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European experience of preventive activities performed by law enforcement agencies: administrative aspect and theoretical-legal aspect

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Abstract

The aim of the research was to reveal the peculiarities of preventive activities carried out by law enforcement agencies in the countries of the European Union. Attention is paid to the known methods of preventive work carried out by the police of different countries, which make it possible to prevent crimes and arrest criminals when they are still preparing to commit a crime. In this regard, models of preventive activities used in continental European countries are described. The methodological basis of the research is presented in comparative-legal and systematic analysis, formal-legal method, method of interpretation, hermeneutic method, as well as methods of analysis and synthesis. In the conclusions attention is paid to the peculiarities of prevention applied by individual members of the European Union, in particular, the policy of prevention by the Polish police, in terms of recidivism of persons who have already committed crimes. This policy is developed by borrowing from the European experience, because in some countries the emphasis is on extending the powers of police officers, in others - on maximum interaction with the society involved to help implement some police functions.

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Keywords: preventive activity; national police; European Union; security forces; theoretical and legal aspects.

Experiencia europea de actividades preventivas realizadas por las agencias de aplicación de la ley: aspecto administrativo y aspecto teórico-jurídico

Resumen

El objetivo de la investigación fue revelar las peculiaridades de las actividades preventivas realizadas por las fuerzas del orden en los países de la Unión Europea. Se presta atención a los métodos conocidos de trabajo preventivo realizados por la policía de distintos países, que permiten prevenir delitos y detener a los delincuentes cuando todavía se están preparando para cometer un delito. En este sentido, se describen modelos de actividades preventivas que se utilizan en los países de Europa continental. La base metodológica de la investigación se presenta en el análisis comparativo-legal y sistemático, método formal-legal, método de interpretación, método hermenéutico, así como métodos de análisis y síntesis. En las conclusiones se presta atención a las peculiaridades de la prevención aplicada por miembros individuales de la Unión Europea, en particular, la política de prevención por parte de la policía polaca, en cuanto a la reincidencia de personas que ya han cometido delitos. Esta política se desarrolla tomando prestada la experiencia europea, porque en algunos países se hace hincapié en ampliar los poderes de los agentes de policía, en otros, en la máxima interacción con la sociedad involucrada para ayudar a implementar algunas funciones policiales.

Palabras clave: actividad preventiva; policía nacional; Unión Europea; fuerza de seguridad; aspectos teórico-jurídicos.

Introduction

The general situation of the legal order and the provision of public order affects the socio-economic development of the country. The guarantee of ensuring public safety and order should be implemented in the form of preventive activities performed by the police officers, whose main tasks are to ensure personal safety of people in the society, protect their rights and freedoms and property, expose persons guilty of illegal acts, and bring them to justice provided for by the law, as well as the application of forms and methods of crime prevention in order to eliminate factors and minimize the impact of conditions that contribute to their commission.

Increasing the level of protection of public order and ensuring public safety should be based on the principles of the supremacy of law, the work of police officers only for the purpose of protecting rights and freedoms of individuals, interests of citizens and the country, the unity of all law enforcement agencies of the state, active interaction with the population, provision of social and legal assistance to the society, etc. Thus, taking into account the above principles, it should be noted that the strategic direction of the reform of the National Police is to move away from the repressive model of activity in the law enforcement sphere and establish close cooperation with institutions of the civil society in implementation of preventive activities to correct illegal behavior of some citizens and eliminate factors that determine offenses.

That is why preventive activity of the National Police of Ukraine should take the first place in its activity. In view of these circumstances, it is necessary to get acquainted with the experience of a number of European countries on preventive measures used by the police authorities and to determine the possibilities of using this experience in Ukraine.

The purpose of the research is to develop a possibility of using the experience of the EU countries in the sphere of preventive activities in Ukraine.

1. Literature review

Preventive activities of the National Police are constantly in the field of view of both domestic and foreign researchers, which confirms their special relevance. V. Sulatskyi made an attempt to determine the essence of preventive activities and to outline their importance in activities performed by the National Police of Ukraine (Sulatskyi, 2021). I. Volokitenko studied normative principles of activities performed by units of the National Police carrying out preventive activities (Volokitenko, 2020). Bezpaloova and other authors analyzed the main tasks and methods of activities performed by units of the National Police carrying out preventive activities (Bezpaloova *et al.*, 2021).

Y. Lakiichuk devoted her research to analysis of the normative-legal component of the National Police of Ukraine in the sphere of prevention (Lakiichuk, 2019). Shubina (2020) defined the essence of preventive measures carried out by the National Police. The author also gives her own, author's definition of the "preventive measures" category. T. Kolinko and other authors comprehensively researched police activities, in particular, peculiarities of the National Police's implementation of preventive measures (Kolinko *et al.*, 2019). K. Shkarupa conducted a comprehensive study on peculiarities of preventive activities performed by the National Police of Ukraine (Shkarupa, 2019).

2. Materials and methods

The following research methods were used in the process of performing the set tasks: with the help of the formal-logical method, the main concepts were studied and the analysis of normative legal acts in the sphere of prevention was carried out; the system-structural method was used to identify and analyze types of preventive activities; foreign experience in the sphere of preventive activity, which deserves attention, was analyzed using the comparative legal method; with the help of a formal legal method, appropriate proposals were prepared for the use of foreign experience of preventive activities in Ukraine.

3. Results and discussion

The fundamental principle in the successful activities of the National Police is represented as preventive activities, that is, work aimed at prevention of legal violations, because in any case it is easier to prevent than to remedy consequences of negative unlawful acts. Effective implementation of a relevant activity is positively reflected on the dynamics of the criminogenic situation in the state, and thus on the state of national security.

The concept of preventive activity of law-enforcement bodies is not interpreted unequivocally, which raises certain questions and requires additional scientific attention, just as the problem of interrelated functioning of administrative-legal mechanism and preventive activity of the National Police of Ukraine.

The Law of Ukraine “On the National Police” uses two similar concepts - “prophylaxis” and “prevention” (Law of Ukraine, 2015). Thus, among functions of police the Provision on the National Police mentions preventive and prophylactic activities aimed at preventing commission of offenses.

Solving the tasks of preventive activities facing the units of the National Police involves implementation of principles based on the recognition of universal human values, respect for rights and freedoms of an individual, setting them as a priority in relations with the state. According to the definition presented in the Academic Dictionary of the Ukrainian language the term “preventive” means “to prevent something, to avert something”, but the term “activity” means “to apply work to something”. Thus, preventive activity is a special type of activity performed by police officers, who in their work prevent commission of offenses in the sphere of public order and/or avert them.

As N. Didyk emphasizes that the meaning of the word prevention is warning, prevention of criminal offenses. In law, preventive measures are prophylactic and other measures aimed at preventing (averting) criminal offenses and other types of offenses. Legal science distinguishes such types of prevention as general prevention - aversion of the commission of offenses by other persons (this is prevention of commission of criminal offenses by citizens prone to committing illegal acts); private prevention, which means prevention (prophylaxis) of committing new criminal offenses by persons who have already committed any offense (Didyk, 2016).

Scientists interpret the concept of preventive activity in different ways. For example, some domestic researchers (Bezpalova *et al.*, 2021) believe that:

Preventive activity is an action or a set of actions that limit certain rights and freedoms of a person, the use of which is not always connected with unlawful behavior of specific persons, that are applied according to the law to ensure fulfillment of powers imposed on the police with respect to the observance of the legal requirements (Bezpalova *et al.*, 2021: 44).

Having analyzed various approaches to the definition of preventive activity, we agree with the interpretation offered by V. Sulatskyi, who understands preventive activity of the National Police of Ukraine as any act of a voluntary or forced nature or a set of such actions, provided by the current legislation of Ukraine, committed by authorized police officers before the beginning of an offense and directed at its prevention (Sulatskyi, 2021).

Speaking about the range of duties of the police, we claim that it includes not only fighting against crime, but also the exercising other powers in the sphere of social services for the population. The latter are, in fact, preventive in nature, since their main goal is to prevent possible violations of the law and provide assistance (for example, in the event of family conflicts, during natural disasters, fires, and in other emergency situations).

Taking into account transformational processes closely related to European integration taking place in Ukraine, it is necessary to investigate their orientation, essence, conditions, components and factors in relation to world processes including primarily European processes. Much attention should be paid to familiarization with achievements of world scientific idea, as well as to study and implementation of the best foreign experience and to its reasonable combination with domestic developments and traditions.

Currently, in the countries of the European Union, we can observe three models of internal security organization: a centralized or continental model, in which the Ministry of Internal Affairs plays a dominant role; it has a directive style of management and a rigid vertical subordination of lower links to central bodies; a decentralized model, the characteristic

feature of which is that it does not have one common national unit, instead there is a multifaceted nature of police forces at the national, regional and local levels, the levers of police force management are mainly concentrated in hands of regional state authorities and local self-governing authorities, where municipal authorities have a significant role in police management; and a combined (semi-centralized) model which is characterized by the following features: it is characterized by a nationwide body (ministry) that assumes responsibility for the purpose of ensuring internal security, coordinating activities of various police services; the co-existence of 57 state police services at the national (federal) level and the regional level (level of separate states, lands), as well as state and municipal police, with the priority of state police development.

The centralized model of the preventive activity system is used by a number of continental European countries and that is why it is called the continental model. This model of the internal security system functions in two types. The first type includes states that ensure their internal security only through the forces of their civilian police: Sweden, Denmark, Norway, Ireland, and Finland. They are characterized by a low level of crime, absence of serious political and social conflicts, so they do not need special political formations of the armed forces.

The countries of the second (main) type of the centralized model include states with constant use of special police formations - gendarmerie: France, Spain, Italy, Portugal, Belgium, Holland and Luxembourg. These countries are characterized not only by strict centralization of preventive activities of their law-enforcement bodies, but also by the traditional use of their national police and gendarmerie.

Until now, the EU states have borne the main responsibility for the issue of crime prevention. With the entry into force of the Lisbon Treaty of the EU, it has now become possible to take measures to promote and support the actions of the EU states in this area (Buha *et al.*, 2022).

The EU focuses on facilitating the exchange of experience and best practices to reduce the impact of factors that cause crime and its recurrence and promote violations of human rights violations, as well as to prevent corruption and criminal encroachment in the economic sector and the society. In addition, the EU has begun to systematically implement its flagship initiatives, effective prevention measures, ranging from anti-drug policy to cybercrime, human trafficking and child pornography (Leheza *et al.*, 2022).

Since 2001, the European Crime Prevention Network has offered a pan-European platform for the exchange of best practices, research and information on various aspects of local crime prevention. In view of the fact that this network covers all types of preventive activity of law enforcement

bodies, the platform pays special attention to prevention, violations of the law by minors, violations of public order and drug crimes. The web site contains a well-developed database of national strategic orientations and projects carried out in various areas of offense, such as burglary, commercial crime, bullying in educational institutions and various categories of organized crime.

The Swedish police use the concept of prevention, based on the focus of “advice” measures on prevention of certain categories of offenses. In a simple form, its official online resource offers the following advice: 1) tips for tourists; 2) tips for travelers on a day off; 3) advice to visitors; 4) rules of behavior on a construction site; 5) internal security (protection against burglary and penetration); 6) general security of premises and employees; 7) protection of lightning discharge systems; 8) transport protection; 9) credit card data protection; 10) production protection; 11) protection of finances; 12) protection of offices; 13) store protection; 14) protection in the sphere of state registration and conclusion of agreements (Leheza *et al.*, 2021).

It was also determined that the police will be able to work much more effectively if it is not reactive, but proactive: instead of responding exclusively to challenges, it will try to prevent violations and establish partnerships with the population. It was established that full-fledged communication helps to beforehand detect deterioration of the criminogenic situation in a certain region, to stop a large part of deviant behavior at the very beginning, and also to more effectively collect evidence and testimony, if the offense was anyway committed.

Italian specialists in the sphere of crime prevention distinguish the following approaches to crime prevention depending on what exactly they see as determinants of crimes: structural approach that connects implementation of effective crime prevention with implementation of significant socio-economic transformations in the society; psychological approach that recognizes the crucial preventive importance of influencing the person of a potential offender, as well as persons who have already committed an offense (in order to prevent repeated commission); situational approach, in which the decisive role is assigned to the influence of social and physical factors of the external environment, which in their totality create an unfavorable situation for criminal manifestations.

Law enforcement officers focus on prevention measures in the form of general prevention (structural approach) and theory, which justify the need for special preventive measures (psychological and situational approaches). The most effective programs are based on the multifactor approach; they are applied from the period of early childhood. They are aimed not so much at an individual (aggressive behavior, stress, coping skills), but at unfavorable characteristics of the respective immediate family environment and social environment (Leheza *et al.*, 2020).

In turn, Polish law enforcement officers emphasize special preventive measures. The special prevention covers three levels:

- The primary level, aimed at eliminating environmental factors that contribute to performing offenses.
- The secondary level, which aims to prevent the criminalization of potential offenders, and which is related to the impact on vulnerable persons, in particular minors from the “risk group”.
- The tertiary level, aimed at preventing recidivism on the part of persons who have already committed a crime (Buha *et al.*, 2022).

The Polish police’s prevention of recidivism on the part of persons who have already committed offenses is quite progressive. Prevention of recidivism is associated with the use of police, judicial and penitentiary measures aimed at timely identification of persons who have committed offenses, bringing them to justice, as well as applying effective means to them while they serve their sentence.

Criminal law measures of influence play an important role in the prevention of repeated commission of crimes. In order to prevent repeated commission of crimes, measures of enhanced control over the behavior of persons who have been released from punishment, as well as individual rehabilitation programs (Leheza *et al.*, 2022) are also actively used.

The most programs are comprehensive; they cover educational, observational and corrective measures of influence on socially unacceptable, in particular criminal, behavior of a person.

Germany focused its work on situational prevention. The essence of this method consists in organization of state support for propaganda campaigns on crime prevention, consideration of projects in the sphere of urban planning and buildings to create an environment free from crime, as well as in focusing efforts on identifying and preventing opportunities for committing crimes by young people, and in recent years - in putting pressure on business and industry circles in order to make changes in practice, if they can affect the increase in the level of crime. Currently, in France, the Netherlands and some other countries of the European Union, this form of prevention is a part of the official crime prevention policy (Leheza *et al.*, 2021).

The abovementioned programs are aimed at preventing crimes in the society by means of involving the public in this activity, finding new opportunities for self-realization for people from “risk groups”. These programs are exclusively preventive, so they provide the expected results only if all the subjects of prevention are actively involved (Leheza *et al.*, 2018).

The principles of public safety and order protection, which are formed by the state, are a rather complex process aimed at updating and improving domestic legislation and implementing foreign experience in the sphere of organization of means, tools and methods of activities used and performed by the National Police. The modern model of a democratic, social and legal state requires new conceptual approaches to solving problems of implementing the law enforcement function. Therefore, it is extremely important to summarize the experience of the European Union countries in the management of national law enforcement units (Leheza *et al.*, 2022).

Unlike European countries, in Ukraine there is an urgent need for the timely elimination of criminogenic factors in the external environment, as well as for creation of anti-criminogenic conditions, in the presence of which an offender is going to abandon his/her intention to commit an offense; these are namely conditions that will make it more difficult to commit an offense, make criminal actions riskier and limit benefits (Didyk, 2016).

Conclusions

The study of peculiarities of preventive activities in a number of countries of the European Union allows us to assert that there is no single approach to implementation of these activities in these countries. That is why it is not quite correct to borrow one or another type of preventive activity from one of the European Union countries, arguing for it by borrowing European experience, because in some countries the emphasis is made on expanding powers of police officers and in some others - on maximum interaction with the society by means of involving it in helping to implement some police functions, and in the third group of countries, in fact, neither a general concept nor prevention as one of the forms of police activity has been formulated.

In this regard, experience of a single country cannot be taken as a basis for implementation within national realities.

At the same time, we should not refuse to borrow European experience of carrying out preventive activities. In particular, it will be useful for the national preventive system to introduce rehabilitation programs for persons who have served their sentences, taking into account the fact that most programs are complex, they provide for educational, observational and corrective measures to influence socially unacceptable, in particular criminal, behavior of a person.

Therefore, we focus on the implementation of the experience of the European Union countries in the sphere of social crime prevention measures that actively involve the public. Crime in the EU is perceived as a social

problem, in the solution of which the whole society should participate. Among the tasks facing social prevention, priority should be given to the following ones: improving social conditions of life; strengthening the role of social institutions; expanding opportunities for education, decent employment and recreation.

Bibliographic References

- BEZPALOVA, Olha; YUNINA, Maryna; KOROHOD, Svitlana; REZVOROVICH, Kristina; OHANISIAN, Tsahik. 2021. "Legal regulation of entrepreneurial activity in the national security system" In: *Entrepreneurship and Sustainability Issues*. Vol. 8, No. 3, pp. 340-355.
- BUHA, Volodymyr; IAKUBIN, Oleksii; MAZUR, Tamara; REZVOROVICH, Kristina; DARAGANOVA, Nina. 2022. "Legal regulation of the institute of control in the field of housing construction in the conditions of armed aggression of the Russian Federation" In: *Cuestiones Políticas*. Vol. 40, No. 73, pp. 151-171.
- DIDYK, Nataliia. 2016. "Preventive functions in the activities of the patrol police" In: *Bulletin of Luhansk State University of Internal Affairs named after E. O. Didorenko*. Vol. 74, No. 2, pp. 188-194.
- KOLINKO, Tsahik; REZVOROVYCH, Krystyna; YUNINA, Maryna. 2019. "Legal characteristic of the franchise agreement in Germany" In: *Baltic Journal of Economic Studies*. Vol. 5, No. 1, pp. 96-100.
- LAKIICHUK, Yaroslava. 2019. "International experience of implementing preventive measures by police bodies and the possibility of its use in Ukraine" In: *Scientific bulletin of public and private law*. Vol. 3, No. 2, pp. 252-257.
- LAW OF UKRAINE. 2015. About the National Police: No. 580. Official site of the Verkhovna Rada of Ukraine. [Ukraine](http://www.rada.gov.ua).
- LEHEZA, Yevhen; FILIPENKO, Tatiana; SOKOLENKO, Olha; DARAHAN, Valerii; KUCHERENKO, Oleksii. 2020. "Ensuring human rights in Ukraine: problematic issues and ways of their solution in the social and legal sphere" In: *Cuestiones políticas*. Vol. 37, No. 64, pp. 123-136.
- LEHEZA, Yevhen; LEN, Valentyn; SHKUTA, Oleh; TITARENKO, Oleksiy; CHERNIAK, Nataliia. 2022. "Foreign experience and international legal standards of applying artificial intelligence in criminal proceedings" In: *Revista De La Universidad Del Zulia*. Vol. 13, No. 36, 276-287.

- LEHEZA, Yevhen; ODYNTSOVA, Iryna; DMYTRENKO, Natalia. 2021. "Teoría y regulación legal del apoyo informativo de los procedimientos administrativos en Ucrania" In: *Ratio Juris UNAULA*. Vol. 16, No. 32, pp. 291-306.
- LEHEZA, Yevhen; SAVIELIEVA, Maryna; DZHAFAROVA, Olena. 2018. "Structural and legal analysis of scientific activity regulation in developed countries" In: *Baltic journal of economic studies*. Vol. 4, No. 3, pp. 147-157.
- LEHEZA, Yevhen; SHAMARA, Oleksandr; CHALAVAN, Viktor. 2022. "Principios del poder judicial administrativo en Ucrania" In: *DIXI*. Vol. 24, No. 1, pp. 1-11.
- LEHEZA, Yevhen; YERKO, Iryna; KOLOMIICHUK, Viacheslav; LISNIAK, Mariia. 2022. "International Legal and Administrative-Criminal Regulation of Service Relations" In: *Jurnal cita hukum indonesian law journal*. Vol. 10, No. 1, pp. 49-60.
- SHKARUPA, Kostiantyn Viktorovych. 2019. "Features of preventive activities of the National Police of Ukraine" In: *Bulletin Of The Penitentiary Association Of Ukraine*. No. 3, pp. 155-161.
- SHUBINA, Nataliia. 2020. "Concept and characteristic features of police custody as a preventive police measure" In: *Scientific bulletin of public and private law*. No 3, pp. 170-175.
- SULATSKYI, Vladyslav. 2021. "The concept and structure of the administrative and legal mechanism of preventive activity of the National Police of Ukraine" In: *Entrepreneurship, economy and law*. 2021. No. 3, pp. 196-200.
- VOLOKITENKO, Ihor. 2020. "Ways to improve the activity of preventive units of the National Police of Ukraine in the field of observing human rights and freedoms" In: *Legal position*. Vol. 29, No. 4, pp. 73-77.



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