

UDC 342; 351.74

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Vashchilin, Roman (2022). The system of legal regulations ensuring public control over police activities. *Entrepreneurship, Economy and Law*, 11, 19–24, doi: <https://doi.org/10.32849/2663-5313/2022.11.04>

## THE SYSTEM OF LEGAL REGULATIONS ENSURING PUBLIC CONTROL OVER POLICE ACTIVITIES

**Abstract. Purpose.** The purpose of the article is to establish the system of legal regulations which constitute the institution of public control over police activities and to outline the fundamental regulations which contain provisions governing these social relations. **Results.** The study examines the structure or possible options for grouping the elements of the system of legal regulations that ensure public control over police activities. The author provides basic information on the content of the concept of legal regulation, its characteristic features (such regulations contain rules of law (as opposed to individual or law application ones), i.e., they establish, amend or repeal certain legal provisions intended for repeated, regular and systematic application, and their effect does not end after a single performance by the object to which these provisions apply). The author focuses on the different perspectives on the classification of legal regulations (according to the criterion of rule-makers; depending on the nature of the will of public authorities, i.e. these are law-making documents that establish, amend or repeal legal provisions; by branches of law; by time of validity; by rule-makers; by territorial principle of validity; by the date of commencement; by the range of persons to whom the act applies; by legal force, etc.) **Conclusions.** The article summarises the scientific and theoretical work of authors from various scientific branches of law on the system of legal regulations ensuring public control over police activities and presents a system where the first and main grouping is whether the regulations are domestic or international. International instruments are grouped according to the content of the relations they regulate, namely, those containing provisions on fundamental human and civil rights and freedoms to exercise the right to control and influence public authorities and those containing provisions relating directly to the activities of law enforcement agencies, in particular, the police. National law includes Laws that define the general rights of citizens and civil society institutions to exercise their rights to control and influence the activities of public authorities, and to power in the state in general, and Laws, provisions thereof directly related to public control of police activities, as well as bylaws defining forms and types of public control, governing certain procedural issues of their implementation, and bylaws related to public control of police activities specifically.

**Key words:** control, legal regulation, classification, legal force, law, bylaw.

### 1. Introduction

The National Police of Ukraine is a central executive body, and its activities are based on some fundamental principles, including the principle of legality and the principle of interaction with the public based on partnership. The principle of legality stipulates that police officers and the National Police of Ukraine in general should act exclusively within the scope of their powers under the legislation in force. Therefore, the effectiveness of the police in performing its tasks depends to a large extent on the legal and regulatory framework for the National Police of Ukraine. That is why the issue of regulatory and legal framework for public control is relevant and requires comprehensive coverage. At the same time, one of the priorities for the development of the police

is to increase the level of trust of the society and citizens of Ukraine. In turn, interaction between the police and the public based on partnership is impossible without the participation and influence of society and public institutions on the activities of the National Police of Ukraine, which requires an effective and efficient institution of public control over the activities of the police.

The issue of regulatory and legal framework for public control is considered by a number of Ukrainian researchers, including: V. Averianov, O. Andriiko, D. Bakhrakh, Yu. Byt'iak, V. Vasylenko, S. Honcharuk, M. Kovaliv, V. Kravchuk, L. Kuzo, O. Poklad, O. Tereshchuk, T. Filipenko, O. Yunin, and others.

The purpose of the article is to establish the system of legal regulations which consti-

tute the institution of public control over police activities and to outline the fundamental regulations which contain provisions governing these social relations.

## 2. Content of the concept of normative legal act

In the context of the research topic, the issues of the content of the concept of a legal regulation should be under the focus, the classification and general system of legal regulations provisions thereof regulate social relations in the field of public control of police activities should be determined.

Any social relations are regulated via specific legal means and methods of power influence on the participants in social relations. This is due to the functioning of the organisational and regulatory mechanism for public control of the police activities. The main element of such a mechanism is legal regulation, their totality, and the provisions of such regulations govern these social relations. In the literature, a legal regulation may be considered as an official written document adopted by a public authority that establishes, amends, terminates or specifies a provision of law. Legal regulations are grouped into legislative regulations (in the narrow sense, these are exclusively laws) and bylaws (regulations of the President, the Cabinet of Ministers, central executive authorities, and other public administrations). A legal regulation has a number of characteristics: it is mandatory (the only difference is the range of those who are obliged to comply with the provisions of such an act), it is a direct reflection of the will of the actor that adopts it, it shall have a documentary form of consolidation, its enforcement is guaranteed by state power, in particular by coercion (Shemshuchenko, 1999, p. 41).

Legal regulations, legal provisions thereof form the basis of the organisational and regulatory mechanism for relations in the field of public control of police activities, differ in many classifications and features such as legal force, form, nature, etc. Without doubts, the main legal regulation in Ukraine is the law. Laws contain fundamental, basic legal prescriptions regulating certain social relations, and other legal regulations are based on the provisions of laws. Bylaws based on the provisions of the Laws contain provisions governing the implementation of legislative prescriptions in the activities of central executive authorities, etc., and regulate the performance of tasks and duties by such bodies (Aristova, 2010, p. 13). The provisions of law in legal regulations are generally binding state prescriptions of a permanent or temporary nature and are intended for repeated application (Koziubra, 2016, p. 154).

According to administrative law researchers, the characteristic features of legal regula-

tions are as follows: such regulations contain provisions of law (such regulations contain provisions of law (as opposed to individual or law application ones), i.e., they establish, amend or repeal certain legal provisions intended for repeated, regular and systematic application, and their effect does not end after a one-time performance by the object to which these provisions apply) (Armash, Bandurka, Basov, Basova, Bevzenko, 2009, p. 410).

Legal regulations enable the state to establish rules for regulating certain social relations, including public control of police activities, by adopting legal provisions. Legal regulations are an important element of the overall structure of administrative and legal framework for public control of police activities. It should be noted that most of the social relations in the state, especially those of a public nature, are subject to legal regulations. A legal regulation can also be considered as an external form of the legal system in Ukraine (Shemshuchenko, 1999, p. 41).

Therefore, if legal regulations are important for regulating social relations in the field of public control of police activities, an effective influence on such relations can be exercised only in the presence of a certain system of legislative regulations and bylaw, the provisions thereof constitute the institution of public control of the police activities. In order to make a system of regulations, it is necessary to classify them. For example, M. Vylehzhanina identifies the following classification features of legal regulations: depending on the nature of the will of state bodies, i.e., these are documents of law-making that establish, amend or repeal legal provisions; by branches of law, provisions regulate certain social relations, but the same law or bylaw may regulate relations in different branches of law at the same time; regulations are classified by the time of their validity; by rule-makers (regulations of referendums, the Verkhovna Rada of Ukraine, the President, the Minister of Internal Affairs, etc.); by the territorial principle of action, i.e., all-Ukrainian, regional, local, etc.; by the date of commencement of action; by the range of persons to whom the act applies; by legal force, i.e. the Constitution and constitutional laws, laws, bylaws (Vylehzhanina, 2011, pp. 35–40). Among classification criteria, D. Pryimachenko prioritises the scope of application of legal regulations to the activities of a public authority, and accordingly, he establishes a grouping of regulations into regulations of domestic legislation and international legal regulations in the form of treaties and agreements, declarations, resolutions, etc. International regulations are of great importance, as compliance with international standards (especially those of the European Union) is a key to

the successful process of European integration and the building of a democratic legal state in Ukraine, although not all of them are legally binding or have been ratified in Ukraine, it is still a significant achievement if the Ukrainian legislation in force and bylaws are in line with the best international practice. Domestic regulations include the laws and bylaws mentioned above. International regulations that contain general provisions for the exercise of citizens' rights, as well as those related to the control of police activities should be highlighted; international regulations, the so-called doctrinal regulations that define certain vectors of development of law enforcement agencies in democratic states, in particular, the police, and the development of interaction between the police and civil society (such as Community Policing), should be identified (Prymachenko, 2007, pp. 176-177).

According to L. Honchar, the criterion of rule-makers enables to distinguish regulations adopted by the highest public authorities (Verkhovna Rada of Ukraine, the President, the Cabinet of Ministers of Ukraine); regulations of central executive authorities (at the level of the Ministry or other central executive authorities such as the State Migration Service, etc.); regulations of structural elements of the system of a particular public authority; regulations of local public administrations (regional state administrations, etc.). Moreover, L. Honchar considers it necessary to divide legal regulations by the form of their adoption: constitutional laws; ordinary laws or codified laws; resolutions of the legislative body; resolutions of the Cabinet of Ministers of Ukraine; Presidential decrees; regulations of central executive authorities and other public authorities (Koziubra, 2016, pp. 43-44). Following P. Rabinovych, the classification of legal regulations should rely on a hierarchal system of such regulations, of the field of legal regulation and of the structure of the state (Rabinovych, 2007, pp. 125-126).

L. Luts constructs the system according to: 1) the lawmaker - adopted by the people, the head of the state, legislative body, executive body, supervisory body, local government, head of an enterprise, institution or organisation or an individual employer; 2) the nature and scope of action - legal regulations of general effect, legal regulations of exclusive effect, legal regulations of limited effect; 3) legal force - laws and by-laws (Luts, 2007, p. 194). Researcher L. Lehin calls the system of legal regulations differentiated and hierarchical, where the basis is made up of laws and bylaws, and hence builds the following system: Laws of Ukraine: 1) the Constitution of Ukraine as

the Fundamental Law of Ukraine and laws amending the Constitution of Ukraine; 2) laws of Ukraine. By-laws of Ukraine: 1) resolutions of the Verkhovna Rada of Ukraine of regulatory and legal content; 2) decrees of the President of Ukraine; 3) resolutions and orders of the Cabinet of Ministers of Ukraine; 4) orders of ministries; 5) orders of central executive authorities and other legal regulations adopted by them that affect the rights and obligations of man and of the citizen; 6) orders of heads of local state administrations of regulatory and legal content; 7) decisions of local referendums of regulatory and legal content; 8) decisions of local councils and their executive bodies of regulatory and legal content; 9) orders of rural, township and city heads, heads of district councils in cities, regional councils of regulatory and legal content; 10) local legal regulations (Lehin, 2017, pp. 130-131).

The review of the scientific and theoretical work of authors from various scientific fields and branches of law enables to build the system of legal regulations ensuring public control of police activities as follows: the first and main grouping is the affiliation of regulations to domestic law or international regulations.

International instruments can also be grouped according to certain criteria, such as whether they have been ratified by Ukraine, whether they are legally binding or exist in the form of recommendations, etc. We will group international regulations by the content of the relations they regulate, namely, those containing provisions on fundamental rights and freedoms of man and of the citizen to exercise the right to control and influence public authorities. Such regulations include: Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; European Convention on Human Rights; Standard Minimum Rules for the Treatment of Prisoners; Recommendation of the Committee of Ministers of the Council of Europe on the Legal Status of Non-Governmental Organisations in Europe, etc. (Tereshchuk, 2018, pp. 146-147).

The second group of international regulations includes those provisions thereof relate directly to the activities of law enforcement bodies, in particular the police: the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly in 1979; the Code of Conduct on Politico-Military Aspects of Security, adopted in 1994 to implement the provisions of the Charter for a New Europe and other OSCE security documents; the European Code of Police Ethics, adopted by the Committee of Minis-

ters of the Council of Europe in 2001; the Declaration on Police of 8 May 1979 (Tereshchuk, 2018, pp. 146-147). For example, the European Code of Police Ethics states that the police should be accountable to the state, citizens and their representatives. It should be subject to effective external control; State control of the police should be divided between the legislature, executive and judiciary (Recommendation Rec (2001) 10 of the Committee of Ministers to the member states of the Council of Europe "On the European Code of Police Ethics", 2001). The Code of Conduct on Politico-Military Aspects of Security states in paragraphs 20 and 21: "The participating States consider the democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security. They will further the integration of their armed forces with civil society as an important expression of democracy... Each participating State will at all times provide for and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy. Each participating State will provide controls to ensure that such authorities fulfil their constitutional and legal responsibilities. They will clearly define the roles and missions of such forces and their obligation to act solely within the constitutional framework" (Code of Conduct on Politico-Military Aspects of Security, 1994).

### 3. Classification of acts of national law

We primarily refer to the laws of Ukraine as regulations of national law, which are grouped into: Laws that define the general rights of citizens and civil society institutions to exercise their rights to control and influence the activities of public authorities and the government in general, and laws that directly relate to public control of the activities of the police.

- The first group of laws includes the Basic Law of Ukraine. Article 5 of the Constitution of Ukraine states that the bearer of sovereignty and the sole source of power in Ukraine is the people, who exercise power directly and through state authorities and local self-government bodies. Article 38 states that citizens have the right to participate in the administration of public affairs, Article 40 of the Constitution of Ukraine provides citizens with the right to address individual or collective petitions, or to personally recourse to state authorities, local self-government bodies and officials and employees of these bodies, who are obliged to consider the petitions, and to provide a substantiated reply within the period determined by law (Constitution of Ukraine, 1996). This group also includes: The Law "On Citizens' Appeals",

which provides that citizens of Ukraine have the right to address public authorities and officials in accordance with their duties with comments, complaints and suggestions (Article 1 of the Law); the laws "On Information", "On Access to Public Information", "On Public Associations" and others (Yunin, 2020, p. 172).

- The second group of laws includes the Law on the National Police and the Law on National Security of Ukraine. The Law on the National Police has a separate section on public control. This is Section VIII "Public Control of the Police". It should be noted that it combines the provisions of democratic civilian control of the police (the Verkhovna Rada of Ukraine can pass a resolution of no confidence in the heads of police bodies) and public control (control through civil society institutions, local self-government bodies) (Law of Ukraine About the National Police, 2015). Paragraph 5 of part 1 of the Law "On National Security of Ukraine" defines democratic civilian control as: "a set of legal, organisational, informational, personnel and other measures carried out in accordance with the Constitution and laws of Ukraine to ensure the rule of law, legitimacy, accountability, transparency of the security and defence sector bodies and other bodies activities thereof are related to the restriction of human rights and freedoms in cases determined by law, promotion of their effective operation and performance of their functions, strengthening the national security of Ukraine (Law of Ukraine On the National Security of Ukraine, 2018).

The next level is bylaws, mainly intended to contain provisions on the implementation of public control of police activities. For example, the resolutions of the Cabinet of Ministers of Ukraine "On Ensuring Public Participation in the Formation and Implementation of State Policy" and "On Approval of the Procedure for Facilitating Public Expertise of the Activities of Executive Authorities" define the forms and types of public control and regulate certain procedural issues of their implementation (Filipenko, 2020, p. 72).

The legal regulations that provide for public control of the activities of the police at the bylaw level are currently as follows: the Order of the Ministry of Internal Affairs of Ukraine "On organisation of work with requests for public information in the National Police of Ukraine"; the Order of the Ministry of Internal Affairs of Ukraine "On Approval of the Rules of Ethical Conduct of Police Officers"; the Order of the Ministry of Internal Affairs of Ukraine "On Approval of the Procedure for Consideration of Appeals and Organisation of Personal Reception of Citizens in

the Bodies and Units of the National Police of Ukraine" (Filipenko, 2020, pp. 72-73).

#### 4. Conclusions

Therefore, relying on the results of our research, we have come to the following conclusions:

1) the construction of a system of legal regulations provisions thereof constitute the institution of public control of police activities is rather conditional, as there are different approaches to classification and grouping of legal regulations. The review of a wide range of scientific and regulatory sources enables to establish the system of legal regulations provisions thereof constitute the institution of public control of police activities using and combining the criteria for the regulations to be classified as national law or international acts; by legal force and by the content of the relations regulated by the provisions of the regulations (regulations defining general aspects of public control and special regulations on the issues of public control of police activities);

2) the first and main grouping in the system of legal regulations is whether the regulations are domestic or international. International instruments are grouped according to the content of the relations they regulate, namely, those containing provisions on fundamental human

and civil rights and freedoms to exercise the right to control and influence public authorities (Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; European Convention on Human Rights; Standard Minimum Rules for the Treatment of Prisoners; Recommendation of the Committee of Ministers of the Council of Europe on the legal status of non-governmental organisations in Europe, etc.) and those containing provisions relating directly to the activities of law enforcement agencies, in particular, the police (Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly in 1979; Code of Conduct on Politico-Military Aspects of Security, etc.). National law includes Laws that define the general rights of citizens and civil society institutions to exercise their rights to control and influence the activities of public authorities, and to power in the state in general, and Laws, provisions thereof directly related to public control of police activities, as well as bylaws defining forms and types of public control, governing certain procedural issues of their implementation, and bylaws related to public control of police activities specifically.

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## СИСТЕМА НОРМАТИВНО-ПРАВОВИХ АКТІВ, ЯКІ ЗАБЕЗПЕЧУЮТЬ ГРОМАДСЬКИЙ КОНТРОЛЬ ЗА ДІЯЛЬНІСТЮ ПОЛІЦІЇ

**Анотація. Мета.** Метою статті є встановлення системи нормативно-правових актів, що становлять інститут громадського контролю за діяльністю поліції та окреслення фундаментальних актів, які містять норми, що регулюють зазначені суспільні відносини. **Результати.** У дослідженні розглядається структура або можливі варіанти групування елементів системи нормативно-правових актів, які забезпечують громадський контроль за діяльністю поліції. Наводиться основна інформація про зміст поняття нормативно-правового акта, його характерні ознаки (такі акти містять норми права, на відміну від індивідуальних або правозастосовних), тобто вони встановлюють, змінюють або скасовують певні правові норми, розраховані на багаторазове, регулярне і системне застосування, їх дія не завершується після одноразового виконання об'єктом, на якого поширюються ці норми). Акцентується увага на різних точках зору щодо класифікації нормативно-правових актів (за критерієм суб'єктів нормотворчості; залежно від характеру волевиявлення державних органів, себто це документи правотворчості, що встановлюють, змінюють або відмінюють норми права; за галузями права; за часом дії; за суб'єктами нормотворення; за територіальним принципом дії; за датою початку дії; за колом осіб, на яких акт поширюється; за юридичною силою та ін.). **Висновки.** У статті узагальнюється науковий теоретичний доробок авторів з різних наукових сфер і галузей права щодо системи нормативно-правових актів, які забезпечують громадський контроль за діяльністю поліції, і наведена система, де першим і основним поділом є приналежність актів до вітчизняного права або до міжнародних актів. Міжнародні акти поділяються за змістом тих відносин, які вони регулюють, а саме на ті, що містять норми щодо фундаментальних прав і свобод людини і громадянина із реалізації права на контроль і вплив за органами державної влади та акти, норми яких стосуються безпосередньо діяльності правоохоронних органів зокрема. До національного права належать закони, які визначають загальні права громадян, інститутів громадянського суспільства на реалізацію прав щодо контролю та впливу на діяльність органів державної влади, загалом на владу в державі та закони, норми яких стосуються безпосередньо громадського контролю за діяльністю поліції, а також підзаконні акти, що визначають форми і види громадського контролю, регулюють окремі процедурні питання їх здійснення, і підзаконні акти, що стосуються здійснення громадського контролю саме за діяльністю поліції.

**Ключові слова:** контроль, нормативно-правовий акт, класифікація, юридична сила, закон, підзаконний акт.

*The article was submitted 21.07.2022*

*The article was revised 11.08.2022*

*The article was accepted 30.08.2022*