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DOI <https://doi.org/10.32849/2663-5313/2022.3.03>**Yuri Zaika,**

Doctor of Law, Professor, Chief Research Associate at the Department of Private Law Problems, Academician F.H. Burchak Scientific Research Institute of Private Law and Entrepreneurship of the National Academy of Legal Sciences of Ukraine, 23-a, Rayevsky Str., Kyiv, Ukraine, postal code 01042, u.a.zaika@gmail.com

ORCID: 0000-0003-1946-3171**Scopus ID:** 57217829145

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PROTECTION OF THE PROFESSIONAL HONOR AND DIGNITY OF A POLICE OFFICER IN WAR

Abstract. *The purpose* of the research is a comprehensive analysis of theoretical and applied issues related to the protection of professional honor and dignity of police officers, development of recommendations aimed at improving the mechanism of legal protection of personal non-property rights of police officers, and substantiation of proposal for improving the legislation.

The methodological basis of the study is a dialectical approach to the knowledge of theoretical and legal categories of honor and dignity. The scientific tools of the work comprise the principles of objectivity, systematicity, integrity, pluralism of knowledge of the civil doctrine on the protection of personal intangible assets.

Results. A comparative legal analysis of the legal categories of honor, dignity, professional honor and dignity of a police officer was conducted. The mechanism of responsibility for insulting a police officer in foreign countries was studied. It was established that the essence of protecting the professional honor and dignity of a police officer is not only the ethical rehabilitation of the victim but also the creation of a positive image of the police officer.

Conclusions. The article notes that the professional honor and dignity of a police officer acts both as an object of private legal protection and an object of public legal protection.

It was proved that under declared martial law, it is inadmissible to limit the protection of professional honor and dignity of police officers only by civil and administrative means.

It is proposed to provide for criminal liability for insulting a representative of law enforcement agencies in the performance of their official duties, in particular, in wartime. Criminalization of the relevant offense, along with civil and administrative liability, will be an adequate way to protect the honor and dignity of a police officer and an effective means of preventing such offenses.

Key words: personal non-property rights, honor and dignity, protection of professional honor and dignity, responsibility for insulting a police officer.

1. Introduction

Personal non-property rights, in particular, the right to life, health, bodily integrity, honor, and dignity, are central to the system of civil rights and freedoms of any civilized state. However, the civil law doctrine lacks modern comprehensive research devoted to protecting professional honor and dignity of law enforcement officials in wartime.

The relevance of the article is due to violations of personal non-property rights of police officers in the discharge of their duties, in particular, honor and dignity, the ineffectiveness of the legal mechanism regulating such relations, and the need to adjust modern legislation to current realities. The following domestic scientists devoted their contributions to studying such

legal categories as honor and dignity and related issues: V. I. Bobryk, N. O. Davydova, O. V. Kokhanovska, L. V. Krasyt'ska, N. S. Kuznietsova, R. A. Maidanyk, V. O. Slipchenko, R. A. Stefan-chuk, Z. V. Romovska, and others. Problems of the legal protection of honor and dignity were the subject of monographic research by O. S. Zhydkova (2008), K. V. Mozharovska (2014), V. M. Pidhorodynskyi (2020), I. V. Saprykina (2006), O. V. Syniehubov (2008), R. O. Stefan-chuk (2001), O. S. Subbotenko (2016), A. O. Tserkovna (2003), A. S. Shtefan, and a collective monograph "Fundamental Human Rights: the German-Ukrainian Legal Dimension" (2022).

The purpose of the study is to conduct a comprehensive analysis of theoretical and applied

issues related to the protection of professional honor and dignity of police officers, development of recommendations aimed at improving the mechanism of the legal protection of personal non-property rights of police officers, and motivation for the proposal to improve the relevant legislation. The outlined tasks are to determine the particularities of such legal categories as the honor and dignity of a police officer, to find out the nature of attacks upon the honor and dignity of police officers during the performance of their duties, and improve the mechanism for protecting the honor and dignity of police officers in wartime.

Research methodology relies on a dialectical approach to the knowledge of the theoretical and legal categories of honor and dignity. The scientific toolkit comprises the principles of objectivity, consistency, integrity, and pluralism of the knowledge of the civil law doctrine regarding the protection of personal non-property goods.

2. Honor and dignity as moral and legal categories

The right to honor and dignity is one of the fundamental human rights based on the standards enshrined in many international legal instruments. In particular, Art. 1 of the Charter of Fundamental Rights of the European Union proclaims as follows: "Human dignity is inviolable. It must be respected and protected". At the national level, this provision is enshrined in Art. 3 of the Constitution of Ukraine. Honor and dignity as independent theoretical and legal categories convey the relationship between the individual, society and the state, and the protection of honor and dignity of government officials acquires special importance given the modern wartime context.

In linguistic expert practice, the analysis of conflict-generating texts is traditionally carried out using dictionaries that reflect a particular stage of language development. Academic Dictionary of the Ukrainian language defines the concept of "dignity" as a set of traits that characterize positive moral qualities; a person's awareness of his public authority and duty (Slovnyk, p. 65). When we talk about the dignity of a particular person, it is primarily about one's self-esteem (internal assessment) (Osnovni prava lyudyny, 2022, p. 43), that is, it refers to the subjective self-esteem of an individual, attitude to oneself, and awareness of one's position in society. The doctrine of civil law usually renders honor as a positive social assessment of a person in the eyes of others, which relies on the correspondence of his actions (behavior) to generally accepted ideas of good and evil and his awareness of such assessment (Stefanchuk, 2001, p. 16).

Foreign researchers define the concept of honor as dignity to be supported (Decker, 2014, p. 119). The legal categories of honor and dignity are not identical. In domestic legislation, the right to respect for the honor and dignity of an individual is declared in Art. 297 of the Civil Code of Ukraine. In other words, the above concepts are grounded on an objective (honor) and subjective idea (dignity) of a person's social position.

Honor and dignity may be humiliated by offensive words or obscene assessments addressed to an individual or his actions or behavior. An insult focuses on humiliation and concerns two spheres of human life: emotional and social. In the emotional sphere, an insult is associated with the deliberate humiliation of human dignity and feelings. In the social sphere, an insult acts as a form of interpersonal conflict with negative expressions in words or behavior. The task of the State is to create an effective protection mechanism that would ensure the renewal of violated rights.

At the same time, the right to free expression may conflict with the right of individuals to honor, dignity, integrity, and business reputation inviolability.

Expression offences always contradict the freedom of speech, so an optimal balance must be found between intelligent discussion, censorship and criminal rules (Reinbacher, 2020, p. 196). Offensive statements must be distinguished from evaluative judgments. Descriptive statements contain information about facts and events that can be verified, that is, descriptive statements can be offensive, but they can be refuted if they are not true. As for evaluative judgments, they characterize the object in general.

According to Part 2 of Art. 30 of the Law of Ukraine "On Information", evaluative judgments, except defamation, are statements that do not contain factual data, criticism, assessment of actions, as well as statements that cannot be interpreted as containing factual data, in particular, given the nature of linguistic and stylistic means (use of hyperboles, allegories, and satire). Value judgments are not subject to disproof and justification of their truthfulness.

The Judgment of the European Court of Human Rights in the case of *Ukrainian Press Group v. Ukraine* dated 29 March 2005 states that the requirement to acknowledge the untruthfulness of certain value judgments is unenforceable and violates freedom of expression as a fundamental part of the right protected by Article 10 of the European Convention on Human Rights.

However, evaluative statements cannot be considered admissible if they contain

obscene vocabulary that directly characterizes a particular person or a group of persons. In judicial practice, the following categories of words and expressions, which are usually offensive, addressed to a specific person are distinguished: obscene words and expressions that characterize the person; words and expressions which mean anti-social, illegal socially negative activities; words that generally assess personal qualities; zoo-semantic metaphors, which refer to the name of animals, birds, and mammals, and highlight the negative characteristics of character, appearance or behavior of the person; negative neologisms; words of specific and brutal content; comparison with odious persons known for their extremely negative qualities; names of professions used in the figurative sense; verbs with a condemnatory meaning or a direct negative assessment (Zaika 2019, 71–72). In civil law, there is a presumption of a person's honor. In other words, a person has honor if he/she has not committed any shameful smearing his/her honor.

The concepts of professional honor and dignity of a police officer are interrelated and reflect the moral values of his professional activity. Service in the national police is a specific type of public service.

The National Police of Ukraine (police) is the central executive authority that serves society by protecting human rights and freedoms, preventing crime, and maintaining public security and order (Art. 1 of the Law of Ukraine "On the National Police").

The national police is entrusted with the performance of special tasks and functions and hence, its employees, in particular, police officers, are vested with broad powers: to take measures to identify criminal and administrative offenses; to cease detected criminal and administrative offenses; to take measures aimed at eliminating threats to the life and health of individuals and public security due to the commission of a criminal or administrative offense (Art. 24 of the Law "On the National Police"). Professional honor is the specification of the general category of honor regarding the assessment of the professional activities of certain employees.

The professional honor of a police officer is evident in public attitude to law enforcement agencies in general and their specific representative in particular. The professional dignity of a police officer is his intrinsic moral attitude to his activities and himself as a representative of the law enforcement agency. When performing tasks related to protecting public order and ensuring public safety, police officers face audacious defamation of their honor and dignity. Offensive actions against a police officer

can be expressed in various obscene forms: verbal (linguistic) actions and non-verbal (behavior), in particular, verbal use of *obscene* (offensive) vocabulary; in writing – by demonstrating different drawings, posters, etc.; demonstrating disrespectful movements, gestures; certain actions – pushing, removing the honors on uniformed clothes, slapping, spitting, splashing paint or brilliant green paint, and other acts of a disrespectful nature. The language form can be considered offensive, that is, humiliating the honor and dignity of a police officer if 1) the vocabulary used is regarded as offensive in society; 2) the vocabulary is addressed to a specific representative (representatives) of law enforcement agencies; 3) the offensive vocabulary was used publicly; 4) the insult is directly related to the lawful actions of a representative of law enforcement agencies.

It is also about an insult when the negative statement is true but is expressed publicly using a rough, humiliating, and disrespectful vocabulary. Public tactful comment to a law enforcement officer regarding his illegal actions or personal qualities that do not correspond to the generally accepted ones is not an insult.

3. Responsibility for the insult of a representative of law enforcement bodies

When exercising their powers, law enforcement representatives become victims of offensive actions of unconscious citizens. This fact causes significant damage to social relations that ensure the adequate activities of government agencies and their authority and to the honor and dignity of its specific representatives.

To guarantee the legal protection of a police officer, some specialists proposed envisaging the responsibility for the insult of a police officer during the performance of his duties towards the protection of public order in the Code of Ukraine on Administrative Offenses (Buhaychuk, 2021, p. 18).

The submitted draft Law of Ukraine "On Amendments to the Code of Ukraine on Administrative Offenses to Protect the Honor and Dignity of Citizens and Law Enforcement Officials" was the logical outcome of such an initiative. It puts forward supplementing Art. 185 of the Code of Ukraine on Administrative Offense with part three, which would stipulate liability for the public insult of a police officer performing his official duties towards the protection of public order and the state border or a service member because of his involvement in the protection of public order in the form of fine or public works.

At the same time, in March 2022, the Criminal Code of Ukraine was supplemented with Article 435-1 "Insult to the honor and dignity of a serviceperson, a threat to a serviceperson",

the sanction of which provides for imprisonment for up to five years. However, during martial law or a state of emergency, police officers may also be engaged in the tasks assigned to servicepersons of the Armed Forces of Ukraine.

According to Part 2 of Art. 24 of the Law “On the National Police”, in the event of a threat to the state sovereignty of Ukraine and its territorial integrity, as well as during the suppression of armed aggression against Ukraine, police bodies and units, following the legislation of Ukraine, are engaged in the performance of territorial defense tasks, ensuring and implementing measures of the legal regime of martial law in the case of its declaration throughout Ukraine or separate area.

Illegal actions in the form of an insult to the honor and dignity of a police officer are a public disregard for the official in the direct force of his professional duties or in the context of their performance, which negatively affects the authority of the government body as a whole. Protecting the honor and dignity of a police officer aims to restore humiliated dignity, honor, firstly, for the victim and his environment, and secondly, for other members of society.

The mechanism of ensuring human rights should be considered as a dynamic system of legal means, which is realized through the activities of state bodies protecting the rights of every individual (Hal'tsova, 2021, p. 254). In some European countries, the legislator provides a rather harsh punishment for an insult. In the Criminal Code of France, the term “disrespect” covers words, threats, gestures or images of any kind, or sending any items addressed to a public officer, that may harm dignity or respect due to one’s official function. According to Art. 433-5 of the Criminal Code of France, public disrespect constitutes a qualified crime that entails a year of imprisonment or a fine of 15.000 euros.

An insult is also recognized as a criminal offense in Germany. Thus, according to § 185 of the Criminal Code of the Federal Republic of Germany, the specific crime can be punished by imprisonment for up to one year or a fine, and if the offense was committed by an act – imprisonment for up to two years. The judgment of the Tel Aviv court, which stood in defense of the police officer’s honor and dignity, gained publicity. Thus, for the dissemination on social networks of the song about the police officer “Green Serpent”, the court sentenced the lawyer K. to six months in prison suspended, pay compensation for 5000 shekels and a fine of 3000 shekels, and 300 hours of public work in the form of free legal assistance to African asylum seekers “for the insult of a public serv-

ant”. The prosecutor’s office demanded one year in prison. The court found the following words offensive “A snake with green eyes walks along the street: a small police officer collecting information for the regime” (News.ru.co.il).

The domestic legislator decriminalized such illegal actions as an offence and slander, including insulting government officials. The main way to protect the honor and dignity of an individual is to apply to the court in civil proceedings. Criminal law means should become an appropriate element of the mechanism protecting the rights of police officers. An insult to a police officer in the discharge of his official duties may cover two bodies of offenses: a simple one, liability for which must be provided in administrative procedure, and a special, qualified body – the same actions that are committed in public. In view of the social danger of the latter in wartime, such acts must be regarded as criminal and punished under criminal procedure.

Police bodies represent public authorities and, given the degree of public danger, it is advisable to criminalize illegal actions against police officers in terms of attacks on their honor and dignity and supplement Section XV of the Criminal Code of Ukraine “Criminal offenses against the authority of executive government agencies, self-government bodies, citizens’ associations and criminal offenses against journalists” with Article 345-1 “Insult to the honor and dignity of a police officer”.

Respect for the human being, his honor and dignity, in particular, a person who performs his official duties, is a core feature of the rule of law and a characteristic difference of civilized society.

4. Conclusions

The professional honor and dignity of a police officer are an object of both private and public protection. Law enforcement officers are a special category of persons. They are endowed with exclusive powers and require special protection in the process of their implementation. The essence of protecting the professional honor and dignity of a police officer is not only the ethical rehabilitation of the victim but also the creation of a positive image of a police officer in general. This is possible only by creating an effective system of ways to protect the personal non-property rights of law enforcement officers.

Non-system changes in the legislation providing for liability for such offenses hinder the development of an effective mechanism for the protection of personal non-property rights of law enforcement officials. During martial law, it is unacceptable to limit the protection of professional honor and dignity of police officers by civil and administrative means.

The introduction of criminal liability for the insult to a representative of law enforcement agencies in the discharge of his official duties, in particular, in wartime, the creation of the material structure of this crime, along with civil and admin-

istrative liability, will be a relevant way to protect the honor and dignity of a police officer and comply with the social and legal principles of criminalization of socially dangerous acts and an effective means of preventing such offenses.

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Юрій Заїка,

доктор юридичних наук, професор, головний науковий співробітник відділу проблем приватного права, Науково-дослідний інститут приватного права і підприємництва імені академіка Ф. Г. Бурчака Національної академії правових наук України, 23-а, вулиця Раєвського, Київ, Україна, індекс 01042, u.a.zaika@gmail.com

ORCID: 0000-0003-1946-3171

Scopus ID: 57217829145

ЗАХИСТ ПРОФЕСІЙНОЇ ЧЕСТІ ТА ГІДНОСТІ ПОЛІЦЕЙСЬКОГО В УМОВАХ ВОЄННОГО ЧАСУ

Анотація. *Метою дослідження* є комплексний аналіз теоретичних та прикладних питань, що стосуються захисту професійної честі та гідності працівників органів поліції, розробка рекомендацій, спрямованих на удосконалення механізму правового захисту особистих немайнових прав поліцейських та обґрунтування пропозиції щодо вдосконалення законодавства.

Методологічною основою дослідження є діалектичний підхід до пізнання теоретико-правових категорій честі та гідності. Науковий інструментарій роботи побудований на засадах об'єктивності, системності, інтегративності, плюралізму пізнання цивілістичної доктрини щодо захисту особистих немайнових благ.

Результати. Проведено порівняльно-правовий аналіз правових категорій «честь», «гідність», «професійна честь та гідність поліцейського». Досліджено механізм відповідальності за образу поліцейського у зарубіжних країнах. Встановлено, що сутність захисту професійної честі та гідності поліцейського полягає не лише у етичній реабілітації потерпілого, а і у створенні позитивного іміджу працівника поліції.

Висновки. У статті зазначається, що професійна честь та гідність поліцейського виступає і як об'єкт приватно-правового, і як об'єкт публічно-правового захисту.

Доведено, що в умовах оголошеного воєнного стану неприпустимо обмежувати захист професійної честі та гідності поліцейських лише цивільно-правовими та адміністративно-правовими засобами.

Запропоновано передбачити кримінальну відповідальність за образу представника правоохоронних органів під час виконання своїх службових обов'язків, зокрема в умовах воєнного часу. Криміналізація цього правопорушення поруч із цивільно-правовою та адміністративно-правовою відповідальністю стане адекватним способом захисту честі та гідності поліцейського та ефективним засобом профілактики та попередження такого роду правопорушень.

Ключові слова: особисті немайнові права, честь та гідність, захист професійної честі та гідності, відповідальність за образу поліцейського.

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