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## LEGAL AND REGULATORY FRAMEWORK OF ENSURING PUBLIC SAFETY AND ORDER AT MASS EVENTS

**Сергій Комісаров, Віталій Покайчук, Вадим Фурса. НОРМАТИВНО-ПРАВОВА ОСНОВА ЗАБЕЗПЕЧЕННЯ ПУБЛІЧНОЇ БЕЗПЕКИ ТА ПОРЯДКУ ПІД ЧАС МАСОВИХ ЗАХОДІВ.** Реалізація державної політики у сфері національної безпеки покласться на силові структури України – правоохоронні та розвідувальні органи, спеціальні державні органи з правоохоронними функціями, сили цивільного захисту та інші органи, на які Конституцією та законами України покладено завдання щодо забезпечення національної безпеки України.

Проблеми забезпечення національної безпеки належать до найважливіших, складних багатоаспектних і цілісних явищ суспільно-політичного життя. Проте загрози національній безпеці як явища, тенденції та чинники, що унеможливають чи ускладнюють або можуть виключати чи ускладнювати реалізацію національних інтересів (важливими є інтереси особи, суспільства та держави, реалізацію яких забезпечує держава), суверенітет України, її поступальний демократичний розвиток, а також безпечні умови життя і добробут її громадян. Це надало поштовх до пошуку нових підходів до сприйняття та розуміння сутності, бачення структурно-функціональних компонентів єдиної системи забезпечення національної безпеки в умовах антагоністичних намірів Російської Федерації посягнути на державний суверенітет України, спроби повалити її демократичний конституційний лад.

Автрами проаналізовані чинне законодавство та підзаконні нормативно-правові акти, що регулюють оперативно-службову та службово-бойову діяльність силових структур України та розроблено пропозиції з удосконалення нормативно-правового забезпечення діяльності підрозділів Національної поліції щодо забезпечення громадської безпеки та порядку під час проведення масових заходів.

Зроблено висновок, що на сьогодні існує необхідність розробки відомчого нормативно-правового акта, який базується на Законах України «Про національну безпеку України», «Про Національну поліцію» та Концепції впровадження скандинавської моделі забезпечення громадської безпеки та порядку під час проведення масових заходів, яка враховує досвід поліції скандинавських країн щодо забезпечення громадської безпеки та порядку під час проведення великих заходів.

**Ключові слова:** національна безпека, національна поліція, оперативно-службова діяльність, службово-бойова діяльність, ініціативний підхід, стратегічні принципи, скандинавська модель забезпечення громадської безпеки та порядку під час масових заходів

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**Relevance of the study.** According to the norms of the Constitution, Ukraine is a sovereign and independent, democratic, social, legal state [1, Art. 1].

The fundamental right in the democratic government is the right to vote and to choose [1, Art. 70]. Meanwhile, there is the right to express one's opinion and, doing so in a peaceful manner, to gather with others to express one's opinion [1, Art. 39]. These rights, among others, are defined by the Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Verkhovna Rada of Ukraine [2].

The protection of a person and a citizen (its life and dignity, constitutional rights and freedoms, safe living conditions), society (its democratic values, welfare and conditions for sustainable development), the government (its constitutional order, sovereignty, territorial integrity and inviolability), the territory and the natural environment from emergencies is recognized by Ukrainian legislation as the main goal of state policy in the areas of national security and defense [3, part 1 Art. 3].

The implementation of state policy in the field of national security is entrusted to the Ukrainian security forces – law enforcement and intelligence agencies, special state agencies with law enforcement functions, civil protection forces and other agencies, which are assigned by the Constitution and laws of Ukraine to ensure national security of Ukraine [3, paragraph 17 part 1 Art. 1].

Today the activities of these elements of the security forces are regulated by legislative acts that do not fully take into account the specific conditions of crisis situations of a certain origin.

According to the Constitution of Ukraine, Ukrainian Constitution norms are norms of direct action [1, part 3 Art. 8]. They are directly implemented regardless of whether they are established by relevant laws or other normative and legal acts [4].

The right of citizens to assemble peacefully, without weapons, to hold meetings, rallies, marches and demonstrations, is enshrined in Article 39 of the Constitution of Ukraine, is their inalienable and inviolable right, guaranteed by the Basic Law of Ukraine [4].

The problems of ensuring national security are among the most important, complex multiaspect and integral phenomena of public and political life.

Nevertheless, threats to the national security as phenomena, trends and factors that make it impossible or difficult or may exclude or complicate the realization of national interests (important are the interests of a person, society and the government), the implementation of which ensures the state sovereignty of Ukraine, its progressive democratic development, as well as safe conditions of life and the welfare of its citizens [3, paragraph 10 part 1 Article 1] and preservation of national values of Ukraine [3, paragraph 6 part 1 Article 1], were especially acute in 2013-2014. This gave impetus to the search for new approaches to the perception and understanding of the essence, the vision of the structural and functional components of the common system of ensuring national security in conditions of antagonistic intentions of the Russian Federation, encroaching on the government sovereignty of Ukraine, attempts to overthrow the democratic constitutional order.

In turn, the events that have recently unfolded in most countries of the world and they are associated with mass riots, threats to public security and group violations of public order, and somewhere (the United States, the French Republic) they have become a real threat to national security and the preservation of national values, particularly, the development of a new approach is required for ensuring public security and the rule of law, regulatory environment of a number of problem issues of service-combat activity of security forces, in general.

**Recent publications review.** Certain aspects of national security theory were developed by T. Schelling and G. Kahn (theory of international conflicts) R. Liska and G. Snyder (theory of blocks and coalitions) K. Norr (theory of state capacity) Z. Brzezinski (geostrategic models) E. Luttwak, M. Porter (international economic competition), etc.

The works of O. Bandurka, R. Kalyuzhnyi, V. Konoplyov, O. Kopan, V. Kolpakov, O. Komissarov, I. Kyrychenko, S. Kuznichenko, V. Olefir, V. Petkov, O. Yarmysh and the others are devoted to the study of problem issues of national security of Ukraine.

The role of law enforcement agencies in ensuring national security is the subject of research by Yu. Allerov, S. Belay, A. Berlach, S. Husarov, H. Drobakh, Yu. Dubko, I. Zozulya, M. Korniyenko, O. Krivenko, V. Laptiy, M. Loshytskyy, O. Ostapenko, A. Podolyaka, S. Poltorak, A. Spasskyy, O. Shmakov, S. Yarovy, Kh. Yarmaki.

**The research paper's objective** is to analyze current legislation and subordinate normative legal acts which regulate operational-service and service-combat activities of security forces of Ukraine and the development of proposals for improving legal and regulatory support activities of

the National Police units to ensure public safety and order during mass events.

**Discussion.** Today, neither at the legislative level, nor at the level of subordinate normative legal acts, the issue of deployment of forces and means, forms and methods of prevention, suppression, counteraction and elimination of consequences of emergencies related to unlawful actions of offenders in implementing the constitutional right to peaceful assemblies has not been regulated. And the fact that peaceful assemblies, rallies, demonstrations, protests, and football matches pose a threat to public safety and constantly transform (or can lead) into group disturbances of public order or mass disorder is axiomatic. This axiom is confirmed by the events in the United States and the French Republic, which have become a real threat to national security and the preservation of national values.

At the same time, returning to the performance of service-combat tasks by National Police units to neutralize potential and real threats to national security is surprised by the lack of normative and legal regulation of this activity.

Taking the above into account and considering threats to the national security as phenomena, trends and factors that make it impossible or difficult or may exclude or complicate the realization of national interests (important are the interests of a person, society and the government, the implementation of which ensures the state sovereignty of Ukraine, its progressive democratic development, as well as safe conditions of life and the welfare of its citizens and preservation of national values of Ukraine [3] logical question arises the issue of normative regulation of the activities of state security forces in preventing the emergence, cessation and elimination of the consequences of the above-mentioned unlawful manifestations.

With the invalidity of the Decree on the actions of bodies, units of internal affairs bodies, associations of military units of internal troops, higher educational institutions of the MIA in the liquidation of mass disturbances, quite significant gap in the normative regulation of this type of activity of the National Police units was determined, which in the near future may lead to irreparable consequences.

After the events that occurred in Ukraine in late 2013 and early 2014, the outdated system of public security was completely incapacitated and did not take into account tendencies of society development and international police experience in countering group disruption of public order and mass disorder. Though the law enforcement system of Ukraine had certain developments in the work with football fans and implemented them effectively in the official activities of the Internal Affairs, the Security Service of Ukraine, Internal troops of the Ministry of Internal Affairs, the State Border Guard Service of Ukraine (2008-2012). The effectiveness of application of the public order model during football matches of various risk levels has been approved by the European police and fan community during the UEFA European Football Championship, which was held in June-July, 2012 in Ukraine and the Republic of Poland.

After UEFA Euro 2012, the positive practice of public order security during football matches has not been implemented and adapted to the activities of preventive police (militia of public safety at that time) for effective prevention and response to unlawful manifestations during public events in general.

Searching for new forms and approaches to the normative-legal regulation of public order security during mass events and counteraction to group violations of public order and mass disorders was proceeded sluggishly, and sometimes was in a state of suspended animation until August, 2018.

In order to reform consistently the public security sector through strategic consultations and practical support of reform measures in accordance with EU standards and international principles, the Scandinavian model of ensuring public safety and order during mass events was proposed to introduce by the EU Advisory Mission in Ukraine in the activities of bodies and units of the National Police of Ukraine.

Based on the experience of police structures of the Netherlands, Germany, England, by combining several police concepts and tactical army approaches, the Danish National Police developed «Mobile Tactical Concept», which was implemented into Danish police work in 2002, and since 2005 into activity of police of the Kingdom of Sweden. It builds on flexibility of situational adaptation, using mobility through the usage of small police units, who move in lightly armored vehicles with a clear command structure and delegation of authority.

The main advantages of the Scandinavian model of ensuring public safety and order at mass events are: reduction of personnel injuries; flexibility; use of vehicles as the part of tactics; quickness; short chain of command; graded approach (number of police officers on site

is not more than the situation requires; stealth; equipment) constant analysis of risks and threats; constant communication with citizens.

Adoption of the Concept of implementation of the Scandinavian model of ensuring public safety and order during public events in the activities of bodies and units of the Ukrainian National Police [5] has given a boost to the normative regulation of this issue in the Ukrainian legislation.

However, not a single regulatory and legal act had been adopted, which would regulate service activities of the National Police units in this direction. In addition, the role of the National Police units in the elimination of mass disturbances is not clear:

– firstly, the Scandinavian model of ensuring public safety provides for the direct involvement of police units in the elimination of mass disturbances;

– secondly, the National Guard of Ukraine is the major subject of termination of mass disorders. While implementing measures to stop mass disturbances, the National Guard of Ukraine coordinates the activities of the forces and means of law enforcement agencies involved in the cessation of those unlawful actions.

In our opinion, the introduction of the Scandinavian model of ensuring public safety and order during mass events is an effective measure for implementing democratic principles in police activity and it will replace the outdated reactive model of behavior for ensuring public safety and order with a new proactive-oriented model, which takes into account best European practices and guarantees observance of rights and freedoms of a human and a citizen.

The achievement of this goal is possible with the following guiding principles: the rule of law, according to which the individual, his rights and freedoms are recognized as the highest value, and the content and focus of government activities are determined by taking into account the practice of the European Court of Human Rights; the observance of human rights and freedoms guaranteed by the Constitution and laws of Ukraine and international agreements of Ukraine, that consent to be bound by the Verkhovna Rada of Ukraine and promoting their implementation; police interaction with citizens based on the principles of partnership and dialogue in order to provide for legitimate needs of population.

It is important to highlight that the use of proactive methods is aimed to minimize physical contact between police and participants of the event, which will allow conflict-free establishment of law and order during mass events, which is one of the key priorities of reforming the police activities, as well as it will help to reduce tension among participants of public events and in society in general.

Based on the experience of the Scandinavian countries and the theory of crowd dynamics, the development of the concept of force management and means should be grounded on the following strategic principles:

1) Knowledge – the possession of verified information about different groups of assembly participants, their intentions, goals, values and means of achieving the goal, as well as persons and groups of persons, who may be considered as the source of risk;

2) Facilitation – the police strategy should be focused primarily on facilitating the organizers and participants of the mass assembly to achieve their legitimate goal;

3) Communication – dialogue with organizers and participants of the meeting at all stages of its preparation and carrying out to prevent emergence and conflict escalation. This principle is fundamental, because maintaining proper communication between authorities, police and citizens will help to form quite high level of public confidence at all stages of the mass event and to avoid the commission of offenses;

4) Differentiation is the perception of participants of a peaceful assembly not as a crowd, but as a combination of individuals and personalities, who may have different goals and objectives, in particular the commission of offenses, who can have different attitudes toward the police. Observance of this principle will isolate quickly citizens, who might disrupt public order (possible provocateurs and instigators) from those, who behave peacefully and have no intention of committing an offense, and therefore the police can gain respect and support, which, in turn, will ensure a higher level of public confidence to them.

**Conclusions.** Taking into account all mentioned above, it should be noted that nowadays there is the necessity to develop departmental regulatory and legal act, based on the Laws of Ukraine «On National Security of Ukraine», «On National Police» and the Concept of introduction of the Scandinavian model of ensuring public safety and order during mass events, which would be based on the experience of Scandinavian police and ensuring public safety and order holding the Euro 2012, it would include the whole range of questions for providing

public safety and order during large events.

The key elements of which should be:

1. To adopt at the national level the Instruction for ensuring public safety and order during mass events, organization and procedure of actions for eliminating mass disturbances.
2. To provide the deployment of operational headquarters – the main body of force and means management, which are involved in implementation of the tasks:
  - 2.1. To organize the management of forces and means in the operational headquarters and to provide for the creation of a control apparatus consisting of:
    - organizational and analytical group;
    - forces and means management team;
    - logistics group;
    - intelligence group;
    - other groups as required.
3. To provide the creation of groups of operational formation for performing the assigned tasks of ensuring public safety and order.
4. Holding command-staff exercises (at the strategic level) for the control apparatus; tactical and special exercises (at the operational and tactical levels) for the operational formation groups.

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#### ABSTRACT

In the article on the basis of analysis of theoretical foundations and legal and regulatory framework, regulating operational-service and service-combat activities of security forces of Ukraine, the problem questions of organization of activity of National police units for providing public safety and order at mass events have been examined.

The conclusion is that nowadays there is the necessity to develop departmental regulatory and legal act, based on the Laws of Ukraine «On National Security of Ukraine», «On National Police» and the Concept of introduction of the Scandinavian model of ensuring public safety and order during mass events, which would be based on the experience of Scandinavian police and ensuring public safety and order holding the Euro 2012, it would include the whole range of questions for providing public safety and order during large events.

**Keywords:** national security, National Police, operational-service activity, service-combat activity, proactive approach, strategic principles, Scandinavian model of ensuring public safety and order at mass events.

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### ОБМЕЖЕННЯ ПРАВ ТА СВОБОД ЛЮДИНИ В УМОВАХ ПАНДЕМІЇ COVID-19: ПРАКТИКА ЄВРОПЕЙСЬКОГО СУДУ З ПРАВ ЛЮДИНИ

Висвітлено окремі аспекти обмежень, що були накладені державами на громадян в умовах пандемії COVID-19, на основі аналізу положень міжнародно-правових актів, та практики Європейського суду з прав людини.

Автори акцентують увагу на тому, що перед Європейським судом з прав людини вже сьогодні постала необхідність прийняття рішень по справам щодо порушення прав людини під час медичного втручання в умовах пандемії.

У статті зазначено, що пандемія є тією надзвичайною ситуацією, коли можливі відступи від прав людини. При цьому, як зазначають автори, ЄСПЛ вважає необхідними процедурні обмеження відповідних способів медичного втручання, наголошуючи на загальнообов'язковому забезпеченні дотримання прав людини, гарантованих Конвенцією.

**Ключові слова:** права людини, пандемія, COVID-19, практика ЄСПЛ, відступ від прав людини, надзвичайна ситуація.

**Постановка проблеми.** Враховуючи глобальну кризу у сфері охорони здоров'я, що почалася з проголошення Всесвітньою організацією охорони здоров'я (ВООЗ) пандемії через поширення коронавірусної інфекції COVID-19, важливим є аналіз міжнародної практики у зв'язку з обмеженням прав людини. Так, реалізація прав

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