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LAW ENFORCEMENT: THE CONCEPT, MAIN FEATURES AND TASKS

Oleksandr KOBZAR,
Candidate of Sciences in Law (PhD), docent
Doctorate candidate at
Doctorate and Post-graduate Courses
of Kharkov National University of Internal Affairs

SUMMARY

The article is devoted to law enforcement as one of the branches of public administration. Main features and tasks of law enforcement agencies have been characterized. The law enforcement agencies' role in securing public order has been examined.

Key words: law enforcement agencies, law enforcement, public administration, combating crime, law and order.

АННОТАЦИЯ

Статья посвящена правоохранительной структуре как одной из ветвей государственной администрации. Охарактеризованы основные особенности и задачи правоохранительных органов. Рассмотрена роль правоохранительных органов в обеспечении общественного порядка.

Ключевые слова: правоохранительные органы, правоохранительная структура, государственное управление, борьба с преступностью, закон и порядок.

At the contemporary stage of our state's development and introduction of basic civil society principles on its territory, the following issues have acquired special importance. They cover ensuring the rule of law; protecting human and citizen rights and freedoms; safeguarding rights and legitimate interests of public and private organizations, NGOs, and individuals; maintaining social control of crime and other offences by the state.

Law enforcement is aimed at preventing conditions and causes of potential and committed socially dangerous phenomena; at ceasing their development and eliminating the consequences. Different types of law enforcement possess a special feature. It is that safeguarding personal or legal entity's rights is exercised using publicly set procedures. As a guarding instrument of the state, law enforcement affects behavior of legal entities by using permits, regulations, prohibitions; monitoring their observance and implementing legal liability.

Law enforcement activity carried out by law enforcement agencies is determined by law enforcement function of the state. It is an objective requirement for development of state and society and is directed to maintain law and order. Law enforcement can take place only within the legality.

Maintaining law and order and eliminating offenses are assigned to competent authorities (prosecutors, law enforcement agencies, tax police, Security Service of Ukraine). Their activities in preventing offenses, inquiry and investigation of crimes are mandatory and require urgent and adequate response to the facts of failure or improper fulfillment of the legal requirements by persons or entities.

Restoration of a violated right is the main task of law enforcement agencies. It is the system of legitimate actions forced upon a person or entity that caused damage or other negative consequences, to compensate them. The legislation provides the procedure for compensating the non-pecuniary or material damage; and establishes the fixed compensation payments for misconduct of law enforcement agencies. The activity of law enforcement agencies is public, multi-faceted and controlled. In this regard, a law enforcement agency may be defined as a jurisdictional authority empowered by the state to carry out legally established functions or tasks concerning law

and order protection, investigation or prevention of offenses, national security, maintenance of law and order, and provision of legitimacy.

Law enforcement is one of the public administration branches, since entire state activity requires organization and regulation. Administrative regulation establishes legal principles for law enforcement activities of such agencies as the Internal Affairs, the Customs, and the State Tax Service.

All public authorities perform main tasks and functions. Citizens are also being involved in such activities. They use rights granted to them for direct and legitimate protection of their rights and freedoms by participating in the management of state affairs both directly and through their representatives, and also by equal access to public service.

However, for most public administration agencies, ensuring law and order, protecting human rights, freedoms and civil rights, combating crime and other offenses are auxiliary functions in accordance with their authority. The principle activity of these bodies is to deal with current and future issues in economics, foreign policy, culture, science and education, etc. Separate functions related to the maintenance of law and law enforcement, are performed by these bodies additionally in the course of their main tasks.

It is important to emphasize that securing law and order is exercised by special public administration agencies. The state has put such objectives and functions upon them. First of all they are law enforcement agencies that have been created to protect state order and activity, life of the society as a whole as well as citizens and other individuals, in particular, stated in the Constitution of Ukraine, and other legislative and regulatory acts

To clarify the criteria necessary for designating certain state agencies to the law enforcement, it is significant to disclose the concept of law enforcement activity.

First and foremost feature is that such activities are only exercised upon the implementation of legal impact measures. In turn, they are divided by the current legislation into measures of state coercion and penalty. An example is committing a crime for which a sentence or another measure provided by the current criminal law may be assigned.

Another essential feature of law enforcement is its specifics about the application of measures of legal influence in strict compliance with the specific prescription of a rule of law and its content. Thus, the government body that has the authority to apply measures of legal impact is obliged to carry out such orders inviolately. In particular, upon violations of the special part of the Code of Ukraine on Administrative Offences determining administrative violations in the field of labor safety and health, the following provision serves as an order (instruction). It defines that violation of pensions, scholarships and salary payment terms, their limited payment and other violations of labor legislation are punished by a fine on officials of enterprises, institutions and organizations regardless of ownership, and citizens – entrepreneurs in the amount from fifteen to fifty non-taxable incomes. This entry in the law means that this kind of penalty may be applied only to the guilty of such action, and that only a fine can be assigned to that person, not corrective labor or administrative detention, due to the reason that such penalty is more appropriate and fair.

An essential feature of law enforcement it is procedural nature. That is, such activities should be carried out according to the procedures determined by the procedural law. For example, the verdict comes into force after the preliminary investigation and trial, which are provided by the criminal procedural law, etc.

The defining feature of law enforcement is that its implementation should be fulfilled by special state agencies that are authorized to exercise law enforcement functions in the state. However, such requirement is a currently insufficient condition for law enforcement. This feature also requires that staff list of special law enforcement agencies should consist of officials having legal education, and experts having sufficient specialized knowledge in other scientific fields. The organization and activities of such state agencies is thoroughly and comprehensively regulated by law, also by establishing special procedural rules to address the most important issues. For example, the organization and activities of militia units are defined in the Law of Ukraine «On Militia» dated December 20th 1990.

Particular attention should be focused on defining tasks (objectives), set for law enforcement activity. In this context, it is important to note that main tasks of law enforcement are most fully embodied in the laws that define legal status and establish the powers of special state agencies in law enforcement and public safety spheres. Such legislation may include, for example, the Law of Ukraine «On Militia», the Law of Ukraine «On the Security Service», the Law of Ukraine «On the Judicial System of Ukraine», the Criminal Procedure and Civil Procedure Codes and some other laws. The most essential tasks that are common to most law enforcement agencies and are aimed at protecting the rights and freedoms of man and citizen should be listed further. This key principle should be fundamental in disclosing the contents of law enforcement tasks.

However, there is no need to emphasize the urge for reform in Ukrainian law enforcement agencies, as the situation in this area satisfies neither society nor the government, nor most law enforcement officers. It is quite clear that the process of reforming law enforcement agencies and system is rather complex and lengthy. But it the only possible way Ukraine can move away from the unpromising direction of numerous minor changes in the old law enforcement mechanism and develop a new public safety system that would meet the requirements of time and situation.

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