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## PRESENT STATE OF ANTI-DISCRIMINATION POLICY IN UKRAINE UNDER THE TRANSFORMATION OF POLICE ACTIVITY

**Abstract.** The *purpose of the article* is to reveal the present state of anti-discrimination policy in Ukraine under the transformation of police activity.

**Results.** The article covers the key issues of making national anti-discrimination policy, considering the specificity of reforming and developing the law enforcement function of the state, in particular, the provision of high-quality police services. The strategic documents reflecting content and areas of realization of police competence in this field are classified and described. It is noted that establishment of a democratic state is possible only through the formation of civil society based on the principles of the rule of law and human and civil rights. The duty to effectively involve interested members of the population in the management of public affairs and human-centered functioning is entrusted to public authority.

**Conclusions.** It is concluded that nowadays, four main levels of public anti-discrimination policy in Ukraine, generally interrelated and complementary, can be found in the relevant strategic documents of state significance. They reflect the basic content of the exercise of police competence in this field, taking into account other socially significant tasks of the law enforcement function of the state, such as: the first level is the area of public policy on the development of civil society and mechanisms for the realization and protection of subjective rights of the population; the second level is the area of public policy regarding the development of the scope of the principle of non-discrimination for specific categories of the population; the third level is the area of public policy on regional development, reform of local self-government and territorial organization of power; the fourth level is the area of public policy on reforming the law enforcement sector of the state.

**Key words:** anti-discrimination policy, civil society, National Police of Ukraine, human and civil rights, law enforcement function, non-discrimination principle, strategic documents.

### 1. Introduction

The functioning of all the elements of the national legal mechanism for preventing and combating discrimination is due to public policy established in this field. Consolidated and conceptual guidelines on the fundamental areas of public authority make it possible to effectively implement international human rights prescriptions and prevent the violation or restriction of rights, freedoms and legitimate interests of the individual on any grounds.

The Ministry of Internal Affairs of Ukraine and the National Police of Ukraine are actors authorised to exercise the general powers of the central executive authorities to combat discrimination. To a large extent, they are entrusted by law and entire society with the vital task of implementing relevant public policy. Consequently, what is needed now

is a clear specification of the issue in terms of domestic policing.

The *purpose of the article* is to clarify the present state of Ukraine's anti-discrimination policy under the transformation of police activities.

### 2. Features of state anti-discrimination policy

Currently, state anti-discrimination policy in Ukraine has four levels, the first is of a fundamental role and is a basis for the development and sustainable existence of democracy and all its institutions. Without an established civil society, which is fully provided with civilized means and ways for the exercise and protection of the rights, freedoms and legitimate interests of the individual, it is impossible to combat discrimination effectively. Only a high level of legal culture, legal awareness, equal interaction with

citizens and other important factors can create in society a common plane of mutual respect and treatment of all people as equals.

Over recent years, the above mentioned has been reconsidered by the Ukrainian authorities and detailed in the National Strategy for promoting the development of civil society in Ukraine for 2016–2020, approved by № 68/2016 Decree of the President of Ukraine as of February 26, 2016, aimed at creating a favourable environment for the development of civil society and establishment of effective cooperation between the public authorities and local authorities based on partnership; additional opportunities for the realization and protection of civil rights and freedoms and for meeting public interests through the use of forms of participatory democracy, public initiative and self-organization (Decree of the President of Ukraine on promoting the development of civil society in Ukraine, 2016).

This clearly underscores the above-mentioned statement that the establishment of a democratic state is possible only through the formation of civil society based on the principles of the rule of law and human and civil rights. The duty to effectively involve interested members of the population in the management of public affairs and human-centered functioning is entrusted to public authority.

It has been recently updated the most important strategic document, the National Human Rights Strategy approved by the Presidential Decree № 119/2021 as of March 24, 2021, which is aimed at ensuring the primacy of human rights and freedoms as a determining factor in making public policy and the exercise of powers by public authorities. Its implementation should result in a systematic approach to human rights and freedoms, the coordination of the activities of authorities, civil society institutions and economic entities, and the establishment of an effective mechanism for the realization and protection of human rights and freedoms, elimination of systemic shortcomings underlying the violations identified by the European Court of Justice (Decree of the President of Ukraine on the National Strategy in the Sphere of Human Rights, 2021).

An analysis of this legal regulation shows that the legislator has adopted a well-established concept of the civilized world: failure to respect the non-discrimination principle is a direct violation of human and civil rights and freedoms. The public authorities should build such a functional model, which will allow an effective counteraction to discriminatory manifestations within the state's framework for protection of legal rights. Moreover, the Strategy is based on a number of principles, among

which is equality and non-discrimination in ensuring human and civil rights and freedoms, which is provided for in a separate paragraph 8 Prevention and Combating Discrimination.

The second level covers the area of public policy regarding the development of the scope of the non-discrimination principle for specific categories of the population, especially national minorities, women and persons with disabilities. Such areas are now under the focus of the main vectors of making public policy.

The Law of Ukraine “On National Minorities in Ukraine” defines that our state guarantees national minorities (groups of Ukrainian citizens, who are not Ukrainians by nationality, show a sense of national self-awareness and community among themselves), regardless of their national origin, equal political, social, economic and cultural rights and freedoms, supports the development of national identity and expression. The central executive authorities authorized by the President of Ukraine are responsible for making public policy on inter-ethnic relations and protecting the rights of national minorities (Law of Ukraine “On National Minorities in Ukraine”, 1992).

Negative stereotypes found in society regarding persons belonging to the Roma national minority complicate the participation of their representatives in the public life of territorial communities. This deepens exclusion and leads to discriminatory practices, in particular, the dissemination of utterances intended to degrade or to call for violence against individuals or groups of individuals due to their real or perceived membership of a particular nationality, religion, sex or other characteristics and have a negative impact on the enjoyment of human rights (Order of the Cabinet of Ministers of Ukraine “On Approval of the Strategy for Promoting the Realization of the Rights and Opportunities of Persons Belonging to the Roma National Minority in Ukrainian Society until 2030”, 2021).

Recently, in the international arena, the promotion of gender equality has been increasingly developed, affecting the relevant component of Ukraine's State anti-discrimination policy. In view of the fact that members of the police force, especially district police officers, are one of the key actors in preventing and combating domestic violence and gender violence, in which, according to official statistics, the absolute majority are women, the National Action Plan for the Implementation of Recommendations provided for in the concluding observations of the Committee on the Elimination of Discrimination against Women for Ukraine's eighth periodic report on the implementation of the Convention on the Elimination of All

Forms of Discrimination against Women up to 2021, approved by Order № 634 of the Cabinet of Ministers of Ukraine of September 5, 2010, underlines that this law enforcement body is of importance.

In particular, it is a matter of: priority to take measures to combat corruption and impunity effectively and to fulfil the previous commitment to prevent, investigate, prosecute and punish violence against women by state and non-state actors; systematic training on human rights, in particular, women's rights, for all law enforcement officers, introduction and implementation of a code of conduct; appropriate training for investigators; police officers to increase their capacity to investigate, document and prosecute perpetrators of sexual violence, etc. (Order of the Cabinet of Ministers of Ukraine "On approval of the National Action Plan to implement the recommendations set out in the concluding observations of the UN Committee on the Elimination of Discrimination against Women to the eighth periodic report of Ukraine on implementation of the Convention on the Elimination of All Forms of Discrimination against Women", 2018).

The third level is the area of public policy on regional development, reform of local self-government and territorial organization of power, which is also the leading element in Ukraine's public anti-discrimination policy in view of the police performance in combating discrimination. For example, district police officers will be able to perform obligations duly and to contribute properly to the exercise and protection of the subjective rights of citizens, provided well-developed amalgamated territorial communities, where each member is objectively perceived as an equal member, there is a strong tradition of mutual assistance and support, etc.

The corresponding area of national policy is among strategic documents:

1) The State Strategy for Regional Development up to 2020, approved by Decision № 385 of the Cabinet of Ministers of August 6, 2014, defines the objectives of public regional policy and the main tasks of central and local executive authorities and local self-government bodies aimed at achieving those objectives; implies the coherence of such policy with other public policies aimed at territorial development. The advisability of preparing a new document in accordance with European standards for a period synchronized with EU planning and budget cycles, taking into account the influence of such global spatial development trends, which Ukraine cannot avoid: urbanization, depopulation of villages, change of settlement system (Resolution of the Cabinet of Ministers of Ukraine "On approval

of the State Strategy for Regional Development until 2020", 2014);

2) The Concept for reforming local self-government and territorial organization of power in Ukraine, approved by the Order № 333-p of the Cabinet of Ministers of Ukraine of April 1, 2014, determines the areas, mechanisms and terms for the formation of effective local self-government and territorial organization of power for the establishment and maintenance of a full-fledged living environment for citizens, and for the provision of high-quality and accessible public services; establishment of institutions of direct people's power, meeting the interests of citizens in the territory concerned, harmonization of the interests of the state and territorial communities (Order of the Cabinet of Ministers of Ukraine "On approval of the Concept of reforming local self-government and territorial organization of power in Ukraine", 2014);

3) The Action plan for the implementation of a new stage of reforming local self-government and territorial organization of power in Ukraine for 2019–2021 approved by Order № 77-p of the Cabinet of Ministers as of January 23, 2019 defines the components of organizational and legal, financial, logistical and other support for the implementation of the new territorial framework for the activities of the authorities at the community and district levels; the transfer (decentralization) of executive power to local self-government and its distribution on the basis of the principle of subsidiarity; an appropriate resource base for the exercise of local self-government authority; maintenance of an effective system of service in local self-government bodies; development of forms of direct people's power: elections and referendums (Order of the Cabinet of Ministers of Ukraine "On approval of the action plan for the implementation of a new stage of reforming local self-government and territorial organization of power in Ukraine for 2019–2021", 2019).

### **3. Reform of the state law enforcement sector, the area of public policy**

As well as the above-mentioned vectors for providing a set of highly effective human rights tools, the fourth level, implying the area of public policy on reforming the law enforcement sector of the state, is equally important. On the other hand, this level is significantly functional, without which it is virtually impossible to implement the national legal mechanism for preventing and combating discrimination.

In the case of the police, this is because, even if hypothetically idealistic democratic systems of the state and society based on the best international practices was made, with unprofessional, corrupt police officers the protection

of human and civil rights and freedoms would turn into distortion. Indeed, the violation of the principles of the rule of law and legality will not allow the development of the principles of justice and equality at all levels of society.

This is based on the ongoing processes of reform of all public administration in the country, since good governance is a prerequisite for European integration. In order to ensure an effective making of public policy in various fields, it is planned to establish a professional, efficient, effective and accountable system of central executive authorities. Improvement of the quality of administrative services, the legality and predictability of administrative actions enhance the position of the state in international ratings and are also important for increasing citizens' confidence in the state. The Strategy for public administration reform in Ukraine for 2022–2025, approved by Order № 831-p of the Cabinet of Ministers of July 21, 2021 (Order of the Cabinet of Ministers of Ukraine “On some issues of public administration reform in Ukraine”, 2021) is aimed to build a capable service and digital state in Ukraine that ensures the protection of the rights and interests of citizens on the basis of European standards and experience.

The public administration reform, based on the principle of human-centrism, permeates the entire modern chain of executive authority. The Strategy for the development of bodies of the Ministry of Internal Affairs up to 2020, approved by Order № 1023 of the Cabinet of Ministers as of November 15, 2017, proclaims the observance and safeguarding of human rights and fundamental freedoms as a key value in the activities of the bodies of the Ministry of Internal Affairs (Order of the Cabinet of Ministers of Ukraine “On approval of the Strat-

egy for the development of the system bodies of the Ministry of Internal Affairs for the period up to 2020”, 2017). Moreover, the effective making of public anti-corruption policy is an important component of police reform. In this regard, the main bodies of the relevant national policy are: Law of Ukraine “On the fundamentals of state anti-corruption policy in Ukraine (Anti-Corruption Strategy) for 2014–2017”, the Strategy of communications in prevention and combating corruption, Anti-corruption programme of the Ministry of Internal Affairs of Ukraine for 2020–2022 approved by Order № 84 of the Ministry of Internal Affairs of Ukraine as of January 31, 2020, the Anti-corruption programme of the National Police of Ukraine for 2019–2021 approved by Order № 246 of the National Police of Ukraine as of March 20, 2019.

#### 4. Conclusions

Nowadays, four main levels of public anti-discrimination policy in Ukraine, generally interrelated and complementary, can be found in the relevant strategic documents of state significance. They reflect the basic content of the exercise of police competence in this field, taking into account other socially significant tasks of the law enforcement function of the state, such as: the first level is the area of public policy on the development of civil society and mechanisms for the realization and protection of subjective rights of the population; the second level is the area of public policy regarding the development of the scope of the principle of non-discrimination for specific categories of the population; the third level is the area of public policy on regional development, reform of local self-government and territorial organization of power; the fourth level is the area of public policy on reforming the law enforcement sector of the state.

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## СУЧАСНИЙ СТАН АНТИДИСКРИМІНАЦІЙНОЇ ПОЛІТИКИ УКРАЇНИ В УМОВАХ ТРАНСФОРМАЦІЇ СФЕРИ ПОЛІЦЕЙСЬКОЇ ДІЯЛЬНОСТІ

**Анотація.** *Метою статті* є з'ясування сучасного стану антидискримінаційної політики України в умовах трансформації сфери поліцейської діяльності.

**Результати.** У статті розкрито головні питання формування й реалізації національної антидискримінаційної політики з урахуванням специфіки широкого реформування та розвитку правоохоронної функції держави, зокрема надання якісних поліцейських послуг. Здійснено класифікацію та охарактеризовано відповідні стратегічні нормативно-правові акти, які розкривають основний зміст і напрями реалізації компетенції поліції в зазначеній сфері. Наголошено на тому, що побудова демократичної держави можлива лише через утвердження громадянського суспільства, яке існує на принципах верховенства права та забезпечення в найкращий спосіб прав людини і громадянина. На публічну владу покладено обов'язок із дієвого залучення зацікавлених представників населення до управління державними справами, а також функціонування всієї владної вертикалі виключно в межах концепції людиноцентризму.

**Висновки.** Зроблено висновок, що на сьогодні доцільно виокремити чотири основні рівні державної антидискримінаційної політики України, які загалом мають взаємопов'язаний і взаємодоповнюючий характер та розкриваються у відповідних стратегічних документах державного значення. Вони розкривають основний зміст реалізації компетенції поліції в зазначеній сфері з урахуванням інших соціально значимих завдань правоохоронної функції держави, зокрема: перший рівень – напрям державної політики щодо розвитку громадянського суспільства та механізмів реалізації й захисту суб'єктивних прав населення; другий рівень – напрям державної політики щодо

розвитку сфери дотримання принципу недискримінації за окремими категоріями населення; третій рівень – напрям державної політики щодо регіонального розвитку, реформування місцевого самоврядування та територіальної організації влади; четвертий рівень – напрям державної політики щодо реформування правоохоронної сфери держави.

**Ключові слова:** антидискримінаційна політика, громадянське суспільство, Національна поліція України, права людини та громадянина, правоохоронна функція, принцип недискримінації, стратегічні документи.

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