

Analysis of Legislative Supply of Informational and Informational–Analytical Activities of National Police of Ukraine

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Abstract. *In the article a number of Laws of Ukraine are analysed, which are the basis for the development of sub-normative legal acts in the field of informational and informational–analytical activities of the National Police of Ukraine, in order to establish a connection between the legal norms and the social relations that are regulated. It is accordingly one of the aspects that will contribute to achieving the highest possible level of law and order in society. As a result of the research, the underlying Laws and Derivatives (Laws based on the fundamental and specific provisions) in this area have been identified. It is proven that realisation and strict observance of the considered legislative norms in the field of informational and informational–analytical support of the activities of the National Police of Ukraine will help to bring the standards of this type of activity to the relevant standards of law enforcement bodies of European states, to ensure effective interaction between separate units of both the National Police of Ukraine, and between the National Police and other law enforcement agencies of Ukraine and European states, and it will also help to build the trust of the European community in the activities of the National Police, which is an extremely important criterion for assessing the activities of law enforcement agencies in Ukraine.*

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Introduction

Today, at a time when the activities of the units of the National Police in Ukraine are being reformed, the informational and informational–analytical activity (which is understood as a set of legal, technological, organisational means that provide the process of collecting, receiving, processing, disseminating, analysing, and using information resources that are necessary for implementation determined by law tasks and functions)¹ is undoubtedly of fundamental importance, since it is aimed at ensuring public order and safety and is crucial for the choice of strategy for fighting crime, the protection of the rights and freedoms of citizens and property,

¹ Svitlychna V.Yu, Informatsiyna bezpeka: bahatohrannist' sutnosti, vydy zahroz ta shlyakhy zabezpechennya. Komunal'ne gospodarstvo mist. Babayev V.M (Ed.). Kharkiv, 2013, Vol. 109, p. 367.

and 'is a system-forming element of any management activity'². The quantity and quality of information determines the effectiveness of organisational, managerial, administrative, operational, and ultimately, investigative measures aimed at solving problems in countering offences and crime. One of the foundations of this activity is the information resources obtained and accumulated as a result of the implementation of law enforcement functions by the National Police of Ukraine, and have been systematised both on separate grounds and the sources of their receipt, and concentrated in the information retrieval systems of the National Police, the Ministry of Internal Affairs of Ukraine and other law enforcement agencies of the state. However, at this stage of the reform and development of the National Police of Ukraine, there is a question of systemic filling, maintaining, and expanding the practice of using these data resources, creating new informational–analytical systems based on 'artificial intelligence', as well as systematising information coming from different sources. The solution of this issue can not be carried out without the appropriate legal and regulatory framework for its improvement and development.

Thus, the purpose of this article is to conduct an analysis of the legislative support of functioning of the National Police of Ukraine in the field of informational and informational–analytical activities for further identification of ways to improve it, and directions of development.

Main Part

It should be noted that under the existing legal regulations, scientists understand the form of regulation of social relations in a particular industry in accordance with the requirements and permissions contained in the rules of law; that is, the process of streamlining social relations implemented through legal means and aimed at ensuring a certain set of social interests that require legal regulation³. Based on this approach, it can be argued that legal regulation is a process that mediates the link between the legal norms and the real social relations regulated by these norms. Thus, the legal regulation of informational activities of the National Police of Ukraine should be considered as a process of streamlining the relevant social relations that arise in connection with the organisation and functioning of the National Police of Ukraine performed by authorised agents, by means of legal norms.

The main objective in the field of informational and informational–analytical activities of the National Police of Ukraine is to achieve the highest possible level of law and order in society, including in connection with the establishment and perfection of its activities on the basis of the relevant administrative and legal norms, and of the establishment of a management mechanism for their implementation. At the same time, it is important to promptly introduce changes and adopt new acts in this area, as the legal framework is the legal system for the implementation of the

² Yesimov S.S, *Informatsiyno-analitychna diyal'nist' MVS Ukrayiny yak ob'yekt pravovoho rehulyuvannya. Naukovyy Visnyk L'vivs'koho derzhavnogo universytetu. Seriya yurydychna*, 2017, Vol. 1, p. 187.

³ Tsvik M, Petryshyn O, Avramenko L, *Zahal'na teoriya derzhavy i prava*. Tsvik M, Petryshyna O (Eds) Kharkiv, 2009, pp. 207–208.

state policy in the field of the activities of the National Police of Ukraine, as well as the achievement of the corresponding regulatory objectives.

In our case, such rules of law are: 1) the Constitution and constitutional laws; 2) international laws ratified by the Verkhovna Rada of Ukraine; 3) codified and ordinary (current) laws; 4) resolutions of the Verkhovna Rada of Ukraine; 5) decrees of the President of Ukraine; 6) the resolution of the Cabinet of Ministers of Ukraine; 7) orders from ministries and other central executive bodies. Due to the limited scope of this publication, we will focus only on the Constitution and constitutional laws.

The informational and informational–analytical activities of the National Police of Ukraine are regulated by a number of Laws of Ukraine, in addition to the Constitution⁴, which include, first of all, the Laws of Ukraine: 'On the National Police'⁵, 'On Information'⁶, 'On State Secrets'⁷, 'On the Protection of Information in Information and Telecommunication Systems'⁸, 'On Operational and Investigative Activity'⁹, 'On Access to Public Information'¹⁰, 'On the Protection of Personal Data'¹¹, 'On Telecommunications'¹², and others. The Listed Laws are not necessarily entirely intended to regulate the informational and informational–analytical activities of the National Police of Ukraine, but they contain the main provisions on the collection and accumulation of information, the procedure of entering it into data banks, preservation, features of use, etc.

⁴ Konstytutsiya Ukrainy. Document 254к/96-BP, valid, current version — Revision on September 30, 2016, on the basis of 1401-VIII. *Electronic source*: <http://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en>, accessed: 10.10.2019.

⁵ Pro natsional'nu politysiyu.. Document 580-VIII, valid, current version — Revision on August 31, 2018, on the basis of 2462-VIII. *Electronic source*: <http://zakon.rada.gov.ua/laws/show/580-19?lang=en>, accessed: 5.10.2019.

⁶ Pro informatsiyu. Document 2657-XII, valid, current version — Revision on January 1, 2017, on the basis of 1774-VIII. *Electronic source*: <http://zakon.rada.gov.ua/laws/show/2657-12?lang=en>, accessed: 12.10.2019.

⁷ Pro derzhavnu tayemnytsyu. Document 3855-XII, valid, current version — Revision on August 5, 2018, on the basis of 2509-VIII. *Electronic source*: <http://zakon3.rada.gov.ua/laws/show/3855-12?lang=en>, accessed: 10.10.2018.

⁸ Pro zakhyst informatsiyi v informatsiyno-telekomunikatsiynyykh. Document 80/94-BP, valid, current version — Revision on April 19, 2014, on the basis of 1170-VII. *Electronic source*: <http://zakon2.rada.gov.ua/laws/show/80/94-%D0%B2%D1%80/?lang=en>, accessed: 5.10.2019.

⁹ Pro operativno-rozshukovu diyal'nist'. Document 2135-XII, valid, current version — Revision on August 2, 2018, on the basis of 2505-VIII. *Electronic source*: <http://zakon3.rada.gov.ua/laws/show/2135-12/?lang=en>, accessed: 8.10.2019.

¹⁰ Pro dostup do publichnoyi informatsiyi. Document 2939-VI, valid, current version — Revision on May 1, 2015, on the basis of 319-VIII. *Electronic source*: <http://zakon5.rada.gov.ua/laws/show/2939-17?lang=en>, accessed: 9.10.2019.

¹¹ Pro zakhyst personal'nykh danykh. Document 2297-VI, valid, current version — Revision on January 30, 2018, on the basis of 2168-VIII. *Electronic source*: <http://zakon2.rada.gov.ua/laws/show/2297-17?lang=en>, accessed: 9.10.2019.

¹² Pro telekomunikatsiyi. Document 1280-IV, valid, current version — Revision on December 18, 2017, on the basis of 2059-VIII. *Electronic source*: <http://zakon5.rada.gov.ua/laws/show/1280-15?lang=en>, accessed: 11.10.2019.

It is, of course, the Constitution of Ukraine that heads the hierarchy of legal acts regulating social relations in the aforementioned sphere. In our opinion, the starting point should be considered Art. 17, which provides that the protection of the sovereignty and territorial integrity of Ukraine, and ensuring its economic and information security, are the most important functions of the state; the concern of the entire Ukrainian people. No less important is the provision of Art. 9 of the Constitution of Ukraine, which states that Ukraine recognises the priority of universal values, and respects the generally accepted principles of international law. In addition, the Constitution of Ukraine specifies another set of human rights and freedoms that determine its legal status in the field of information relations. The linchpin in this aspect, of course, are the norms of articles 31, 32 and 34. The norms of articles 31 and 32 of the Constitution provide a person with a number of rights to take certain actions: to familiarise themselves with information about themselves in the public authorities, to appeal to a court with the requirement to stop illegal actions with information about themselves, or with such information that harms the legitimate interests of a person. It is important to note that all of the norms of articles 31 and 32 of the Constitution are primarily directed at limiting the interference of information by the state and third parties in private personal affairs. These norms are, first of all, protective in relation to specific legal relations in the information sphere¹³.

First of all, the Law of Ukraine 'On National Police' plays an important role in the normative regulation of informational and informational-analytical activities of the Ukrainian police, since this legislative act provides for the granting of authority in the sphere of information circulation, informational-analytical support, and the formation and use of information resources. In particular, Art. 25 of this Law states that the police within the framework of informational-analytical activities: forms the databases (banks of the data), which are part of the unified information system of the Ministry of Internal Affairs of Ukraine; uses the databases (banks) of the Ministry of Internal Affairs of Ukraine and other bodies of state power; performs information searches, carries out informational-analytical work, and carries out informational interaction with other bodies of state power of Ukraine, and law enforcement agencies of foreign countries and international organisations. In addition, the police can create their own databases that are necessary to ensure the daily activities of the police (agencies, institutions) in the field of labour, financial, managerial relations, document circulation, as well as interagency informational-analytical systems necessary for the fulfillment of the powers entrusted to it. As for the powers of the police in the field of information resource formation, they are defined in Art. 26 of this Law.

By providing relevant powers to the National Police in the field of informational and information-analytical activities, the legislator in Art. 28 also established certain limitations on the work with information resources, and liability for their illegal use.

Next to be considered is the Law of Ukraine 'On Information', which is the main regulatory legal act in the field of regulation of information relations in Ukraine,

¹³ Senyk S.V., Senyk V.V., *Konstytutsiyni prava i svobody yak umova informatsiynoyi bezpeky lyudyny. Suchasnyy konstytutsionalizm: problemy teoriiy ta praktyky (do 20-yi richnytsi Konstytutsiyi Ukrainy): materialy naukovoho seminaru. 24 chervnya 2016. Lviv, 2017, p. 286.*

which establishes the basic legal principles of obtaining, using, disseminating, and storing information, as well as a system of information, its sources, access to information and its protection.

According to Art. 2 of this Law, the main aspects of information relations in the activities of the units of the National Police of Ukraine should be the legitimacy of obtaining, using, disseminating, storing, and protecting information; its credibility and completeness; and the protection of the person from interference in their personal and family life. Using the constitutional principles, the Law of Ukraine 'On Information' also allows (Art. 6, Cl. 1) restriction of the rights to information in the interests of national security, territorial integrity, or public order in order to prevent disturbances or crimes, to prevent the disclosure of information received in confidence, and to maintain the authority and impartiality of justice.

The Law of Ukraine 'On Information', in Art. 9, establishes an exhaustive list of the main types of information activities, which include the creation, collection, reception, storage, use, distribution, and protection of information, and divides information in terms of access into two groups: 1) open; 2) with restricted access. It is noted that any information is open, except that which is assigned by law to information with restricted access (Art. 20). In accordance with Art. 21, restricted information includes: confidential, secret, and service information.

In order to regulate regulatory and legal relations in the society which are related to the processing of information classified as state secrets, the classification and declassification of its carriers, and the protection of state secrets, the provisions of the Law of Ukraine 'On State Secrets' enter into force. According to Art. 6 of this Law, the National Police of Ukraine, as an executor of operative and investigative powers, exercises its rights 'taking into account the restrictions established in the interests of the national security of Ukraine'. The law (section III) also defines the secrecy of information. In addition, it should be noted that this law regulates the main organisational and legal measures for the protection of state secrets (Art. 18).

Importance is assigned to the Law of Ukraine 'On the protection of information in information and telecommunication systems' in today's conditions of development of scientific and technological progress in the activities of the units of the National Police. The given normative act establishes the basic principles of regulation of legal relations concerning the protection of information in automated systems, taking into account the conditions of observance of the proprietary rights of citizens of Ukraine and legal entities to information, and access rights to it. This Law is interesting because its effect extends to any information that is processed in information and telecommunication systems.

The next legal act regulating informational activities at the National Police is the Law of Ukraine 'On Operational and Investigative Activity'. The norms of this law contain information that defines the direct content of operational and search activities, and is a regulator of activities aimed at obtaining and efficiently using operational intelligence information for combating crime.

In this Law, it is interesting that for the purpose of obtaining information, the legislator grants the units that carry out operative–search activities, exclusive rights (Art. 8), which include, in particular, the receipt of information by means of special technical means of operational appointment, automated information systems, etc.

Also, an important legal act in the field of information activities of the National Police is the Law of Ukraine 'On Access to Public Information', which in Art. 5 stipulates that access to information is ensured through the systematic and prompt disclosure of information in official publications; on official websites on the Internet; on a single state web portal of open data; on information stands; and any other way; providing information on information requests. The implementation of this provision by the National Police of Ukraine can be seen on official websites that cover resonance events, crimes, and other activities of the National Police.

An equally important role in the work of the National Police is played by the Law of Ukraine on 'Protection of Personal Data', since according to Art. 4 of this Law, the National Police, in connection with the specifics of its activities, is the owner and manager of personal data, which obliges it to comply with the general and special requirements for the processing of personal data specified in Art. 6 and Art. 7. However, it should be noted that Part 1 of Art. 25 grants the National Police the right to restrict the actions of articles 6 and 7 of this Law in 'cases provided by law, to the extent necessary in a democratic society in the interests of national security, economic welfare, or the protection of the rights and freedoms of the subjects of the personal data or other persons'.

Conclusions

The list of legislative acts (Laws of Ukraine) considered and analysed by us is not final and exhaustive. In the activities of the units of the National Police of Ukraine, which carry out informational and informational-analytical work, the norms and other laws of Ukraine are applied. However, it is the abovementioned normative legal acts that form the basis for regulatory regulation of the activities of the National Police of Ukraine in the area of circulation of information resources.

Also, the analysis of the above normative legal acts allows one to distinguish among them those which are fundamental, that is, those which are the basis for the further development of other normative documents (orders, instructions) that regulate the informational and informational-analytical activities of the units of the National Police of Ukraine. Such fundamental laws should include: 1) the Constitution of Ukraine; 2) Laws of Ukraine 'On National Police'; and 3) The Law of Ukraine 'On Information'. The other considered laws are derivative, and are based on the stated basic laws.

The results of the study also enable us to draw a number of conclusions and argue that the implementation and strict adherence to the legislative norms in the field of informational and informational-analytical support of the activities of the National Police of Ukraine will promote the observance of human and civil rights and freedoms in the activities of the police; observance of the principles of rule of law; the establishment of standards for this type of activity to the relevant standards of law enforcement agencies of European states; ensuring effective coordination, both between separate units of the National Police, and between the National Police and other law-enforcement structures of Ukraine and European states; a qualitatively new approach to personnel training for the units of the National Police; the establishment of trust on the part of Ukrainian society in the

activities of the National Police, and the formation of positive public opinion, which is one of the important criteria for assessing the activity of law enforcement agencies of Ukraine.

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Streszczenie. W artykule przeanalizowano wiele ustaw Ukrainy, które są podstawą do opracowania ponadnormatywnych aktów prawnych z zakresu działalności informacyjnej oraz informacyjno-analitycznej Policji Narodowej Ukrainy w celu ustalenia związku pomiędzy normami prawnymi a regulowanymi stosunkami społecznymi. Jest to zatem jeden z aspektów, które przyczynią się do osiągnięcia możliwie najwyższego poziomu prawnego i porządku w społeczeństwie. W wyniku przeprowadzonych badań zostały określone podstawowe i dodatkowe instrumenty prawne (prawa oparte na przepisach podstawowych i szczegółowych) w tym obszarze. Udowodniono, że wdrożenie i ścisłe przestrzeganie przedstawionych przepisów prawnych w zakresie informacji oraz wsparcie analityczne działań Policji Narodowej Ukrainy przyczyni się do dostosowania standardów tego typu działalności do odpowiednich standardów organów ścigania państw europejskich oraz do zapewnienia skutecznej współpracy zarówno pomiędzy poszczególnymi jednostkami Policji Narodowej Ukrainy, jak i Policją Narodową z innymi organami ścigania Ukrainy i państw europejskich, a także przyczyni się do budowania zaufania wspólnoty europejskiej do działań Policji Narodowej, co jest niezwykle ważnym kryterium oceny działalności organów ścigania Ukrainy.

Zusammenfassung. In dem Artikel wird eine Reihe von Gesetzen der Ukraine analysiert, die die Grundlage für die Entwicklung von subnormativen Rechtsakten im Bereich der informationellen und informationsanalytischen Tätigkeit der Nationalen Polizei der Ukraine bilden, um eine Verbindung zwischen den Rechtsnormen und den geregelten sozialen Beziehungen herzustellen. Es handelt sich somit um einen der Aspekte, die zur Erreichung des höchstmöglichen Niveaus von Recht und Ordnung in der Gesellschaft beitragen werden. Als Ergebnis der Forschung wurden die zugrundeliegenden Gesetze und Derivate (Gesetze, die auf den grundlegenden und spezifischen Bestimmungen basieren) in diesem Bereich identifiziert. Es ist erwiesen, dass die Realisierung und strikte Einhaltung der betrachteten Rechtsnormen im Bereich der informatorischen und informationsanalytischen Unterstützung der Tätigkeit der Nationalen Polizei der Ukraine dazu beitragen wird, die Standards dieser Art von Tätigkeit an die einschlägigen Standards der Strafverfolgungsbehörden europäischer Staaten anzugleichen, eine wirksame Interaktion zwischen den einzelnen Einheiten sowohl der Nationalen Polizei der Ukraine als auch zwischen der Nationalen Polizei und anderen Strafverfolgungsbehörden der Ukraine und europäischer Staaten zu gewährleisten und das Vertrauen der europäischen Gemeinschaft in die Tätigkeit der Nationalen Polizei aufzubauen, was ein äußerst wichtiges Kriterium für die Beurteilung der Tätigkeit der Strafverfolgungsbehörden in der Ukraine ist.

Резюме. В статье проведен анализ ряда законов Украины, которые являются основой для разработки подзаконных нормативно-правовых актов в сфере информационной и информационно-аналитической деятельности Национальной полиции Украины, с целью установления связи между правовыми нормами и общественными отношениями, которые ими регулируются. Это составляет один из аспектов, который будет способствовать достижению максимально возможного уровня законности и правопорядка в обществе. В результате исследования, определены также основополагающие и производные законы (законы, основанные на основополагающих, которые уточняют отдельные их положения) в данной сфере. Доказано, что реализация и неукоснительное соблюдение рассмотренных законодательных норм в сфере информационного и информационно-аналитического обеспечения деятельности Национальной полиции Украины будет способствовать адаптации стандартов данного вида деятельности к соответствующим стандартам правоохранительных органов европейских государств, обеспечению эффективного взаимодействия между отдельными подразделениями Национальной полиции Украины, а также между Национальной полицией и другими правоохранительными структурами Украины и европейских государств. Это поспособствует установлению доверия европейского сообщества к деятельности Национальной полиции, что является чрезвычайно важным критерием оценки деятельности правоохранительных органов Украины.