

Public Policy in the Sphere of Activity of the Ministry of Internal Affairs of Ukraine: Approaches to Determining the Essence and Content

Державна політика у сфері діяльності органів системи Міністерства внутрішніх справ України: підходи до визначення сутності та змісту

Received: January 12, 2020

Accepted: March 3, 2020

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Abstract

The aim of the article is to define a modern interpretation of the categories "public policy" and "the sphere of activity of bodies of the Ministry of Internal Affairs", as well as the essence and content of public policy of Ukraine in this field. To achieve this goal, general scientific and special methods of cognition are used, namely: methods of analysis, synthesis, structural and functional, hermeneutics, comparison, special legal and some others. It is emphasized that public policy should be considered in two notions: 1) as the established course (state) of development of the State and society; 2) as a type of public activity (process) regarding the formulation of public policy (political process) and its implementation (executive activity). The focus of the study is on the social relations that arise in the course of activities of the bodies of the Ministry of Internal Affairs are relatively close, similar, and related in their nature. Therefore, objectively existing link between these social relations and their specificity require the integration of these relations into one domain. In the current context, public policy in the sphere of activity of bodies of Ministry of Internal Affairs of Ukraine is proposed to consider as the purposeful and organizational activity of specially authorized

Анотація

Метою статті є визначення сучасного розуміння категорій «державна політика» і «сфера діяльності органів системи Міністерства внутрішніх справ», а також сутності та змісту державної політики України у цій сфері. Для досягнення поставленої мети використовувалися загальнонаукові та спеціальні методи пізнання, а саме: методи аналізу, синтезу, структурно-функціональний, герменевтики, порівняння, спеціально-юридичний та деякі інші. Наголошено на необхідності розуміння державної політики у двох площинах: 1) як встановлений напрямок (стан) розвитку держави і суспільства; 2) як різновид державної діяльності (процесу) щодо формування державної політики (політичного процесу) та її реалізації (виконавча діяльність). Звертається увага, що суспільні відносини, котрі виникають в процесі діяльності органів системи Міністерства внутрішніх справ, за своєю суттю відносно близькі, схожі, споріднені. Тому об'єктивно існуючий зв'язок між цими суспільними відносинами, їх специфіка потребують об'єднання цих відносин в одну сферу. В умовах сьогодення державну політику у сфері діяльності органів системи Міністерства внутрішніх справ України

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public bodies and representatives of civil society in determining strategic goals, targets, forms and means of their achievement in the field of law enforcement activity. It should be emphasized that this law-enforcement activity is directly related to providing improvement of safe living environment as a basis for internal security in Ukraine, the formation of a modern system of internal security as a deterrent to the aggressor country, as well as the implementation of effective integrated border management and balanced migration policy in Ukraine.

Key words: policy, state power, public policy, principles of public policy, bodies of Ministry of Internal Affairs of Ukraine.

пропонується розуміти як цілеспрямовану та організаційну діяльність спеціально уповноважених державних органів та представників громадянського суспільства стосовно визначення стратегічних цілей, завдань, форм і засобів їх досягнення у сфері правоохоронної діяльності. Наголосимо, що зазначена правоохоронна діяльність безпосередньо стосується створення умов для розвитку безпечного середовища життєдіяльності як основи внутрішньої безпеки на території України, формування сучасної системи внутрішньої безпеки як фактора стримування країни-агресора, а також здійснення ефективного інтегрованого управління державним кордоном і проведення збалансованої міграційної політики в Україні.

Ключові слова: політика, державна влада, державна політика, принципи державної політики, органи системи Міністерства внутрішніх справ України.

Introduction

Respect for human rights and freedoms in Ukraine is organically combined with the notion of the rule of law and the progressive heritage of humanity in the field of State building. Therefore, the efficiency of guarantees of fundamental human rights and freedoms depends on the level of development of legal principles, concepts of law and democracy, the state of the economy, the law-making atmosphere in society, the level of legal education and culture of the population, etc. To realize the interests of society in the most important areas of life, the State develops and implements appropriate policies, such as economic, social, informational, cultural, legal, law enforcement, international, demographic, etc.

The study of the issues of formation and implementation of public policy in the sphere of activity of bodies of the Ministry of Internal Affairs of Ukraine is updated by a number of factors of both objective and subjective genesis. For example, the deep and inevitable democratic changes that Ukraine undergoes, as well as our country's strategic course for European integration, require restructuring and significant improvement on this basis of the level of efficiency and quality of public authorities' activity, achievement of qualitative indicators of transparency and accountability in relations with civil society. This requires the implementation of effective reforms both in the law enforcement sphere in general, and in the bodies and units of

the MIA of Ukraine in particular. At the same time, the European Union enlargement to the countries of Central and Eastern Europe requires the national governments of these countries to reform the police in the area of depoliticization, decentralization and demilitarization; ultimately, it should lead to the democratization of this important social institution (Abrakham, Bakrach, Bek, 2005; Banchuk, 2013; State and prospects for reforming, 2018). Previously, in Soviet times, the bodies of the MIA system of Ukraine were considered as a structural element of a unified centralized State power and were the force that performed mainly punitive and repressive functions, but nowadays the current place and role of these bodies in the mechanism of the Ukrainian State are being revised and determined as well as their activities are redirected to the social component, the list of tasks assigned by society is updated and expanded. Along with important and topical priorities for the development of the Ministry of Internal Affairs such as crime prevention, safe environment creation, respect and protection of human rights, the novelty targets of these bodies should include: effective law enforcement management; introduction of effective democratic civil control mechanisms; establishing a democratic and effective public accountability system; partnerships with the community within the framework of *community policing*; formation of stable and highly professional staff; introduction of modern methods of motivation and balanced

system of social protection of employees; increasing the level of staff diversification to reflect the ethnic and gender structure of the population and others (The Decree of the CMU, 2018).

The aim of the article is to define a modern interpretation of the categories "public policy" and "the sphere of activity of bodies of the Ministry of Internal Affairs", as well as the essence and content of public policy of Ukraine in this field under the current context.

Theoretical framework

Various issues related to public policy in the sphere of activity of the bodies of the MIA of Ukraine are under focus in the scientific works of scientists such as P. Abrakham, D. Bakrach, A. Bek, et al. (Police Reform in Central and Eastern Europe: Process and Progress, 2005), S. Avakian (Constitutional Law, 2001), T. Avakian (Essays and discussions on understanding public policy in the field of internal affairs, 2015; Rule of law as a fundamental principle of public policy in the field of internal affairs, 2015), O. Banchuk, (Police status: International standards and foreign law, 2013), M. Burbykaa, A. Klochko, O. Reznik (Coordinating Activity of the Prosecutor's Office in the Sphere of Criminality Prevention of Ukraine, 2016), O. Demianchuk (System of development and implementation of public policies in Ukraine, 2007), L. Dolia (Formation and implementation of public policy in the sphere of internal affairs, 2017), I. Havrada (Censorship as a manifestation of the undemocratic public policy of Ukraine in mass media, 2006), Dean G. Kilpatrick (Definitions of Public Policy and the Law, 2000), V. Kryvolapchuk, L. Dolia, O. Tsyhanov, I. Boiko, Yu. Koller (Management in the system of the Ministry of Internal Affairs of Ukraine in the context of reform, 2017), N. Matuzov, A. Malko (State and Law Theory, 2004), B. Parsons (Public Policy. Introduction to the theory and practice of policy analysis, 2006), Yu. Shemshenko (Great Encyclopedic Legal Dictionary, 2007), O. Tsyhanov (The sphere of internal affairs as a branch of public administration: Essence, formation and development, 2015) and some others, but many issues in this area remain unresolved.

The need to public policy in the sphere of activity of the Ministry of Internal Affairs of Ukraine is caused by the modern practice of law enforcement activity, which, unfortunately, is characterized by a number of problematic aspects. Among the most common problem points, it is worth highlighting the duplication of powers of the bodies of the

Ministry of Internal Affairs, the inconsistency and imbalance of their actions used to achieve their goals.

Materials and methods

The methodological basis of the article is a set of methods and techniques of scientific cognition. To achieve this goal, general scientific and special methods of cognition are used. Their application is due to a systematic approach, which enables to study the issues raised in the unity of their social substance and legal form. In the study, the most effective methods of cognition are the method of hermeneutics, enabling to study the content of doctrinal provisions and regulations; the comparison method, enabling to compare and contrast the broad and narrow meanings of categories under the study; the method of activity and the special-legal method, enabling to construct the author's definition of the concept of public policy in the sphere of activity of bodies of the Ministry of Internal Affairs of Ukraine.

Results and discussion

The implementation of public policies, which is aimed at ensuring an effective response to crime, protection of constitutional rights and freedoms, requires the state to create an appropriate system of agencies (entities) that are known in legal acts and scientific literature as law enforcement agencies. Such agencies include Ukrainian prosecution agencies, which have a specific feature of their legal status as the subjects involved in the fight against crime. Their task as law enforcement agencies is both the fight against crime and coordination of activities of other law enforcement agencies in this area of public policy. Feature of the law enforcement agencies and all the security agencies is their legitimate right to use force to protect the citizens and the state. On the way to the EU integration, Ukraine faces substantial challenges in the area of security (Burbykaa, Klochko, Reznik, 2016).

The Oxford English Dictionary defines policy as follows: political foresight; the art of governing the state; prudent management; cunning; a set of measures adopted by the government, the party, etc. (Oxford English Dictionary). At the same time, according to English scientist Wayne Parsons' textbook *Public Policy: An Introduction to the Theory and Practice of Policy Analysis*, the current meaning of the English term "policy" is a set of measures or a plan, a set of political goals, as opposed to "management". But above all, the modern meaning of this word, which comes, in particular, from the post-war period, is in the

perception of policy as a logical rationale, a manifestation of balanced judgment. Policy is an attempt to define and structure a rational basis for goals or inaction (Parsons, 2006, p. 32).

Encyclopaedic sources define policy (from the Greek *politika*, 'State or public affairs,' from *polis*, 'State') as the scope of activities related to relations between social groups, the core of which is to determine the forms, tasks, content of the State's activity (New Encyclopedic Dictionary, 2001, p. 941). Furthermore, policy is considered as a system of goals and means of their achievement by the State in the field of internal and external life (Shemshenko, 2007, p. 652). Moreover, policy is understood as activities of the government associated with State power application (The Oxford Illustrated Encyclopedia, 2000, p. 207). This term is also defined as the area of actions, regulatory measures, laws, budgetary priorities regarding a specific topic, a matter undertaken by a public authority or its representatives (Kilpatrick, 2000). In addition, public policy refers to the relatively stable, organized and purposeful activity of public authorities in regard to a particular issue or a set of issues that is conducted by them directly or indirectly and affect the life of society (Havrada, 2006). Public policy is formalized in specific legal provisions and implemented in the course of activity of public authorities.

In sub-paragraph 4 of Clause 2 of the motivation part, the Decision of the Constitutional Court of Ukraine No. 2-rp/99 as of 2 March 1999, Case No. 1-18/99 (the case of housing services) provides for the official definition of the term "public policy" as follows: "Public policy refers to the strategic areas of the State's activity in economic, social, humanitarian, environmental, legal and other fields of its internal life, as well as in forward-looking relations with other States. The framework of domestic and foreign policy is underlying ideas, key principles of the strategic line of the State activity in these fields. They are the basis for policymaking by executive bodies, in particular the Cabinet of Ministers of Ukraine" (Decision of the Constitutional Court, 1999).

Therefore, public policy is always related to other spheres of societal life, to relations between different social groups. It is generally accepted to classify policy into domestic and foreign. Domestic policy covers the main activities of the State, parties (such as economic, social, cultural, industrial, legal, demographic, etc.). Foreign policy concerns the relations between States. Public policy is always implemented using state power, both regarding and for achieving the

latter. It should be considered that the interests of social groups and individuals are at the heart of politics (political life, political relations, etc.).

Politics is a comprehensive, multifaceted and multidimensional phenomenon, a capacious category. In its most general and universal form, it is a special kind of human activity associated with the acquisition and exercise of power. These are the relationships that arise and exist between groups of people, individuals regarding power, first of all, state power. Note that N. I. Matuzov and O. V. Malko defines state power as a public and political attitude of domination and subordination between subjects, based on public compulsion. According to the scientist, state power leads to the establishment of relations in which it is a higher authority, recognized voluntarily or forcefully by all members of the social community in a certain territory (Matuzov, Malko, 2004).

It should be noted that the Resolution of the Cabinet of Ministers of Ukraine "On ensuring public participation in the formation and implementation of public policy" No. 996 of November 3, 2010 (Resolution of the CMU, 2010) approved the Procedure for conduct of public consultations on the issues of forming and implementing public policy and the Typical provision for the public council at the ministry, other central executive authority, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city, district, Kyiv and Sevastopol district state administration. Moreover, in accordance with the Typical provision, the public council at the public authority is a temporary advisory body established to facilitate public participation in the formation and implementation of public, regional policy. Therefore, nowadays in Ukraine, not only special public authorities (mainly executive bodies) but also representatives of civil society, in particular public councils at the relevant public authorities, should be considered as actors of policy formation and implementation.

Therefore, we argue that public policy is the purposeful and organizational activity of specially authorized public bodies and representatives of civil society in determining strategic goals, targets, as well as forms and means of their achievement in the relevant area of societal life, which is exercised by these entities on the basis of state power according to laws and social customs in force in this society. Furthermore, I. B. Koliushko and A. V. Kirmach argue that consideration of the term "public policy" requires to distinguish between public

policy as a course (state) of development of the State and society within a certain period of functioning of the State, and different types of public activity (process) related to public policy, in particular, public policy formulation (political process) and its implementation (executive activity) (Demianchuk, 2007, p. 71). Public authorities, their officials, as well as citizens and/or civil society institutions, who by applying legal methods and providing for the relevant field of activity publicly participate in the formulation and implementation of public policy, are its actors. Their activities are aimed at determining strategic goals, identifying more sophisticated forms of social relations, which may lead to amendments in the current provisions of law or the creation of new rules.

The basic principles of the strategic line of the State activity, underlying ideas and priorities of public policy of Ukraine are provided for in the Law of Ukraine "On the Principles of Domestic and Foreign Policy" No. 2411-VI of July 1, 2010 (Law of Ukraine, 2010). For example, the key principles of both domestic and foreign policy of our State are given in Part 1 of Art. 2 of this Law. Other key principles of Ukraine's domestic policy are outlined in Part 2 of Art. 2 of this legal regulation.

It is known that the internal security of the individual and citizen, society and State is guaranteed by the Constitution of Ukraine and is implemented by a unified public policy in the field of its ensuring, development and timely taking of both preventive and restorative measures, adequate to internal threats (Dolia, 2017, p. 38). Therefore, it should be noted that Art. 6 of this Law establishes the principles of domestic policy in the field of national security and defence, including public policy in the field of law enforcement activities as one of its main components.

As a branch of governmental competence, the sphere of activity of the bodies of the Ministry of Internal Affairs differs in volume depending on the historical, cultural factors and traditions that have developed regarding the social role of State power (Avakian, 2015, p. 109). In the context of domestic realities, the category of activity of the bodies of the Ministry of Internal Affairs in historical development has evolved from an interpretation in its broadest meaning to a narrower, law enforcement one. According to legal literature, in a general meaning, the sphere of activity of the bodies of the Ministry of Internal Affairs is a generalised name for all issues of the country's domestic life, solved by

the State. In the narrow meaning, this category is the name of a special group of issues related to the protection of public order, protection of citizens' rights and freedoms, ensuring the rule of law, police work, etc. (Avakian, 2001, p. 141).

At present, in accordance with the constitutional provisions enshrining changes in the political system of state power organization, administrative-territorial system, economic relations, legal regulation, the social purpose of the bodies of the Ministry of Internal Affairs has radically changed. Nowadays, their mission is not to serve the political regime, but to provide security of the vital interests of the individual, society and the State; recognition, observance and protection of human and citizen's rights and freedoms, society and the State from certain threats in law enforcement (Tsyhanov, 2015, p. 34).

The scope of activity of the Ministry of Internal Affairs is multifaceted. It includes a number of complex groups of social relations regarding: ensuring the protection of human rights and freedoms, the interests of society and the State, combating crime, maintaining public security and order; protection of the State border and protection of Ukraine's sovereign rights in its exclusive (maritime) economic zone; civil protection, protection of the population and territories from emergencies and prevention of their occurrence, activity of emergency services; migration (immigration and emigration), etc. (Resolution of the CMU, 2015).

Public relations that arise in the course of activity of the bodies of the Ministry of Internal Affairs are inherently relatively close, similar, and related. Objectively existing link between these social relations and their specificity require the integration of these relations into one domain (Kryvolapchuk, Dolia, Tsyhanov, Boiko, Koller, 2017, p. 37).

The comprehensive, complete characterization of public policy in the sphere of activity of the Ministry of Internal Affairs of Ukraine bodies requires applying different methods and methodological approaches, which directs the research process to achieve the goal more effectively. The broad approach enables to form a more complete picture of this public policy, because this approach enables to describe the scope of activities of the bodies of the Ministry of Internal Affairs, legal competence, forms, methods and principles of formulating and implementing this policy, as well as other parameters of conduct of corresponding State

activities relevant to its comprehensive scientific and theoretical interpretation.

Conclusions

Therefore, public policy in the sphere of activity of bodies of Ministry of Internal Affairs of Ukraine is proposed to consider as the purposeful and organizational activity of specially authorized public bodies and representatives of civil society in determining strategic goals, targets, forms and means of their achievement in the field of law enforcement activity. Moreover, this law-enforcement activity is directly related to providing improvement of safe living environment as a basis for internal security in Ukraine, the formation of a modern system of internal security as a deterrent to the aggressor country, as well as the implementation of effective integrated border management and balanced migration policy in Ukraine.

The analysis of paragraph 1 of the Regulation on the Ministry of Internal Affairs of Ukraine, approved by the Cabinet of Ministers of Ukraine No. 878 of October 28, 2015 enables to argue that the key forms of implementation of public policy in the sphere under consideration should be protection, security, counteraction and prevention, carried out only within the limits provided by law and only by specially authorized entities, that is, bodies of the MIA as a unified system of executive authorities and military formations, which are a structural element of public law-enforcement organization (Kryvolapchuk, Dolia, Tsyhanov, Boiko, Koller, 2017, p. 58).

According to T. A. Avakian, since the activity of the MIA of Ukraine requires to be under constant focus in the context of its compliance with social needs, the ongoing reform of this system should be based on principles validated by legal practice, in particular the rule of law as a fundamental principle of law enforcement activities (Avakian, 2015, p. 124).

In addition, it should be noted that the activities for forming and coordinating public policy, including in the field under the study, have been identified as one of the key areas of the 2016-2020 Strategy for Public Administration Reform, in view of the European standards of good administration, formulated in the SIGMA "Principles of Public Administration" (Order of the CMU, 2016).

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