

PROBLEMS OF NATIONAL PUBLIC AND PRIVATE LAW

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MUNICIPAL POLICE: THE EXPERIENCE OF THE IMPACT ON CRIME AND THE PROSPECTS FOR ITS IMPLEMENTATION BY LOCAL SELF-GOVERNMENT AUTHORITY

The author focuses on the interaction of local authorities and law enforcement bodies, especially remarking the role of local communities and individual citizens. On the example of the regional centers of Ukraine and, in particular, Chernigov, the experience of the interaction of local self-government authority and law enforcement agencies in the prevention of crimes is suggested. The ways of ensuring public security and law and order in the city are indicated. The perspectives for establishing and functioning of the municipal police are considered. Its main tasks and directions of activity are determined.

It is admitted that even the fact of taking a decision on the municipal police itself will definitely improve the cooperation of society, its local government and law enforcement bodies, and practically will lead to the improvement of crime prevention in Ukraine.

Key words: community, local self-government authority, crime prevention, law enforcement agencies, regional programs, municipal police.

Problem statement. History of each state cannot avoid challenges related with negative social phenomenon which is criminality. For the late century the dramatic events were observed which provoked the surge of crimes in all directions, from seizure of power, terroristic acts, numerous murders, robberies and holdups to the overall corruption, cybercrimes and other criminal actions.

Criminality in Ukraine is a permanent urgent problem which is cared by the state. Nowadays we may observe the growth of all types of crimes by quantitative and qualitative indicators. Moreover, as O.M. Bandurka precisely admitted, sometimes the state by itself causes the criminality, because it adopts the laws which “push a man to illegal actions declaring as crimes those actions of people which are not favorable for the authority or creating the conditions under which to commit a crime become more advantageous than to be law-abiding”¹. In such situation society shall actively involve and protect own citizens from the willfulness.

At the same time, it is quite difficult to imagine the struggle with criminality without not only wide-ranging state measures, but also participation of public, local authority.

Actuality of the subject. Any state at the transition period of its development search for ways of self-improvement, primarily, in political, economical and social areas. The doctrine is changed, new concepts and models are elaborated, legislation is under reform. At the modern stage of Ukrainian statehood development major public attention is devoted to the issues related with criminogenic situation in the country and crime counteraction.

It is commonly known that it is better to prevent a crime than punish for its commitment, as Ch. Beccaria² and R. Garofalo defined³. In XXI century creation of reliable system of crime prevention must be a prior direction in the state policy on ensuring public safety. Moreover, Ukrainian society shall unite for the idea on crime ceasing.

Actually there were made a lot of steps towards research of foreign experience, in particular, key approaches in participation of local communities in crime prevention, counteraction to certain types

¹ Бандурка, О.М. (2015). *Тисячоліття злочинності в Україні*: монографія. Харків, Золота міля, 7.

² Беккариа, Ч. (1939). *О преступлениях и наказаниях*. Москва, Госюриздат, 189.

³ Garofalo, R. (1891). *Criminologia*. Torino, Moriani, 270.

of crimes, population awareness on crime situation, prompt reaction of police divisions, etc. Serious arguments for involvement of local self-government authority, local communities, volunteers and proactive representative of other public organizations are required also by problems of personnel selection at newly created police units.

At the same time, we consider it perspective to pay attention to the establishment and functioning of municipal police which has already proved its efficiency in other states.

Presentation of the key idea. It is known that municipal police is a law enforcement authority which is under control of local authority bodies, including municipal authority, at that places where the administrative territorial division is the smallest. Municipal police is paid from the local budget and, as a rule, has less rights, than regular police. Competence and ammunition of the municipal policemen are in the certain limits determined by legal acts. Besides the Constitution of Ukraine and other laws, the municipal police shall abide and follow the statute of territorial community, regulation on municipal service and other established documents.

Currently in cities and villages of Ukraine has occurred a situation which demands urgent solution of the following problems: absence of efficient supervision of the ecological situation, beautification of a city, placement of temporary constructions, dismantling of illegally stationed installations, misuse of land pieces, spontaneous commerce, activities related with breach of city's beautification (excavations). As known, Ukraine is one of the richest countries of Europe as per quantitative and qualitative composition of chernozem. Generally in Ukraine there are more than 38 types of soils. They vary by structure, mineral composition, content of humus and nutriment, physical and chemical features, fertility, agricultural usefulness. Land sources from which Ukraine produces up to 95% of food stuff, is an initial production factor and basis of economic. However, for the last years the economic processes, certainly in agro-industry area, caused negative tendencies of irrational use of land sources, sheer fall in soils fertility, loss of soil self-recovery ability. Irresponsible allotment of agricultural lands, especially of tillage, for building of factories, plants, electric stations, opened excavations, roads, firing grounds, etc. inflicts irrevocable damage. Recently it may be observed an illegal mining of amber which local communities named as "amber wars". This is far not an exhaustive list of problems which require intrusion of the municipal police.

Existing situation turns Ukrainian cities and villages, woodlands, grounds, rivers and lakes into the neglected, abandoned and robbed once. In some cases there was already observed an ecological disaster which was remarked by V.K. Matviychuk¹ and T.V. Korniyakov². Apart from an unattractive appearance such situation renders impossible the receiving of additional money, which could be gained to the local (village or rayon) budget (tax land, rental payment, fines, etc).

Ensuring of efficient control over execution of legal act requirements in the area of beautification, struggle with trading in the unestablished places and creation of favorable environment for vital activity of the community is an obligatory condition for sustainable development of the city. Consequently, one of the key tasks of the local governments is an introduction of systemic approach aimed at strict normative regulation of rights and duties of the economic agents in the area of planning and organization of public services, shaping of the proactive citizens' position on the preservation of environment, natural sources, objects and elements of public welfare.

Main reasons influencing the efficiency of control over the situation with beautification and trading in not fixed areas at the territory of cities and villages are the following: imperfection of current legislation, limitation of local self-government competence, low level of accountability, ecological cohesion and culture of the managers at enterprises, organizations, structures and of the population on providing of proper sanitary condition in the town and village, preservation of natural objects, proper maintenance, rational usage and security of territories, buildings, engineering constructions, objects of recreation, nature protection and other importance.

Apparently, it is possible to solve the above mentioned problem only by creation of the municipal entity "Municipal police". In particular, we provided relevant proposals on the establishing of the corresponding unit at the territory of Chernigov city (Ukraine).

¹ Матвійчук, В.К. (2008). *Кримінально-правова охорона навколишнього природного середовища: проблеми законодавства, теорії та практики*: дис... д-ра наук: 12.00.08. Київ, Інститут держави та права ім. В.М. Корецького НАН України, 443.

² Корнякова, Т.В. (2006). *Забезпечення прокурором законності надзорної діяльності (теорія та практика прокурорського нагляду)*: навчальний посібник. Харків, Харків юридичний, 424.

Key functions of newly created unit reasoning from the foreign experience of municipal police may be the following:

- control on the abidance of local council and executive committee decisions in the area of commerce;
- taking measures on counteraction to the trade in unestablished places;
- cooperation with law enforcement authorities on the prevention and suspension of violations;
- monitoring of the beautification objects state according to the requirements of current legislation;
- control of the adjacent territory maintenance by economic operators;
- control of the near houses territories maintenance in proper sanitary and technical conditions;
- monitoring of the household plots state of beautification in private sector of the building;
- monitoring of the buildings front and constructions condition in comply with beautification rules;
- taking measures on struggle with burning of fallen lives and garbage on the territory of the city;
- ensuring control of sanitary condition of coastal protective lines at city's water objects;
- providing permanent control on utilization of consumer waste;
- preparation of executive committee decisions on dismantling of installed without permission or placed with certain violations objects, temporary constructions according to the current legislation at the territory of the city;
- identification and dismantling of illegally installed temporary constructions at the territory of the city according to current legislation;
- control on parking of automobiles in central part of the city (pavements, green areas) etc.

As well, in a long-term perspective there are others directions of municipal police functioning upon the tasks of local self-government authority. For instance, the representatives of municipal police may be present as hearers at court sessions on administrative cases and criminal violations.

Lately, it is alerting the fact that juvenile is often involved in the criminality space. Moreover, as specialists stated the juvenile crime is rapidly growing¹. Losing of family valuable moral indicators, unwillingness to participate in communities with positive trend incites certain part of youth to search for their own groups.

As result, it is noted the more often joining of youth in peculiar groups for common asocial activity, leisure, satisfaction of their negative interests and for facilitation of crime committing. On the one hand, it might be the marginal unions where young age individual's understanding is completely changed: starting from the variation to healthy life style till the loss of sense to work, involving in begging, etc. On the other hand, the tendency of new specific groups is admitted which is managed by the representatives of national radical structures or leaders of criminal associations. The activity of such groups is mainly defined by raised aggression, cruelty and extreme impudence.

Permanent gradual growth of lucrative and lucrative predatory crimes we may explain by the circumstance that generally in the system of committed crimes exactly these types and crimes related with drugs are the most typical for the youth. As per increase of predatory crimes we connect this with growth of aggression and cruelty in youth environment and also with common asocial tendency in juvenile behavior, specifically its marginal orientation.

This and other issues cause disturbance of society, spur to search of corresponding counteraction to antisocial juvenile activity. We consider that cultural entertaining and sport activities shall be accompanied by municipal police officers. Also, jointly with city social services it is necessary to provide monitoring of problematic (disadvantaged) families which number is annually increased.

Political instability, economic misbalance, destroy of social area – these are the realities of Ukrainian society which led to the impoverishment of population, discouragement in future success, desperate, etc. For security, protection of yourself and relatives, own house and business, the population started actively to use arms and join in groups which are frequently have criminal shade. Nowadays, there are also created even more favorable conditions for appearance of different types of militarized and other armed unions. The mentioned is facilitated by political instability as was indicated earlier. Such unions can be created under the aegis of certain political forces which will be used by such as a mean for reaching their goals, as an instrument for influence on any state bodies or society, and such cases are known in Ukrainian statehood history. Illegal functioning of armed unions afterwards leads to committing of crimes with a high level

¹ Denysov, S. (2015) Criminality of criminally active part of youth and its prevention in Ukraine. *Вісник Асоціації кримінального права України*. Харків. Вип. 1(4), 332-343.

of latency. It is clear that ceasing of illegal unions activity primarily is in the competence of the Security Service of Ukraine, and in some cases solution of these issues lays in the political relations dimension. Still, as may be seen, the law enforcement authorities and local self-government authority shall not stand apart from this problem.

The list of actual disadvantageous challenges may be prolonged, as there are a lot of such. However, despite fictitious insurmountable criminality, especially well fixed in society consciousness by images and plots of crimes through media, it deemed urgent to establish main links and preventive measures.

In future officers of the municipal police might execute operative monitoring on assistance of the system "Secure city" and effectively carry out the following functions:

- disclosure of violations of public order and providing video upon request;
- revealing of violations on unauthorized meetings, demonstrations, riots;
- detection of violations during entertaining and sport events;
- identification of public welfare violations;
- quick informing of National police on violation;
- patrolling the city jointly with National police.

Analysis of preventive measures complex revealed that majority of the proposed by us issues lies within the competence of local self-government, including executive authority. Currently as an experimental model the municipal police is functioning in more than ten cities of Ukraine, namely Vinnutsya, Dnipro, Lviv, Lutsk, Odesa, Zhutomir, Rivne and others.

While studying the experience on establishment of municipal police department within the structure of executive bodies of local council (municipal entity), acknowledgement with structure and staffing of the department (entity), scrutinizing of activity arrangement and internal documents of the department (entity), learning of practice in writing of directives, statements, protocols by officials, preparation of materials for administrative cases, procedural documents for court sessions demonstrated that already now we have observed the problems appeared at functioning of this authority. The most tangible are the following. Precisely, further on the community shall be informed on the issues related with avoidance of functions duplication between units of local government and municipal police. In order to exclude the duplicating functions it is necessary to re-structure corresponding units, redistribute competences, staff and expenditures from the local budget. As well the issue of quantity and staffing of police is quite urgent.

Numerous issues arise on financing of municipal police, because it is performed exclusively from the costs of local budget according to a local program. We consider that local budget is really the source of funding for municipal police. However, in case of providing payable services, the part of expenses on its keeping may be funded from municipal police own incomes.

As was admitted, the realities of modern Ukraine at the transition period from the totalism to the democratic legal state are defined by deep crisis in all areas of life. In such circumstances, primarily, in aspiration to reach European values and standards the state and society shall take care of their citizens. Respect to a person, widening of rights and freedoms of a man, filling them with a new content and providing guarantees for their full realization and protection is a duty of the state and society.

Conclusion. For sure, positive transformations include qualitative renewal of system of measures on crimes prevention. However, at present moment the state appeared to be not ready for ensuring possibility to develop normally on the democratic grounds and protect itself from the criminality. This demonstrates inefficiency of the existing system in prevention of antisocial phenomena and necessitates the findings of new solutions of the mentioned problems. Nowadays, the struggle with criminality has gained a high importance; not only it shall be considered as one of the prior directions at functioning of the interior affairs bodies of Ukraine, but also of the local self-government authority.

All above mentioned proves that one more task of local self-government is an establishing of the municipal entity "Municipal police". We are acknowledged with examples of community impact on persons with unstable or unlawful behavior which gives positive improvement in general, in special criminological and personal prevention. Namely, these are kozak unions, volunteer public order squad, which provide permanent assistance in keeping of public order. Recently was activated the importance of social patrol which is a forerunner in formation of municipal police. In the future it is necessary to develop positive initiatives of local communities, support them with financial and economic conditions, effectively use own administrative and other sources.

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