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**ORGANIZOVANÝ ZLOČIN V STREDOEURÓPSKOM
REGIÓNE – „Pozícia a rola kriminálneho spravodajstva v
systéme identifikácie aktivít kriminálnych skupín“**

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REFORMA KRIMINÁLNEJ POLÍCIE PODĽA SÚČASNÝCH HROZIEB Z KRIMINÁLNEHO PROSTREDIA NA UKRAJINE

THE ACCORDANCE OF THE CRIMINAL POLICE REFORMATION WITH THE CURRENT CRIMINAL THREATS SITUATION IN UKRAINE

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Abstract

The problems of conformity of criminal police reform to the current state of criminal threats in Ukraine are discussed in scientific article. It is indicated that reforming the law enforcement system in the context of the formation of civil society, building a legal state and adapting national legislation to the legislation of the European Union requires continuous improvement of the legal and organizational-tactical aspects of the activities of the bodies and units of the National Police of Ukraine. The need for reforming the criminal police units, both a component of the law enforcement system, and their work in combating crime, is especially relevant. Directions for increasing the effectiveness of the criminal police in combating crime are identified, and criteria for evaluating the effectiveness of such activities are proposed. Issues of the advisability of introducing the institution of detectives in police activities are examined. It is concluded that the reform of the criminal police should be carried out taking into account the accumulated positive experience of the police in combating crime, the current criminal threats that exist in the country, the trends in the spread of crime, as well as the positive experience gained by international partners.

Keywords

Criminal police, criminal threats, crime, Ukraine.

Abstrakt

V nasledujúcom príspevku sú riešené úlohy súvisiace s prispôbením reformy kriminálnej polície podľa súčasných hrozieb z kriminálneho prostredia na Ukrajine. Autor naznačuje, že systém trestného stíhania v kontexte na formovanie civilnej spoločnosti, budovanie právneho systému štátu, a adaptácie národnej legislatívy k legislatíve Európskej únie si vyžaduje pokračovanie v právnych a organizačno-taktických aspektoch aktivít zboru a jednotiek Národnej polície Ukrajiny. Potreba reformy jednotiek kriminálnej polície a najmä právnej úpravy, ktorá sa zaoberá trestným stíhaním a činnosťou kriminálnej polície v boji proti potieraniu kriminality, je obzvlášť dôležitá. Autor identifikuje orientáciu za účelom zvýšenia efektivity kriminálnej polície pri boji s trestnou činnosťou, a taktiež aj kritéria pre hodnotenie efektívnosti kriminálnej polície. Ďalej je v článku skúmaná problematika prospešnosti zavádzania inštitútu detektíva do policajných aktivít. V závere je zahrnutá pozitívna skúsenosť polície s potieraním kriminality, súčasné hrozby, ktoré existujú pre Ukrajinu, trendy, ktoré sú rozšírené v rámci kriminality, a taktiež aj pozitívne skúsenosti nadobudnuté so zahraničnými partnermi.

Kľúčové slová

Kriminálna polícia, kriminálne hrozby, kriminalita, Ukrajina.

The international and national security threats cover factors that, firstly, relate to the global problems of modernity. The general global problems according to international community are those of techno gene character, demographic crisis, social inequality, oncological diseases problems and AIDS, other social problems, and those that relate to criminality, and, first of all, terrorism, illegal turnover of weapon and drug, organized criminal activity phenomenon.

Countering criminal activity effectively is impossible without identifying priorities for combating this socially dangerous phenomenon, which has to be realized on the base of analysis of the crime proliferation tendency research. But the determining criteria of countering criminal activity effectiveness in the country has to be a level of security which is supposed to be felt by

citizens occupying that exact territory. At the same time to get rid of criminality with the help of penal measures is impossible, an accent must be put on different mechanisms of social control and early prevention.

In general criminal situation in Ukraine during the years of independence is characterized with stable tendency till raising the quantity registered crimes. But that tendency did not use to be equal and in specific years (i.e. in 2006 - 2008) there was the level of criminality decreasing.

Since 2013 a level of criminality in Ukraine is characterized as high, at the same time it is should be taken into account that in the official statistics the criminal activity in Autonomic Republic of Crimea and uncontrolled by the State Authorities territories of Donetsk and Luhansk regions is not included. Thus, according to the official information of the Prosecutor's Office of Ukraine in 2013 563560 criminal offences were registered, in 2014 – 529139, in 2015 – 565182, in 2016 – 592604, in 2017 – 523911. Significant increase of registered criminal acts has occurred through increase quantity of mercenary and mercenary-violent criminal phenomenon. At that time it is marked increase of violence, which manifests in the dynamic of violent criminal activity.

In 2018 in Ukraine the level of criminal activity significantly decreased to 487133 illegal acts. However among all committed criminal offenses there were 3,2 % extremely serious and 34,4 % serious criminal acts. It is should be noted that only 2763 criminal acts were interfered at the stage of preparation and crime attempt that consists of 0,5 % of the illegal acts total quantity.

Statistic figures of criminality do not mirror the real situation due to high latency of many types of criminal offences. Some changes in dynamics of criminality do not provide with basis to consider obviously about the start of stabilization of operative situation, because of the main specificity of modern criminogenic situation still remain transfer of quantity characteristics into quality ones, increased level of social danger of criminal phenomenon.

Thus, to those tendencies it should be included:

- 1) raise of organized criminality, upgrading of its qualification, organized illegal associations integration with subjects of economics activities and with the state power authorities, local governance, law enforcement. At the same time organized criminal activity becomes more transnational in its character and invincible enough for police influence;
- 2) corruption;
- 3) high level of terroristic threats;
- 4) raise of premeditated murders committed under mercenary motives, violate – mercenary criminal acts (banditries, robberies and assaults).

At the same time in 2018 the National Police terminated activity of 258 organized criminal groups that is in one and a half more than it was in 2017. Every fourth organized criminal group among them used to run their activity in the area of illegal drugs turnover, 14 – within the sphere of public ethic norms and human trafficking, the same amount of crimes fell into thefts of public funds [1].

During this period of time there were recorded by the police department 23 organized groups and criminal organizations with interregional links and 5 – with transnational links. Also there were 20 groups identified as those which were organized on the ethics basis. Besides 14

“thieves in Law” were arrested, 11 of them were expelled from Ukraine.

Taking into account criminogenic situation in the country there priority for specific term of time tasks and directions for countering crime and its certain aspects are defined. Thus, for example, according to the Decision of the National Security and Defense of Ukraine Council of 06.02.2015 “About measures of strengthening the crime combating in Ukraine” in order to avoid escalation of the criminogenic situation in certain regions of Ukraine, to minimize the relevant threatening factors influence on the national security, raise the effectiveness of citizens’ rights and freedoms defense, it has been defined next priority directions of countering crime:

- 1) decrease of the level of criminal activity in the country, related to illegal firearms turnover, other ammunitions and explosive substances;
- 2) identification and elimination of smuggling channels, illegal movement of these prohibited items through the territory of Ukraine;
- 3) control strengthening on objects, where firearms are concentrated, and other ammunitions, lethal weapons and explosive substances;
- 4) banditry manifestation suppression, ensuring quality pre-trial investigation and transfer to court of existing criminal proceedings in cases of banditry, crimes committed by organized groups or criminal organizations;
- 5) identifying and suppression the channels that finance gangs and firearms smuggling other ammunitions, lethal weapons and explosive substances [2].

Among all law enforcement of the government about 80% of the organized groups and criminal organizations are identified just the National Police of Ukraine.

The law enforcement system reformation in the condition of civil society formation, the legal government construction and the National Law adaptation to the Law of European Union demands permanent development legal and organizing and tactic aspects of activities of the Authorities and the National Police of Ukraine departments. Especially the need in reformation of the criminal police departments actualizes, as a part of the law enforcement system, and their activity in countering crime.

It is should be noted that since 2015 the authorities of internal affairs activity has been under serious changes. With regard to the Law of Ukraine “About the National Police” adoption on July 2, 2015, which came into force on November 5, 2015, the militia, which was a part of the internal affairs bodies were renamed into the police.

The criminal police was under changes as well. In 2015 the specialized department of organized crime combating was liquidated, which functioned in the structure of internal affairs authorities. Those specialized departments were authorized with functions of countering the creation of organized criminal associations and the prevention of the crimes commission by them. That decision was made in connection with the number of factors, ones of the general were: the functions dabbling with the functions of some operative departments (criminal investigation, department for combating economic crime); some workers of that departments stepped on the way of criminality, especially in economic sphere.

As practice has shown against the activity of the organized criminal associations may counteract special departments of combating the organized crime. So that for organized criminal activity countering in 2018 were created departments of strategic investigations and in new format and taking into account positive experience of the international law enforcement activity. Staff recruiting before those structures based on the competition and taking into

accounts the experience in law enforcement in the fight against organized crime, as well as the ethic and business qualities of the applicant.

First real steps in the criminal police reformation have shown that their organization and functioning becomes more complicate under the number of problems, which demand appropriate scientific and theoretic argumentation and practical decision. We think to those problems we can add:

- 1) incompleteness and inconsistency of legal acts that are aimed at countering crime, including those that regulate the operational-search activity;
- 2) duplication of functions by some units of the criminal police;
- 3) the lack of specialized departments for counter the new criminal threats that were absent before;
- 4) the lack of a systematic approach to the analysis and criminal activity identification;
- 5) the lack of effective preventive activity by the operational units;
- 6) performance of uncharacteristic functions by the staff of the operational divisions (most of the time it is spent on the individual instructions execution of the investigator and documenting completed assignments, escorting detainees on criminal proceedings, protecting public order, etc.), which makes it impossible to fully implement operational and investigative activity;
- 7) staff “rejuvenation” (in connection to insufficient material provision and unstable politics of the government in questions of pension for police officers the most of them who has enough experience through work in the department of the criminal police, retired from the police to another law enforcement bodies where there is in times the salary is higher (for example, to the National Anticorruption Office of Ukraine, the State Bureau of investigation) or even chose civil career.

One of the first steps of the criminal police reformation became reorganization some units of the criminal police and creating the new ones. Today on the level of the Central Administration of the National Police those kinds of departments exist that relate to the criminal police:

- Department of Criminal Investigation;
- Department of Economic Protection;
- Department of Strategic Investigations;
- Department for Combating Crimes Related to Human Trafficking;
- Department of combating drug crime;
- Department of operational services;
- Department of operational and technical activities;
- Department of Cyber Police;
- Department for the provision of activities related to hazardous materials;
- Department of Homeland Security;
- Manage criminal analysis.

Aimed at identification and suppression of criminal offenses related to the illicit treatment of radioactive, chemical, biological and nuclear materials, as well as for the

implementation of international conventions on the physical protection of nuclear material, nuclear safety and other international treaties that Ukraine ratified; in 2017 there was a department created for providing activities related to hazardous materials. This Department takes part in the implementation of state policy on the handling of these hazardous materials, which, by their harmful properties, can create or create a danger to people's life and health, to the interests of society and the state.

Besides, in 2017 the divisions for criminal analysis were designed. The role of analytical police divisions in crime countering is that on the basis of constant monitoring and criminal activity examining, they project prospects of its development and identify the most vulnerable aspects. One of the most general methods of data gathering about crimes of the leaders and active participants of the organized criminal associations is constant monitoring different sides of their activity: from private life to criminal activity.

In relation with it especially perspective dimension of the police activity effectiveness increase in combating the criminality is increase the level of informational and analytical provision for the criminal police. The main target of the informational and analytical provision of operational control over criminal environment is identification of latent processes, which are happening within it, and tendencies of its development, on the basis of which there is modeling of probable operational-tactical situations and forecasting of the operational situation, identification of risks, which allows making optimal management decisions.

The processes of criminal activities mirror modeling is implemented as a rule in cases with lack of clear understanding the mechanism and because of that there is difficulty of results estimation. The mechanism of criminal activities mirror is defined by the pattern of mirror of illegal acts in people's minds and by the nature of prints, which are left as a result of this activity. During this modeling participants of it replace themselves with the criminals and practically (or conditionally) mirror behavior of objects of operative interest in real situation that is in fact they play in analog situations of their acts by the way of imitation.

Taking into account the activity of the criminal police divisions, tasks, which those units face by, in the ground of their activity criteria under our opinion it must be put that sort of quantity and quality indicators as:

- public opinion about the police activities, which is formed, including taking into account the assessment of the operational units activities;
- the state of law and order in the police service area and the number of registered criminal acts;
- the number of persons identified by the operational units and among whom in connection with their criminal activities in the past with the antisocial lifestyle or behavior, we can expect the crimes commission, and the state of preventive work with them;
- the number of facts of crimes prevention by operational divisions (carried out in respect of persons who have the intention to commit criminal acts, but they have not yet begun such actions);
- the number of facts of suppression criminal acts by the operational units at the stage of preparation or attempted crime;
- the number of detected latent crimes;
- the number of identified organized groups and criminal organizations and individuals who acted as a participant of them;
- the number of persons found who are hiding from the bodies of pre-trial investigation, the investigating judge, the court and the serving of punishment for the crime committed.

Also as criteria of operational department activity effectiveness may be that kind of indicators as uncovering the crime “of hot pursuit” and exposing offences of the past.

As have already noted one of the problem of criminal police department functioning are problems of the legal order over operational and investigative activity.

Since 2012 in Ukraine it has started the reformation of the code of criminal procedure and crime detection and operational investigation legislation. In particular, there were adopted the new Criminal Procedure Code of Ukraine dated April 13, 2012 [3] and the Law of Ukraine dated April 13, 2012 “About Amendments to Certain Legislative Acts of Ukraine in connection with the adoption of the Criminal Procedure Code of Ukraine” [4]. These legal acts have forced the transfer to the new system of reaction on criminal acts committing. Meanwhile norms of the new Criminal Procedure Code of Ukraine are in tight connection with the Crime Detection and Operational investigation legislation. Thus, before criminal proceeding initiation it must be implementing detecting and operational activities for reporting of criminal acts by an individual or a group of individuals and since the very moment of the facts of criminal activities identification by individuals involved and the initiation of criminal proceedings should be carried out as a public investigative actions, and covert investigative actions. In accordance with the regulatory legal acts of the Ministry of Internal Affairs of Ukraine, after the commencement of criminal proceedings, the conduct of operational-investigative measures is prohibited.

Taking into account that in the Law of Ukraine of 18.02.1992 “About operational-investigative activity” operational-investigative activity is defined as a system of public and covert investigative, intelligence and counter – intelligence measures, which conducted through operational and technical means [5], law enforcement practice has discovered some inconsistencies between norms of the Criminal Procedure Code and the Law of Ukraine “About Operational Investigative Activity”, as a result operational divisions in some extent suspend themselves from their immediate tasks. This is due to the fact that the operational units receive the most piece of information with regard to persons who have already committed crimes (primarily, it concerns latent crimes), however, the reliability of these data is not always known. In this case, it is necessary to initiate criminal proceedings. These factors avoid operational units from using the entire arsenal of forms, methods and means of operational and investigative activities, to verify the accuracy of information about the crime fact and the possibility of obtaining additional information about the facts of criminal activity.

Actual for today there is a problem of detectives’ institution implementation into the police activity. For example, in created in Ukraine the National Anticorruption Bureau of Ukraine and the State Office of investigations there are detectives. Today there the institution of detectives has not been implemented. Only on the regional level in the investigative administrations of the Head Offices of the National Police those departments of investigation extremely serious crime really are (service of detectives), where it is provided with the positions of investigators. In criminal procedural and operational and investigative legislation, a detective as a subject of countering crime process is not defined.

Considering the problem of the detectives institution implementation into the police it is should be said that sort of innovation would improve police activity in countering criminality, because the detective would function as an investigator at the same time, and a member of operational division. But in our view it is possible to implement in that operational units that work with information, because the reporting of the criminal activity those units could conduct as at the time of operational and investigative proceeding, and during criminal ones. The detectives’ institution implementation in departments and offices of the police that service certain territories is not possible because they mostly work with very facts of crimes committed.

Thus, century – old history of governments, civilizations existing manifest and teach that any reform could not provide with positive results if it would not take into account traditions, customs, features and experience accumulated for years. So the reformation of the National Police, including criminal one, must be on the basis of gained good experience by the police (militia) countering criminality, nowadays criminal threats, that exist in the country, tendencies of crime spreading, as well as on good experience, accumulated by the international partners.

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