

**ADMINISTRATIVE AND METHODOLOGICAL  
(PEDAGOGICAL AND EXPLANATORY) WORK OF THE NATIONAL POLICE BODIES  
TO PROTECT HUMAN AND CIVIL RIGHTS AND FREEDOMS**

**АДМІНІСТРАТИВНО-МЕТОДОЛОГІЧНА (ПЕДАГОГІКО-РОЗ'ЯСНЮВАЛЬНА)  
РОБОТА ОРГАНІВ НАЦІОНАЛЬНОЇ ПОЛІЦІЇ ЩОДО ЗАХИСТУ ПРАВ  
І СВОБОД ЛЮДИНИ ТА ГРОМАДЯНИНА**

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In the article authors discuss the methodological basis of the National Police officers' efforts to protect human and civil rights and freedoms. A group of authors note that Ukraine's integration into the European Community imposes on our State the obligation to guarantee the full functioning of institutions whose main task is to ensure the rule of law, observance and protection of fundamental human and civil rights and freedoms, and the recent events in our country make it extremely important to search for and introduce new approaches to further improve the administrative activities of police bodies.

The authors outline that administrative activities of the police are implemented in specific actions of the entities which carry them out, and such actions are expressed in certain forms of activity; the problems of the proper mechanism of administrative and legal police activities are highlighted; the emphasis is placed on the fact that activities related to management of police bodies, like any other administrative activity, are regulated by relevant regulations, i.e., the procedure and specifics of their implementation should be clearly defined at the legislative level. The authors also investigate that administrative activities of police bodies are divided into types depending on the direction of exercise of police powers, and emphasises that today it is important to conceptualise the State policy in the field of police management.

The authors focus on the fact that administrative activities of the police are implemented in practice in specific forms and by specific methods characterised by generality and universality; they regulate such activities, are manifested in them, but exist outside of them and precede them. They also comprehensively apply to the activities of all structural units of the police, being the most important, indispensable tools for solving problems.

**Key words:** police, police activity, mechanism of activity, administrative and legal regulation, law, guarantee, rule of law.

В статті автори розкривають питання методологічним основами співробітників органів Національної поліції щодо захисту прав та свобод людини і громадянина. Автори зазначають, що інтеграція України в Європейську спільноту ставить перед нашою державою обов'язок щодо гарантування повноцінного функціонування інститутів, основним завданням яких є забезпечення верховенства права, дотримання та захист основних прав і свобод людини і громадянина, а події, що відбуваються останнім часом у нашій державі, надзвичайно актуалізують пошуки та запровадження нових підходів щодо подальшого удосконалення адміністративної діяльності органів поліції.

Авторами окреслено, що адміністративна діяльність поліції реалізуються в конкретних діях суб'єктів, які її здійснюють, такі дії знаходять своє вираження у певних формах діяльності; висвітлено проблеми належного механізму адміністративно-правової поліцейської діяльності; зроблено акцент на тому, що діяльність щодо управління органами поліції, як і будь-яка інша управлінська діяльність регламентується відповідними нормативно-правовими актами, тобто порядок та особливості її здійснення повинні бути чітко визначені на законодавчому рівні. Також досліджено, що адміністративна діяльність органів поліції в залежності від напряму реалізації поліцейських повноважень поділяється на види та зроблено наголос на тому, що сьогодні важливою стає необхідність концептуалізації державної політики у сфері управління органами поліції.

Автори концентрують увагу на тому, що адміністративна діяльність поліції реалізується на практиці в конкретних формах і конкретними методами, які характеризуються загальністю і універсальністю, вони упорядковують таку діяльність, виявляються в ній, але існують поза нею та їй передують. Вони також комплексно поширюються на діяльність усіх структурних підрозділів поліції, будучи найважливішими, неодмінними інструментами вирішення завдань.

**Ключові слова:** поліція, поліцейська діяльність, механізм діяльності, адміністративно-правове регулювання, право, гарантія, норма права.

**Statement of the problem.** The Constitution of Ukraine enshrines certain categories of rights for citizens of the State, which they can exercise either personally or in accordance with the procedure established by law through administrative bodies. Administrative and legal relations where a citizen is one of the parties are diverse, and their implementation is differentiated. Such implementation is particularly vivid in relations with internal affairs agencies. After all, the mechanism of administrative and legal regulation of the activities of police services in the field of ensuring rights and freedoms should take into account the life circumstances of social, organisational and legal nature.

**Analysis of recent research and publications.** The issues related to the proper mechanism of administrative and legal police activity have been studied in due time: P. Bilenchuk, O. Bandurko, O. Bezpalova, B. Lishchuk, L. Mogilevska, and O. Nehodchenko. At the same time, despite the large number of scientific works in this area, the issue of an effective mechanism of policing remains controversial.

**The purpose of the article** is to study at the theoretical and methodological level the pedagogical and explanatory work of police agencies as public order bodies and their structural bodies for the protection of human and civil rights and freedoms.

**Summary of the main material.** The exercise of administrative and legal functions vested in police services by the current legislation with regard to ensuring human and civil rights and freedoms is based on constitutional provisions which apply to both citizens and police officers.

The very mechanism by which the police authorities carry out administrative and legal regulation in ensuring the rights and freedoms of citizens is part of state legal administration. Thus, it has all the general features and constituent elements of the mechanism for ensuring the rights and freedoms of citizens. Each part of this mechanism is endowed with specific legal features that depend on legal regularities and occupy one of the central places in the environment of public administration or human life.

If we examine the methodological aspect of the administrative and legal mechanism, it becomes obvious that it is nothing more than a legal means and method used by the governing body for direct administrative and legal influence on social relations. That is why the mechanism of regulation of administrative and legal relations with the help of organisational, technical, informational and economic resources can act as a kind of guarantee of the declared rights and freedoms of a citizen.

Some scholars define the mechanism of ensuring constitutional human rights in the field of police activity as a balanced set of measures of a regulatory, legal, organisational, managerial and social supervisory nature aimed at creating conditions for the fullest possible exercise of constitutional rights and freedoms of a person and a citizen in the field of police activity. Such a balance has its right to exist due to the fact that in their activities, police agencies are guided not only by national legislation, but are also subject to the rules of the international community, the norms of which are contained in universal guidelines for police activities. Such norms include: the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the standards for ensuring the rights and freedoms of citizens in police activities are determined by the International Code of Conduct for Public Officials and the European Code of Police Ethics and others [2; 3; 4]. In pursuance of the Constitution of Ukraine and international documents that outline the basic standards for ensuring human and civil rights and freedoms, a number of national legislative and regulatory acts have been adopted that govern the operation of police agencies.

In each type of administrative activity, one can identify various components related to ensuring public safety, road safety, and administrative supervision over a certain category of persons, and control over objects of high risk. In all areas of administrative activity, a police officer is, relatively speaking, confronted by a citizen who exercises or protects rights in relations with the police. Regardless of the grounds for the relationship between a police officer and a citizen, it is necessary to ensure maximum protection of their rights and freedoms. To this end, according to scholars, it is necessary to develop constitutional guarantees of ensuring and protecting rights and freedoms [5, p.194]. The need for a constitutional guarantee of protection arises when a violation of human rights has occurred or there is a threat of a violation. In this regard, all guarantees of protection are divided into compensatory, cessation and restorative guarantees. The need for further improvement of the administrative and legal mechanism of police activity to ensure the rights and freedoms of citizens should include means of restoring the rights of citizens and means of monetary compensation in case of violation of rights and freedoms. Speaking of such an administrative and legal mechanism, it should be noted that it represents a certain set of means by which the relevant area of legal regulation is carried out. The effectiveness of the mechanism of administrative

and legal regulation of police activity to ensure rights and freedoms depends on the quality of the relevant legal means, which include legal norms, legal relations, law enforcement acts, legal culture and legal awareness [6, p. 105]. These components of the administrative and legal regulation mechanism are logically interrelated. Systematic approach allows using the full power of administrative law in the regulation of public relations. Some of the elements of the mechanism of administrative and legal regulation of police activity in this area may be mandatory components, some have an optional role, but in aggregate they allow the police to fully ensure rights and freedoms to the extent that the competence of the police allows. Analysing the activities of internal affairs bodies to ensure the rights and freedoms of citizens, legal scholar O.M. Bandurka, in turn, wrote that the mechanism consists of two structural elements: a system of ensuring personal constitutional rights and freedoms and a system of lawful actions of citizens to use the benefits defined by personal constitutional rights and freedoms [7, p. 80].

To ensure the rights and freedoms of citizens, regulatory and protective regulations are used in the administrative activities of the police. With the help of regulatory administrative and legal regulations, citizens can obtain permits, protect their property or receive any information security from the competent police services. The regulatory norms of police activity include the obligation of citizens to obey the lawful demands of a police officer and to perform a number of other duties in the field of public order and public safety. In addition to binding regulatory provisions, the Law of Ukraine "On the National Police" [8] provides a citizen with the right to protection from police action or inaction if the police officer's actions violate the rights and legitimate interests of the citizen. Such unlawful actions may be appealed by citizens to a higher authority, the Prosecutor's Office of Ukraine or the court. The Code of Administrative Procedure of Ukraine [9] stipulates that actions (decisions) of the police that may be appealed to the court include: collective and individual actions (decisions), including provision of official information that became the basis for actions (decisions) that violated the rights and freedoms of a citizen; created obstacles to the exercise of rights and freedoms; unlawfully imposed duties or brought to justice.

In addition to regulatory requirements, protective orders set out prohibitions, restrictions and mandatory requirements. Protective orders specify an obligation that can only be fulfilled through the use of coercive measures and liability. Prohibitory and restrictive orders are needed not to complicate people's lives, to restrain socially useful human activity, but on the contrary, these orders are necessary to regulate social relations and prevent the commission of administrative offences [10, p. 60]. Thus, prohibitory orders are necessary to ensure the rights and freedoms of citizens in public places, in the field of transport, catering and cultural enterprises.

The task of the police in the process of carrying out control and supervision activities is to detect violations of prohibitor orders and bring them to administrative responsibility. The role of prohibitor orders in ensuring rights and freedoms is quite important, but it should be noted that in the process of regulating social relations, including those created in the field of internal affairs, it is hardly worth getting carried away with prohibitions. After all, in the interests of ensuring the rights and freedoms of citizens, the mechanism of administrative and legal regulation should give more space to declaratory orders, thereby reducing the scope of permissive influence. According to administrative law experts, such an approach will facilitate self-regulation of social relations and reduce unreasonable administration of social processes, including by the police. It is important to exclude competition between the permissive and declarative procedures for regulating social relations. In this regard, practitioners suggest taking into account the European experience in this regard. It is necessary to reduce, where possible, the various approvals established

for obtaining unjustified permits. These “management procedures” create unnecessary bureaucratization of administrative legal relations; formulate a breeding ground for corruption and violation of the rights and freedoms of citizens [11, p. 29].

The Police will ensure rights and freedoms of all citizens, regardless of the grounds for the respective legal relations. The object of these legal relations is rights and freedoms. These components determine the content of police activity. Speaking about the grounds for the emergence of administrative legal relations related to the protection of rights and freedoms, it should be noted that they are life or other circumstances that are associated with the emergence, change or termination of a legal status. The legal facts that give rise to the relevant legal relations may be various circumstances of an objective and subjective nature. Legal facts are differentiated into events and actions. The former do not depend on the will and consciousness of a person, as they occur objectively, in particular, this may relate to the occurrence of a certain period of time, etc.

A police official must respond to a citizen's appeal within one month. Failure to meet the deadline is a violation of the established procedure for handling citizens' appeals in the National Police system. Compliance with the established deadlines may apply to citizens, for example, a citizen is obliged to replace an expired driver's license or renew a firearms license. Failure to comply with the relevant obligation in the prescribed manner may result in adverse consequences, which may include administrative liability. Actions that give rise to administrative legal relations related to the protection of citizens' rights and freedoms may be lawful or unlawful. But in all cases, the rights of citizens must be respected.

The current legislation mainly focuses on ensuring the rights and freedoms of a citizen subject to administrative coercion. Meanwhile, the rights of victims of an administrative offence are ensured to a much lesser extent. This is because victims are not identified. In this regard, some legal scholars consider it expedient to enshrine in the CUAO and the Law “On the National Police” the obligation of police officers to identify victims of administrative offences [12, p. 219]. Such an approach will increase the level of protection of citizens and may contribute to the achievement of the purpose of administrative punishment - prevention of offences.

Law enforcement acts are an element of the administrative and legal mechanism for ensuring rights and freedoms in police activity. Unlike a law or other regulatory legal act, a law enforcement act is always individual and personalized. It is impossible to imagine administrative activities of the police related to ensuring rights and freedoms without issuing relevant acts. Such acts have a state nature, a certain legal force, and are binding on the parties to administrative legal relations. Law enforcement acts issued in the process of ensuring rights and freedoms are quite diverse. These may be regulatory and protective acts, which may be procedural in nature.

In administrative offence proceedings carried out by the police, the main procedural act is the administrative offence report. Statistical analysis shows that police officers often draw up protocols on administrative offences in a careless manner, with a brief description of the essence of the offence, and no indication of circumstances mitigating or aggravating

administrative liability [13, p. 8]. This is ultimately a violation of rights and freedoms. The practice of drafting procedural documents is not satisfactory. Therefore, it is necessary to strengthen control measures over the preparation of procedural documents, to consider raising the official status of police officers who may be granted this right.

According to scholars, such an important element of the mechanism of administrative and legal regulation as acts of interpretation of legal norms in practice is underestimated. Interpretation, because of the correct understanding of the meaning and content of a legal provision, is to some extent a guarantee of observance of rights and freedoms in the administrative activities of the police. Given the complexity of legal provisions, the role and importance of official and doctrinal interpretation of legal norms is significant. Therefore, according to practitioners, various commentaries on police legislation are currently in demand.

The next element of the administrative and legal mechanism of police activity is legal culture and legal awareness. Speaking of culture, it can be noted that this category is traditionally interpreted as a certain set of material and spiritual values accumulated by human civilization [14, p. 77]. The mechanism of legal regulation is not identical to the action of all components of the superstructure; legal regulation is a special impact of law on social relations. The legal culture of society includes all the achievements of human civilization in the field of the legal superstructure and the legal system. It characterizes the level of development of the legal superstructure, the legal system, and the legal life of society in general. The outlined elements are significantly underestimated, and sometimes they are excluded from the content of this construct [14, p. 78].

The legal culture and legal awareness of a police officer can make a significant contribution to ensuring the rights and freedoms of citizens. Legal awareness ultimately affects the quality of law enforcement, especially in terms of ensuring rights and freedoms. The higher the level of legal culture and legal awareness, the more effective the police activity is from the point of view of the law. The general cultural and legal training of a police officer should influence the quality of these elements of the legal regulation mechanism. Therefore, it is no coincidence that in the EU member states, in order to raise and regulate professional culture, codes of professional ethics of police officers are used quite effectively, which are, in fact, the main documents regulating police officers' service activities [15, p. 28].

**Conclusions.** The mechanism of administrative and legal regulation of police activity is a combination of legal, organizational and cultural means. With the help of this tool, it is possible to ensure that police officers fulfil their functional duties to ensure the rights and freedoms of citizens. It should be remembered that society faces different challenges every day, and these challenges are to some extent not regulated by law. It is not uncommon for a departmental legal act to not only fail to define the mechanism for implementing the law, but, on the contrary, to create a confusing situation that leads to violations of citizens' rights and freedoms and other negative consequences.

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