. 580-VIII¹ require the adoption of additional clarifying legal documents, as the control and supervisory functions of the police as an entity in the field of road safety, the conduct of procedural actions by police officers involving detained, delivered, and arrested persons, the methods of assessing the level of public trust in the police², and the procedure for public supervision (control) over its activities are still unregulated.

The differences between the above positions and those expressed in the present study are mainly conditioned by the set of materials and methods used. Specifically, the study of the National Police web portal helped to analyse new areas of activity that were not analysed by L. Servatiuk (2021), E. Morozov (2023), T. Marchuk & M. Babiy (2024). The study of the text of Laws of Ukraine No. 2337-VIII³ and No. 8073-X⁴ confirmed the findings obtained by T. Marchuk & M. Babiy (2024) on the need to improve the statutory regulation of human rights in the activities of the National Police, which is associated not only with the adoption of additional legislation, but also with the streamlining, considering the data obtained, of the terminology of the Law of Ukraine No. 580-VIII⁵.

Notably, further scientific research should be directed at addressing the issues raised by administrative scientists, but not properly reflected in modern developments. This refers to the implementation of police human centricism in the field of road safety (Marchuk & Babiy 2024), the development of methodological approaches to solving the principal law enforcement tasks of practical orientation (Morozov, 2023), the settlement of risks to the normal life of police officers, meeting the needs of performing official tasks under martial law and in a special period, the development of independent trade unions and associations that will perform human rights functions for the authorised subjects themselves (Servatiuk, 2021), etc.

Thus, the regulation of administrative legal mechanisms for observance of human rights in the activities of the National Police in the current legal acts is pro-European in nature. Therewith, the analysis allows formulating certain recommendations, which were partially reflected in the studies of L. Servatiuk (2021), E. Morozov (2023), T. Marchuk & M. Babiy (2024). Implementation of projects to create barrier-free space for people with limited mobility, prevention and counteraction to gender discrimination, sexual harassment in the workplace in law enforcement agencies, and formation of an unacceptable attitude in society towards these negative phenomena require the development of a balanced set of regulatory, organisational, managerial, and public oversight measures, considering international standards of police professional ethics. The development of new administrative legal mechanisms for the National Police will help to create conditions under which the observance of constitutional human rights will be important in assessing the effectiveness of police services to the population and will allow for the establishment of parity between society and state institutions of the law enforcement system.

Conclusions

By investigating the administrative legal mechanisms for observance of human rights in the activities of the National Police and their implementation in the national legislation of Ukraine, the study identified problematic issues that require rethinking and improvement of the existing norms. Firstly, understanding the respect for human rights in the legal acts regulating police activity is achieved through an explanation of the rule of law. At the same time, it is identified with a series of phenomena that have a different legal nature, namely, ensuring, protecting, and restricting human rights. Secondly, the fine line between observance of constitutional guarantees and abuse of power makes it difficult to investigate the topic. Human rights observance in administrative law is conventionally studied in terms of protecting a person from unlawful encroachments, restoring violated rights and freedoms as a result of law enforcement enforcement measures, as well as actions related to the collection, processing, and protection of personal data. This makes it impossible to establish the percentage of cases where the rights of individuals are fully respected by law enforcement and the court practice reflecting the consequences of such violations. Thirdly, the subordination of human rights and the rule of law does not exclude its significance for other criteria that assess the quality

¹ Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

² *Ibidem*, 2015.

³ Law of Ukraine No.2337-VIII "On the Disciplinary Statute of the National Police of Ukraine". (2018, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/2337-19#Text> 1-10#Text.

⁴ Code of Ukraine on Administrative Offences. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/8073>.

⁵ Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

of police services. In the context of the ongoing armed threats to Ukraine from the Russian Federation, the focus on human rights-based approach determines the level of public trust in the police, which necessitates the search for innovative methodological approaches to assessing the latter. Fourthly, the examination of regulations found that the governance of activities in the field of human rights is closely related to the mechanisms of preventive counteraction to administrative delinquency and criminal offences. Other tasks of police officers, such as assisting people with limited mobility and creating barrier-free conditions for them in society, were left out of the legislator's attention.

Thus, the scientific originality of the present study lies in a comprehensive approach to the analysis of the administrative legal framework of police human rights-based approach, considering the available scientific

findings and current trends in the development of public policy.

Promising areas for further investigation on the subject under study include the development of unified methodological approaches that will allow developing a strategy for the implementation of international standards and continuing to implement pan-European values in Ukrainian legislation, bringing the reforms initiated in the law enforcement system in general and the bodies (units) of the National Police specifically to a new stage of development.

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Conflict of Interest

None.

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Анотація

Одним із пріоритетних завдань реформування правоохоронних органів є побудова превентивного механізму, основними принципами роботи якого є дотримання прав і свобод людини та громадянина, захист суспільства від насильства й дискримінації, створення безбар'єрного простору для маломобільних категорій населення. Багатоаспектність і багатогранність питань, що потребують нормативно-правового регулювання за цими напрямками, обумовлюють актуальність заявленої теми дослідження. Метою статті було моделювання адміністративно-правового механізму діяльності поліції, у якому дотримання прав людини матиме оптимальну ефективну реалізацію. Для досягнення мети було використано методологію, що поєднувала методи порівняльного нормозастосування, системного аналізу, внутрішньо- та зовнішньорівневу індукцію, метод конструктивного пізнання і контент-аналіз. Встановлено, що дотримання прав людини в діяльності поліції нерозривно пов'язано з реалізацією принципу верховенства права й надання охоронних поліцейських послуг. Численні випадки порушень, виявлені в процесі журналістських розслідувань і широко обговорювані громадськістю, стали однією з причин стрімкого зниження рівня довіри суспільства до державних інституцій правоохоронної системи, як наслідок – суттєвою перешкодою на шляху інтеграції України до європейського простору. Було проаналізовано основні причини, що позначаються на ефективності адміністративно-правових стратегій забезпечення людиноцентрованого підходу в практичній діяльності органів (підрозділів) Національної поліції. Зокрема, це перехідні процеси, пов'язані з гармонізацією національного законодавства з міжнародними та європейськими стандартами, низький рівень матеріального й соціального забезпечення поліцейських, недостатній рівень професіоналізму, вплив негативного середовища, вузьке розуміння адміністративно-правової діяльності у сфері дотримання прав людини, пов'язаної із запобіганням адміністративним і кримінальним правопорушенням. Сформульовано висновок про вагомість і взаємозв'язок у превентивній діяльності поліцейських принципів верховенства права, дотримання прав і свобод людини та взаємодії з населенням на засадах партнерства. Окреслено основні напрями вдосконалення національного законодавства у сфері розвитку та/або оптимізації адміністративно-правових систем забезпечення функціонування організаційно-технічних, інформаційних та економічних ресурсів як гарантій реалізації задекларованих конституційних прав і свобод. Результати дослідження може бути використано для формування та вдосконалення норм національного законодавства, що регулюють діяльність правоохоронних органів і визначають зміст її орієнтирів

Ключові слова:

персональні дані; поліцейські послуги; адміністративна відповідальність; права і свободи; поліцейський; інформаційно-комунікаційна система; верховенство права