

A STEP TOWARD IMPROVEMENT OF POLICE PERFORMANCE ASSESSMENT AS SUBJECTS OF COMBATING FINANCIAL AND ECONOMIC CRIMES: EXPERIENCE OF UKRAINE AND SLOVAKIA

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Abstract. The article is devoted to the study of certain aspects of the police performance assessment in Ukraine and the Slovak Republic as subjects of combating financial and economic crimes. It is determined that the expediency of studying this issue is determined by the high level of financial and economic crimes in Ukraine and the Slovak Republic. It was insisted that the assessment of the police activity in Ukraine and the Slovak Republic is carried out mainly on the basis of quantitative criteria. In view of possible fraud with the statistical data that is the basis of the report of the police authorities of Ukraine and the Slovak Republic, it is proposed to consolidate such a criterion for assessing of the police activity as a level of latent crimes. Among the qualitative criteria for assessing the police activity in Ukraine and the Slovak Republic, public trust has been highlighted, but it was concluded that its definition should be carried out by an independent sociological service. It is grounded that the implementation of these proposals will have a positive impact on the police activity in Ukraine and the Slovak Republic in the area of combating financial and economic offenses.

Key words: police authorities, financial and economic crimes, assessment, quantitative criteria, latent crimes, qualitative criteria, public trust

INTRODUCTION

The economic and democratic development of Ukraine and the Slovak Republic poses a number of issues that need to be resolved for further gradual economic growth and the establishment of democracy in the states. The most urgent issues for both states are the increase of financial and economic crimes, which leads to the loss of state budget funds. Moreover it clearly demonstrates the need to improve activity of police authorities, which counteract and fight against financial and economic crimes, in Ukraine and the Slovak Republic.

The above-mentioned causes the need for more detailed study of the police authorities performance in Ukraine and the Slovak Republic. At the same time, in the context of the

establishment of democracy in both states, more important is the issue of qualitative assessment of police activity, the identification of existing problems and the reorientation of police activity in accordance with the needs of society.

PECULIARITIES OF POLICE ACTIVITY IN UKRAINE AND THE SLOVAK REPUBLIC IN THE SPHERE OF COMBATING FINANCIAL AND ECONOMIC CRIMES

The mechanism of state is difficult to imagine without the existence and activity of the police, which is entrusted with performing a number of important tasks, including protecting the financial and economic interests of the individual, society and the state from a number of unlawful internal and external developments. In Ukraine and the Slovak Republic there are also police agencies, the organizational structure and activity of which as subjects of combating financial and economic crimes in the state have certain features.

The structure of the police in the Slovak Republic envisages the functioning of the National Criminal Agency, which was formed on December 1, 2012 as a result of the merger of the Anti-Corruption Department and the Police Department on Combating Organized Crime. In the structure of the National Criminal Agency, there are financial police units responsible for detecting and investigating the most serious forms of property and economic criminal offenses.¹ According to the Criminal Procedural Law of the Slovak Republic of May 24, 2005² almost all crimes are investigated by the police agencies. At the same time, the object of the Financial Police Units activity is to identify organized crime cases, tax evasion, financial fraud, illegal financial transactions, forgery and unauthorized production of bank notes and securities, etc.

It should be noted that according to the Strategy for Prevention of Crime and Other Antisocial Activities in the Slovak Republic for 2016–2020³, reducing the level of criminal and other anti-social activities, including economic crimes is one of the priorities of the state. Accordingly, in order to achieve this goal, it is envisaged to create a system of analytical, evaluation, monitoring and control mechanisms for the systematic assessment of the effectiveness of the activity carried out by the subjects which conduct preventive activity and increase their effectiveness. The indicated fact actually shows that before the Financial Police

¹ Zákon Národnej rady Slovenskej republiky o Policajnom zbore 171/1993

² Zákon Národnej rady Slovenskej republiky o Trestný poriadok. 24 May 2005 No 301/2005

³ Stratégia prevencie kriminality a inej protispoločenskej činnosti v Slovenskej republike na roky 2016–2020

Units of the Slovak Republic today also stand one of the important issues regarding to assessment the effectiveness of its performance.

In Ukraine, according to the Law of Ukraine "On the National Police" of July 2, 2015,⁴ there are no financial police units within the police structure. Accordingly, pre-trial investigation of financial and economic crimes, referred Art. 216 of the Criminal Procedural Code of Ukraine⁵ to the jurisdiction of the police, is carried out by the authorities of the pre-trial investigation of the police. The only exception is the functioning of the Department of Economic Protection as an interregional territorial agency of the National Police of Ukraine whose main purpose in accordance with the Regulation "On the Department of Economic Protection" approved by the Order of the National Police of Ukraine of November 7, 2015⁶ is to carry out operative and investigative activities for the detection and suppression of economic crimes, as well as identifying and eliminating the causes and conditions that contributed to their commission.

Thus, the difference in the status of police authorities in Ukraine and the Slovak Republic is obvious. Nevertheless, these subjects are entrusted with the tasks of preventing, detecting, terminating, investigating and disclosing financial and economic crimes in both states.

PUBLIC TRUST AS A CRITERION FOR ASSESSING THE ACTIVITY OF POLICE AUTHORITIES IN UKRAINE AND THE SLOVAK REPUBLIC

Today, the category of "citizens' trust in the police" is the basis for the stable, coherent and effective operation of the police in many countries of the world. To date, there are two aspects of citizens' trust in the police agencies: instrumental-based and interpersonal-based.

Instrumental-based trust, as noted by Kristina Murphy, Lorraine Mazerolle and Sarah Bennett,⁷ is a trust based on the connection with competence and individual beliefs about the likelihood of obtaining positive results from interaction with the authorities. In the policing context, for example, instrumental-based trust might be linked to judgements about the state

⁴ Law of Ukraine On the National Police. 2 July 2015 No 580-VIII, Kyiv

⁵ Criminal Procedure Code of Ukraine. 13 April 2012 No 4651-VI, Kyiv

⁶ Regulation On the Department of Economic Protection approved by the Order of the National Police of Ukraine. 7 November 2015

⁷ MURPHY, K., MAZEROLLE, L., BENNETT, S. Promoting trust in police: Findings from a randomized experimental field trial of procedural justice policing. *Policing and Society: An International Journal of Research and Policy*. Vol. 24. Issue 4 (2014), pp. 405–424.

of protection of the citizens' rights, freedoms and interests. Thus, interpersonal-based trust is trust based on social relations and fair treatment.

In view of the rather broad list of concepts of the activities of the police, it should be noted that both aspects of public trust are best disclosed within the concept of the "community policing." Today, this concept does not exist in all countries of the world, there is a clear tendency according to which the police of more democratically developed states generally prefer the principles of "community policing", whereas the states where democracy has only begun its formation (Eastern Europe, Central Asia) do the first steps towards the introduction of the above-mentioned concept.⁸

Given the relevance of the "community policing" concept it is appropriate to pay attention that in Ukraine the level of public trust in the police is defined as the main criterion for assessing the effectiveness of the police activity by the Law of Ukraine "On the National Police". At the same time, the practice of determining the level of citizens' confidence in the police, including the Financial Police Units, is also widespread in the Slovak Republic, although it is not enshrined at the legislative level.

The importance of the existence of such a criterion, in our opinion, is due to the general purpose of the police. Thus, the Law of Ukraine "On the National Police" dated July 2, 2015 confirmed that the police is the central executive body that serves society by protecting their rights and freedoms, maintaining public order and security. Although the Law of the Slovak Republic "On the Police" defines the status of the police as an armed security unit that performs tasks related to issues of national order, security, the fight against crime, including its organized and international forms, and tasks that the police face in connection with the list of international obligations undertaken by the Slovak Republic. Based on the above-mentioned, it is possible to draw attention to the different approach of the legislators of Ukraine and the Slovak Republic to determining the status of the police. Indication in the Law of Ukraine "On the National Police of Ukraine" on the level of citizens' trust in the police is quite logical, since the activity of the police are aimed at meeting the needs of society, while the legislation of the Slovak Republic indicates a fundamentally different approach.

In general, the orientation of the police to meet the needs and interests of society has long been known to states of the world with a developed democracy. In particular, we are talking about already mentioned before concept of "community policing". This concept has

⁸ LUM, C. Community Policing or Zero Tolerance?: Preferences of Police Officers from 22 Countries in Transition. *British Journal of Criminology*. Issue 49 (6) (2009), pp. 788–809.

several advantages that significantly affect the activity of the police. According to Paul McCold and Ben Wachtel⁹, some of them are worth paying attention to, namely: 1) reducing crime rates; 2) increasing the level of transparency of the police; 3) increasing citizen satisfaction with police activity; 4) reduced complaints about police activity; 5) increase police job satisfaction; 6) public involvement in the activity of the police; 7) improving the effectiveness of the police and the quality of tasks assigned to police officers. Thus, it is obvious that introducing into the activity of the police the basic provisions of the "community policing" concept will have a positive impact on the effectiveness of the police activity and allow them to interact with the public in order to fulfill the tasks entrusted to them by national legislation and accordingly protect the rights and interests of society.

It should be noted that the presence of the police towards society has a positive effect on the level of public satisfaction with the activity of the police.

In order to determine the level of citizens' trust in the police in the Slovak Republic, their views on police activity in all major areas and identify possible factors affecting the level of trust in the police, the Ministry of Interior Affairs of the Slovak Republic, together with the Institute of Public Opinion Research in the Statistical Office of the Slovak Republic have developed a questionnaire on the topic "Social status and the role of the police in the opinion of citizens of the Slovak Republic".¹⁰

According to a recent survey of the level of citizens' confidence in police authorities conducted by the Eurobarometer in 2017, the highest level of distrust of the police authorities among all EU member states is observed in the Slovak Republic, where the police do not trust 53% of citizens, while for the European Union as a whole this figure is on average in the EU – 23%. For comparison, only about 13% of citizens do not believe in police in neighboring Austria.¹¹ According to survey conducted in 2017 by the Institute for Economic and Social Reforms, the majority of respondents surveyed assessed the quality of the courts, the police and prosecutor's offices on a scale from 1 to 7 to 6.04, which suggests that, according to the

⁹ McCOLD, P., WATCHEL, B. Police officer orientation and resistance to implementation of community policing. 1996. [online]. Available at: <https://www.ncjrs.gov/defiles1/Digitization/165617NCJRS.pdf> [q. 2018-11-05].

¹⁰ GASPIERIK, L. Policing in the Slovak Republic. The organization and current problems of police work. *Studia nad Autorytaryzmom i Totalitaryzmom*. Issue 32, No. 1. (2016), pp. 39–60.

¹¹ Správa o slovenskej polícii. 2018. Available at: <https://dennikn.sk/blog/1082065/sprava-o-policii/> [q. 2018-11-05].

citizens of the Slovak Republic, these agencies in conditions of the democracy establishment does not function properly.¹²

Ukraine also conducts studies to determine the level of public confidence in the police. Thus, the Decree of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for Assessing the Level of Public Confidence in the National Police” dated February 7, 2018¹³ provides that the National Police of Ukraine independently determine the issues on which the level of public confidence in the police is investigated in accordance with the powers of the National Police defined by the Law of Ukraine “On the National Police of Ukraine”. Given the above-mentioned this order is not perfect for several reasons. In particular, we consider it inappropriate to give the police authorities the right to independently determine issues of sociological research, since there is a possibility that certain important issues can be ignored by police. In this case, the experience of the Slovak Republic is quite positive, according to which we consider it necessary to provide at the sub-legal level that questions for a sociological research of the level of citizens' trust in the police are determined jointly by such entities as the police, the Ministry of Interior Affairs and independent sociological services. This will allow to take into account questions the answers to which are necessary for improving the police activity and the existing rules for conducting a sociological survey in order to obtain truthful data.

Quite interesting in terms of determining the level of citizens' confidence in the police is the experience of Ireland, where, as Robert C. Davis¹⁴ points out, the Police Activities Council is an independent government agency that, with the aim of ensuring efficient and impartial police activity trusted by the entire population, monitors the effectiveness of the police activity in order to improve the interaction between the police and society. Accordingly, this agency twice a year conducts sociological research, the results of which are open to the public. In the UK (except for Scotland) there is also an independent state organization - the Constable Inspectors Service, whose main task is to independently assess the police activity and its interaction with society.¹⁵

¹² GOLIAS, P., HAJKO, J., PISKO, M. Threats to democracy in Slovakia. 2017. Available at: <<https://www.cipec.org/resources/threats-democracy-slovakia/>> [q. 2018-11-06].

¹³ Resolution of the Cabinet of Ministers of Ukraine On approval of the Procedure for conducting an assessment of the level of public confidence in the National Police. 7 February, 2018

¹⁴ DAVIS, R.S. Selected International Best Practices in Police Performance Measurement. 2012. Available at: <https://www.rand.org/content/dam/rand/pubs/technical_repor ts/2012/RAND_TR1153.pdf> [q. 2018-11-05].

¹⁵ PEEL assessment. 2015. Available at: <<https://www.justiceinspectores.gov.uk/hmicfrs/peel-assessments/how-we-in spect/2015-peel-assessment/>> [q. 2018-11-05]

It should be noted that the results of a study of the level of citizens' confidence in the police should not be merely a formal determination of the ratio of the number of people who trust the police to the number of people who do not trust such authorities. Since, as noted by Gary T. Marx¹⁶, the number of sociological researches of the level of citizens' trust in the police is significant, but mostly they are conducted on a non-permanent basis, that is, only when urgently needed, and their results are not considered by the police as important for draw conclusions about the results of their activity.

S. V. Egoryshev and N. V. Egorysheva¹⁷ drew attention to the fact that sociological studies, including the level of citizens' confidence in law enforcement agencies, are important only when they are combined with the statistical indicators of the activities of these agencies. Accordingly, there is a need for the existence of such criteria for assessing the state law enforcement agencies activity as a “socially tolerant level of crime” and “a socially approved level of the rule of law”. In our opinion, a questionnaire for a sociological research of the level of citizens' trust in the police should contain questions that would help to identify these indicators.

Thus, the mechanism for determining the level of citizens trust as a criterion for assessing the activities of police authorities in Ukraine and the Slovak Republic needs to be improved, in particular, an independent sociological service should be established; questions for research should be determined collectively; the level of citizens' trust in the police authorities in Ukraine and Slovak Republic should be determined on a permanent basis.

QUANTITATIVE CRITERIA FOR ASSESSING THE POLICE AUTHORITIES ACTIVITY IN UKRAINE AND THE SLOVAK REPUBLIC

In addition to the level of citizens' trust, there are also other criteria for assessing the police activity, which can be called quantitative criteria.

Speaking about the quantitative criteria for evaluating the police activity in Ukraine and the Slovak Republic, attention should be paid to the opinion of Yu. V. Bykovska¹⁸ who notes that, among the most important quantitative indicators reflecting the specifics of law

¹⁶ MARX, G.T. *Alternative Measures of Police Performance*. Criminal Justice Research. Lexington Books. 1976. Available at: <<http://web.mit.edu/gtmarx/www/alt.html>> [q. 2018-11-05]

¹⁷ EGORYSHEV, S., EGORYSHEVA, N Reflection of the state of crime on the indicators of the social efficiency of law enforcement (on the example of the Republic of Bashkortostan). *Bulletin of the Perm National Research Polytechnic University*. No. 2 (2016), p. 32

¹⁸ BIKOVSKA, YU.V. Criteria for evaluating the effectiveness of the police of foreign countries. *National interests: priorities and security*. No 11 (218) (2014), pp. 51–64

enforcement agencies, its status and effectiveness, as the experience of the state in the world shows, are: 1) the number of law enforcement officers; 2) the number of registered, solved and unsolved crimes; 3) change in the number of crimes for a certain period of time; 4) the amount of funding for law enforcement agencies; 5) the share of expenditures on law enforcement agencies in the GDP.

The analysis of the reports of the National Police of Ukraine indicates their reporting almost on the list of quantitative indicators, among which: a) the number of registered criminal cases, b) the number of cases on which the pre-trial investigation has been completed; c) the number of closed procedures, etc. In particular, according to the official report on the activity of the National Police of Ukraine in 2017¹⁹ in the sphere of protection of the economic interests of the state, prevention of the squandering of budget funds and their removal into the "shadow" more than 8.8 thousand criminal offenses has been exposed by the interregional units of the Department of Economic Protection. Meanwhile, among the above-mentioned number of offenses 2511 – connected with illegal use of the budget funds, in particular, 1215 were made with the expenditures of the state budget funds, and 1264 – with expenditures of local budgets funds. In addition, the report of the National Police of Ukraine in determining how effective the police are comparing the quantitative indicators in 2016 and 2017. In particular, attention is paid to the fact that in 2016, 2,449 crimes related to the use of budget funds were disclosed, while in 2017 there were 3504 crimes, which is by 43% more than in the previous year.

The reports of the Financial Police Units of the Slovak Republic are no exception. In particular, according to the report of the police authorities, the results of the fight against economic crimes on the official website of the Ministry of Interior Affairs, as a whole, are highlighted by indicators such as the number of identified and the number of disclosed crimes, as well as the comparison of the data with the data for previous years.²⁰

However, the use of quantitative criteria for measuring the police performance, including countering and combating financial and economic crimes is not supported by many scientists for a number of rational reasons. Edward R. Maguire²¹ believes that the arguments

¹⁹ Report on the activities of the National Police of Ukraine for 2017. Available at: <https://www.npu.gov.ua/acti_vity/zviti/richni-zviti/> [q. 2018-11-06]

²⁰ Trestná činnosť v Slovenskej Republike. Available at: <<https://www.minv.sk/?statistiky-dokumenty>> [q. 2018-11-06].

²¹ MAGUIRE, E.R. Measuring the Performance of Law Enforcement Agencies. CALEA Update Magazine. Issue 83. (2002). Available at: <<http://www.calea.org/calea-update-magazine/issue-83/measuring-performance-law-enforcement-agencies-part-1of-2-oart-articl>> [q. 2018-11-06].

against statistical data as a criterion for assessment the effectiveness of the police are: firstly, the presence of many factors affecting the crime rate, among which the police authorities activity is not the only one; secondly, the number of recorded crimes demonstrates no more than how well the police authorities process the information received; thirdly, the police officials' ability to manipulate statistical data is obvious. Malcolm K. Sparrow²² notes that the most powerful argument against using statistics to determine the effectiveness of the police activity is that such information focuses solely on the number of reported crimes, while the number of unreported crimes remains unknown.

However, in order to avoid manipulations with statistical data that actually reflect the real state of crime in the state and the role of the police in fighting it, Anatolijs Kriviņš²³ proposes to provide as the main criterion of the effectiveness of police activity not a decrease in the crime rate, but a decrease in the share of latent crime. According to the scientist, this approach will allow the police to neutralize the desire to manipulate statistical data in the case of a sufficiently high level of crime and to interest the police in collecting information about crimes in the state.

This position, in our opinion, is advisable to use for assessment of the police activity as a whole in each state, since, as has already been noted, the state of crime depends not only on the police activity, but also on a number of other socio-economic and political factors. At the same time, a significant role in determining the level of latent crime belongs to sociological studies of the level of citizens' confidence in the police. K. Bugaychuk²⁴ notes that the activities of police units in Scotland are estimated through public opinion research about their activity, and the purpose of this research is not only to determine how much citizens trust the police, but also to obtain information to supplement official statistics on the crimes that have become known or the victims of which they became during the reporting period. First of all, it allows to reveal information about crimes about which the police was not notified. That is, in fact, public confidence in the police is not only an indicator of public satisfaction with the work of the police in preventing, identifying, suppressing and solving crimes, but also a powerful tool for determining the level of latent crime.

²² SPARROW, M.K. Measuring in a Modern Police Organization. *Psychosociological Issues in Human Resource Management*. Vol. 3, Issue 2 (2015), pp. 17–52.

²³ KRIVINS, A., Towards acuity and safety: police efficiency across European countries. *Journal of Security and Sustainability Issues*. Vol. 5, No. 1 (2015), pp. 35–44.

²⁴ BUGAYCHUK, K. Criteria for evaluating the work of the police authorities of individual countries. 2015. Available at: <<http://police-reform.org/articles/kriteriyocinkirobotiorganivpolicijiokremihkrayin>> [q. 2018-11-06].

Moreover, it should be noted that the orientation of police authorities on reducing the level of latent crimes, as V. Shikun²⁵ notes, will also provide a clear data about the dynamics of crime, determine the size of the damage caused to the state and citizens, identify the circumstances that generate crime and identify ways to eliminate them, predict and plan activity of police in the sphere of counteraction and combating crimes. The introduction of this criterion will undoubtedly help to reorient the police authorities activity from the usual collection and recording of crime information to intensify their fight against crimes, including financial and economic crimes.

A slightly different criterion for evaluating the police activities is the number of law enforcement officers. Yu. V. Bykovskaya notes that this criterion is generally one of the key criteria when developing a mechanism to increase the effectiveness of the police. The number of law enforcement officers should be optimal, since, on the one hand, an excessive number of workers leads to an unjustified increase in budget expenditures, and on the other hand, an insufficient number of personnel contributes to an increase in the crime rate and worsen the criminal situation in the state. This should take into account the scale of the state, the population, the level of criminalization in the state, the state policy regarding the law enforcement agencies activity, the priorities and directions of their development, the successes and achievements of previous reforms.

It is worth noting that the question of establishing the relationship between the number of police officers and the level of crime has not lost its relevance over the years. In 2008, as a result of the study, it was stated that the number of police officers and the crime rate is partially interdependent. That is, the increase in the number of crimes leads to an increase in the number of police officers. However, there is no evidence that increasing the staff of the police reduces crime rates. At the same time, we do not believe that the number of police officers is the criterion by which we can determine how effectively the police carry out the tasks and functions assigned to them, including in the area of counteracting and combating financial and economic crimes.

Thus, the assessment of the police authorities activity as subjects which counteract and combat financial and economic crimes in Ukraine and the Slovak Republic by quantitative criteria is not feasible today due to a number of reasons. Due to this, it is necessary to fix at the legislative level such criterion as reduction of level of latent crimes. Therefore, the more police authorities will have information about the actual state of crime in the state, the better

²⁵ SHAKUN, V. The limits of influence on crime. Yearbook of Ukrainian Law. No. 2 (2000), pp. 183–190.

they will be able to organize their activity and within their authority to take appropriate measures to eliminate the causes and conditions conducive to the commission of such crimes, reimburse the damage inflicted to the state and bring the perpetrators to justice.

CONCLUSION

Nowadays, the increase of financial and economic crimes, as well as the democratization of many areas of public relations, makes it necessary to revise the criteria for assessing the police authorities activity in Ukraine and the Slovak Republic which counter and combat financial and economic crimes. The analysis of legislation of Ukraine and the Slovak Republic testifies to fundamentally different approaches of legislators to the definition of the status and structure of police authorities. In connection with this, the Slovak Republic has specially created Financial Police Units, whereas in Ukraine they are absent.

The experience of Ukraine and the Slovak Republic shows that one of the criteria for assessing the police authorities activity is the level of public trust. However, determining the level of citizens' trust in police in Ukraine and the Slovak Republic has a number of shortcomings. Therefore, in order to eliminate them, it is proposed: 1) to create an independent sociological service responsible for monitoring public opinion about the police activity, in this regard, the experience of Northern Ireland and Great Britain is rather positive; 2) provide for a systematic determination of the level of public trust in the police; 3) oblige police authorities to take into account the results of a sociological survey and take them into account when planning their activity for the next period. Taking into account that the police agencies in Ukraine and the Slovak Republic are oriented mainly on the quantitative indicators of their activity, it is also reasonable to affirm at the legislative level such criterion of their activity as a decrease in the level of latent crimes. In this case, determining the level of public trust in the police and the level of latent crimes will be closely related categories, as conducting a sociological survey will enable not only to determine the number of people who trust the police, but also latent crimes.

To summarize, the significant improvement of the mechanism for determining the level of public trust in the police authorities in Ukraine and the Slovak Republic, as well as the prediction of such a criterion as reducing the level of latent crimes, will help to reorient the police activity from quantitative to qualitative indicators, to involve public to the police assessment and overall improve the performance of the latter in the sphere of countering and combating financial and economic crimes.

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Acknowledgements. The paper was carried out within the internship staying, financed by National Scholarship Programme of the Slovak Republic, at the Comenius University.

Andriichenko N. A step forward improvement of police performance assessment as a subjects of combating financial and economic crimes: experience of Ukraine and Slovakia / Н. С. Андрійченко // Bratislava Law Review. 2018. – № 2. – P. 127–136.