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DOI <https://doi.org/10.32849/2663-5313/2022.6.11>**Irina Tomilina,***Postgraduate Student at the Department of Public Management and Administration, National Academy of Internal Affairs, 1, Solomianska square, Kyiv, Ukraine, postal code 03035, Irina\_Tomilina@ukr.net***ORCID:** [orcid.org/0000-0002-4412-4116](https://orcid.org/0000-0002-4412-4116)Tomilina, Irina (2022). Administrative supervision as a type of prevention of the National Police of Ukraine. *Entrepreneurship, Economy and Law*, 6, 77–81, doi: <https://doi.org/10.32849/2663-5313/2022.6.11>

## ADMINISTRATIVE SUPERVISION AS A TYPE OF PREVENTION OF THE NATIONAL POLICE OF UKRAINE

**Abstract.** *The purpose of the article* is to form the concept of administrative supervision as a type of prevention of the National Police of Ukraine and to identify its elements that determine conditions for its implementation.

**Results.** The scientific article defines the concept and content of administrative supervision by the National Police of Ukraine as prevention, highlighting its elements. In order to implement the task, the publications of experts in administrative law who study the problem are analysed. The author focuses on the analysis of the provisions of legislation in force aimed at regulating the supervision by the National Police of Ukraine. The study enables to formulate the concept of administrative supervision as a type of prevention of the National Police of Ukraine and to identify its elements that determine conditions for its implementation are highlighted. It is underlined that administrative law has developed an approach to the understanding of administrative supervision as a means to ensure legality and discipline in the field of public administration. However, above all, administrative supervision is understood as a special type of law enforcement activities of a number of authorised bodies of the state apparatus, which consists in monitoring the implementation of special rules and requirements, established by laws, government regulations, departmental acts, and the supervisory authorities themselves. This understanding of administrative supervision highlights its specialisation as one of the main functions of law enforcement bodies. It is established that administrative supervision can be characterised as an element (institution) of the State machinery, endowed with independence, autonomy, some legal form, exercised by the National Police of Ukraine as a specially authorised law enforcement body, which contributes to the implementation of administrative and legal provisions ensuring public order, as a rule entails the use of administrative coercive measures.

**Conclusions.** Administrative supervision as a type of prevention of the National Police of Ukraine is a universal trend in procedurally regulated prevention of authorised units and police officials in the forms established by the legislation, designed to ensure a continuous influence on an indefinite range of entities under administrative supervision in order to ensure an appropriate level of law and order, resulting in an assessment of the lawfulness of their conduct and the prevention of possible negative consequences.

**Key words:** administrative supervision, National Police of Ukraine, prevention, supervision, lawful conduct.

### 1. Introduction

The implementation of measures defined by law, aimed at ensuring the appropriate state of law and order, legal awareness and legality within the state, guaranteeing the observance and protection of the human and citizen rights, freedoms and interests, is the fundamental task of the National Police of Ukraine. The level of achievement of this task indicates the degree of development of Ukraine as a democratic, socially oriented, and legal State.

One of the ways in which this task is carried out is through administrative supervi-

sion, which is one of the preventive activities of the National Police of Ukraine. This type of police activity has always been under focus of scholars in the field of administrative law, who have sought to clarify the essence, constituent elements and tasks of administrative supervision. However, despite the high importance of administrative supervision as a mean to prevent offences, its concepts, essence and tasks have not been properly reflected in the provisions of the Law of Ukraine "On the National Police", which correspondingly reveals the relevance of the study.

The concept and content of administrative supervision in activities of the National Police of Ukraine have been under focus in their scientific works by experts in administrative law such as: D.M. Bakhrakh, O.I. Bezpalo, Yu.P. Bitiak, V.M. Harashchuk, I.P. Holosnichenko, O.V. Dzhafarova, S.V. Kivalov, S.A. Komissarov, A.T. Komziuk, D.M. Ovsianko, B.V. Rossynskiy, V.V. Sokurenko, Yu.N. Starylov, V.A. Troian, D.P. Tsvihun, Kh.P. Yarmaki, and others.

The purpose of the article is to form the concept of administrative supervision as a type of prevention of the National Police of Ukraine and to identify its elements that determine conditions for its implementation.

## **2. The legal and regulatory framework for administrative supervision of the National Police of Ukraine**

In Ukraine, law regulates the issue of implementation of various types of supervision and control, such as procuratorial, state, while some scientists argue that “supervision” and “control” are identical concepts, aimed at general goals and results, supporting their vision by the views of the legislator and the provisions of Law of Ukraine “On the Basic Principles of State Supervision (Control) in the Field of Economic Activity” of April 5, 2007 № 877-V, according to which State supervision (control) is activity of central executive bodies, their territorial bodies, state collegial bodies, executive bodies of the Autonomous Republic of Crimea, local state administrations, local self-government bodies (further – bodies of State supervision (control)), authorised by law, within the scope of the powers provided by law, to identify and prevent violations of the requirements of the legislation by economic entities and to ensure the interests of society, in particular the proper quality of products, work and services, acceptable level of danger to the population, environment (Verkhovna Rada of Ukraine, 2007).

The National Police of Ukraine, as a state body responsible for a high level of law and order in the State, functions on the basis of Law of Ukraine “On the National Police” of July 2, 2015 № 580-VIII, provisions thereof determine the legal basis for the organisation and activities of the National Police of Ukraine, the status of the police, as well as the procedure for service in the National Police of Ukraine, the task of the police and the list of preventive police actions (Verkhovna Rada of Ukraine, 2015). However, its provisions do not define the concept and content of administrative supervision as one of the preventive actions of the National Police of Ukraine, which leads to ambiguity in the understanding of its essence and the absence of a unified scientific opinion on this issue.

According to some scholars, administrative supervision is a type of State control exercised by authorities, is to ensure the rule of law aimed

at compliance with special provisions, is systematic, initiated by the authorities and accompanied, if necessary, by administrative coercion (Bakhrakh et al., 2007, p. 462).

The analysis of Law of Ukraine “On the National Police” of July 2, 2015 № 580-VIII reveals the existence in this legislative act of a provision that defines one of the preventive police actions checking compliance with the restrictions established by law for persons, subject to administrative supervision and other categories of persons (Verkhovna Rada of Ukraine, 2015). The issue of administrative supervision of such persons thoroughly regulates the Law of Ukraine “On Administrative Supervision of Persons Released from Places of Imprisonment” of December 1, 1994 № 264/94-BP, article 1 thereof states that administrative supervision is a system of temporary compulsory preventive actions for monitoring and supervising the conduct of individuals released from places of deprivation of liberty by the National Police of Ukraine (Verkhovna Rada of Ukraine, 1994).

This provision significantly limits the concept and scope of administrative supervision only to control the lawfulness of the conduct of persons released from places of deprivation of liberty after serving a sentence.

## **3. Approaches to the definition and characteristics of administrative supervision**

According to the authors of the “Dictionary of Administrative Law”, administrative supervision is characterised as an activity of specially authorised executive bodies, public officials, designed to ensure observance, uniform application and execution of the state, public, other non-governmental organisations and citizens of special legal provisions and generally binding rules established by laws and other legal regulations (Bachilo et al., 1999, p. 38).

Administrative law has developed an approach to the understanding of administrative supervision as a means of ensuring legality and discipline in public administration. However, above all, administrative supervision is understood as a special type of law enforcement activities of a number of authorised bodies of the state apparatus, which consists in monitoring the implementation of special rules and requirements, established by laws, government regulations, departmental acts, and the supervisory authorities themselves. This understanding of administrative supervision highlights its specialisation as one of the main functions of law enforcement bodies.

Soviet scholars in the field of administrative law considered administrative supervision as the basis of the activities of the internal affairs bodies, characterising this activity as the systematic observation by the authorities of the precise and strict compliance with the generally

binding rules in order to prevent, suppress their violations, identify and prosecute the violators or to apply means of public influence to them (Razarenov, Kotyurgin, 1979, p. 10).

According to D.P. Tsvihun, administrative supervision is an independent form of control, the content of which is single no matter what supervision bodies perform it; administrative supervision, like that of the prosecutor's office, may not be related to interference with activities of a supervised entity or a management body, and where such interference occurs, supervision shall give way to control (Tsvihun, 2002, p. 39).

Such perspective gives grounds to determine that administrative supervision is characterised as a dynamic legal phenomenon, which can be transformed depending on the conditions that have developed and are taking place in the modern legal State.

According to Kh.P. Yarmaki's study of the content of the concept of "administrative supervision", the presence of a fundamental feature of this type of activity of State bodies is of importance, namely the lack of organisational subordination of supervisors and supervised objects (Yarmaki, 2006, p. 144).

The absence of such subordination between the supervisors and the supervised object is the basis for S.A. Komissarov's perspective of administrative supervision.

In his study of the administrative and supervisory activities of the police, the scholar argues that general police supervision is considered as a type of law enforcement activity of the police authorities, implying systematic observation, specially organised on the basis of the substantive and procedural rules of administrative legislation, regulations and individual acts of management, within the scope of its competence (mainly in public places), of compliance by citizens, officials and organisations with the legal regulations governing public relations in the field of public order and security with a view to identifying, preventing and deterring their violations, prosecuting the guilty in accordance with the law (Komissarov, 2018, pp. 69–70).

Therefore, administrative supervision can be characterised as an element (institution) of the State machinery, endowed with independence, autonomy, some legal form, exercised by the National Police of Ukraine as a specially authorised law enforcement body, which contributes to the implementation of administrative and legal provisions ensuring public order, as a rule entails the use of administrative coercive measures.

V.M. Harashchuk emphasizes this. He argues that administrative supervision is aimed not only at preventing unlawful actions, eliminating the causes and conditions conducive to offences, but also at the use of administrative coercive measures, including administrative liability in

case of detection of violations of the general mandatory rules (Harashchuk, 2002, p. 42).

In the opinion of the authors' team, on the one hand, administrative supervision of the police is a means of administrative influence, a type of police enforcement activity, and, on the other hand, a means of ensuring the rule of law in police activities. Supervision ensures the protection of relevant social relations and material assets, not only from offences, but also from illegal acts and natural phenomena. It is the primary duty of the supervisors to prevent, deter harmful effects, to detect the circumstances that may cause them and to take certain measures to eliminate the revealed deviations. In other words, prevention, deterrence of harm are in the first place, and the use of police measures for general and individual prevention of offences in the future is in the second place (Sokurenko, 2017, p. 327).

An analysis of the existing scientific views on the concept and essence of administrative supervision in general, and the National Police of Ukraine in particular, reveals the inherent elements of this type of prevention and the conditions for its implementation.

The first element is precisely the purpose of administrative supervision, that is, to ensure compliance with legal provisions, to prevent negative effects from non-compliance and to detect circumstances conducive to violations.

The second element is the external form of administrative supervision, that is, ways and methods of implementation that ensure compliance with the rule of law and prevent the commission of offences (protection, regulation, control, authorisation, etc.).

The third element is a procedural form of administrative supervision that is clearly regulated by law to ensure its legality.

The fourth element is the result of administrative supervision, which is important for assessing the adequacy of the ways and methods used and the level of prevention of offences.

The fifth element is the prevention of a deterioration in the level of legal awareness and the lawful conduct of the entities under supervision and the use, if necessary, of measures of procedural coercion.

#### 4. Conclusions

Thus, administrative supervision can be defined as prevention of the National Police of Ukraine, that is, a universal trend in procedurally regulated prevention of authorised units and police officials in the forms established by the legislation, designed to ensure a continuous influence on an indefinite range of entities under administrative supervision in order to ensure an appropriate level of law and order, resulting in an assessment of the lawfulness of their conduct and the prevention of possible negative consequences.

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## АДМІНІСТРАТИВНИЙ НАГЛЯД ЯК ВИД ПРЕВЕНТИВНОЇ ДІЯЛЬНОСТІ НАЦІОНАЛЬНОЇ ПОЛІЦІЇ УКРАЇНИ

**Анотація.** *Мета статті* полягає у формуванні поняття адміністративного нагляду як виду превентивної діяльності Національної поліції України та виділенні його елементів, що визначають умови її реалізації.

**Результати.** Статтю присвячено визначенню поняття та змісту адміністративного нагляду Національної поліції України як превентивної діяльності, виділенню його елементів. З метою реалізації поставленого завдання проаналізовано публікації науковців-адміністративістів, які досліджували окреслену проблему. Приділяється увага аналізу норм чинних законодавчих актів, які спрямовані на регулювання наглядової діяльності Національної поліції України. За результатами дослідження сформовано поняття адміністративного нагляду як виду превентивної діяльності Національної поліції України та виділено його елементи, що визначають умови її реалізації. Наголошено на тому, що в адміністративному праві сформувався підхід до розуміння адміністративного нагляду як одного зі способів забезпечення законності й дисципліни у сфері державного управління. Проте першочергово під адміністративним наглядом розумівся спеціальний вид правоохоронної діяльності низки уповноважених органів державного апарату, який полягає у здійсненні спостереження за виконанням спеціальних правил і вимог, встановлених законами, нормативними актами уряду, відомчими актами, а також самими органами, що здійснюють цей нагляд. Таке розуміння адміністративного нагляду підкреслювало його спеціалізованість як однієї з головних функцій правоохоронних органів. З'ясовано, що адміністративний нагляд можна характеризувати як елемент

(інститут) державного механізму, що наділений самостійністю, автономією, певною правовою формою, реалізується Національною поліцією України як спеціально уповноваженим правоохоронним органом, сприяє реалізації адміністративно-правових норм, які забезпечують громадський порядок, та, як правило, має наслідком застосування заходів адміністративного примусу.

**Висновки.** Адміністративний нагляд як вид превентивної діяльності Національної поліції України є універсальним напрямом процедурно регламентованої профілактичної діяльності уповноважених підрозділів і посадових осіб поліції у встановлених законодавством формах, що покликаний забезпечити безперервний вплив на невизначене коло піднаглядних суб'єктів адміністративного нагляду з метою забезпечення належного рівня правопорядку, результатом чого є оцінка правомірності їх поведінки та запобігання можливим негативним наслідкам.

**Ключові слова:** адміністративний нагляд, Національна поліція України, превентивна діяльність, наглядова діяльність, правомірна поведінка.

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