

TESTING OF INTEGRITY OF POLICE OFFICERS: THE REALITIES OF TODAY

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ABSTRACT

***Description:** The purpose of the article is to approve scientific view on the need to determine and adopt the procedure for testing of integrity of police officers.*

***The Subject of the Study:** The subject of the study is approval approve scientific view on the need to determine and adopt the procedure for testing of integrity of police officers.*

***Methodology:** The following general and special methods of cognition are used in the course of the research: dialectical method, comparative and legal method, system and structural method, modeling method, method of abstraction, and method of generalization.*

***The Results of the Study:** Problematic issues related to the standardization of the procedure for testing of integrity of police officers are investigated. Emphasis is placed on the need to address the issue of taking measures to ensure the compliance with the rules of integrity, as well as to determine the procedure for testing the integrity of police officers.*

***Practical Implications:** It is argued that the proper level of integrity of police officers can be ensured by enshrining the requirements of integrity in the Law of Ukraine “On the National Police”.*

***Value/Originality:** Based on the analysis of anti-corruption legislation, the criteria for checking the integrity of police officers have been identified.*

Keywords: Corruption Prevention, Testing of Integrity, Police Officers, Conflict of Interest, Corruption Risks.

INTRODUCTION

Stable and effective functioning of the National Police of Ukraine is a necessary condition for the protection of the constitutional order, ensuring law and order, respect for human and civil rights and freedoms (Shatrava, 2017). Accordingly, corruption and other forms of illegal policing undermine the legitimacy of the police organization and, as a consequence, the State as a whole (Punch, 2000).

It should be noted that the effectiveness of anti-corruption activities in the National Police and its territorial agencies largely depends on ensuring a systematic approach to preventing and combating corruption through the implementation of anti-corruption policy of the

State, which is achieved as a result of systematic improvement of the measures to prevent corruption, introduction of the mechanisms of transparency, integrity, reduction of corruption risks in the police and the increase of public confidence in policing, which, in particular, as of the end of 2019 was only 0.2% (National Agency on Corruption Prevention, 2020). In addition, the process of combating corruption should vary from general to specific strategies and actions aimed at preventing corruption, developing the circumstances in which it may occur, and providing means to identify areas of risk and vulnerability (Poerting & Vahlenkamp, 1998).

It should also be added that corruption in the police is not an accidental phenomenon that can be easily combated through temporary, repressive measures. In fact, corruption and illegal actions of the police are constant and recurring dangers created by the organization itself. According to the data of the standard survey in 2020 on the level of corruption in Ukraine, the police and the Prosecutor's office are in second place (37%) (for the population), and in first place (41%) (for the legal entities), among the highest priorities areas in the fight against corruption (National Agency on Corruption Prevention, 2020), which indicates the need to find new and improve existing preventive anti-corruption measures to ensure the integrity of police officers.

The problem of improving the integrity of police officers requires clarifying the essence of this category in accordance with the realities of today, the peculiarities of the national legislation and international obligations undertaken by our State, which will determine a reasonable system of integrity criteria.

So the purpose of the article is to characterize the essence and features of the legal regulation of testing of integrity of police officers and to formulate proposals and recommendations on the procedure for inspection of integrity of police officers based on the analysis of the legislation of Ukraine.

The relevance of the research topic is also seen in the need to improve the mechanism for monitoring compliance with the rules of integrity of police officers, what can be done by standardizing testing of the integrity of police officers.

MATERIALS AND METHODS

To achieve the goal of the study, a set of general scientific and special methods of cognition was used.

In particular, the appeal to the dialectical method made it possible to set the task of research in dynamics and interrelation, to find out the essence of the procedure of testing of integrity of police officers. The comparative and legal method made it possible to compare the norms of the legislation on determining the procedure for testing of integrity of police officers. Using the method of systematic analysis of legal norms allowed to identify the main trends in law enforcement during the inspection of the integrity of law enforcement officers of Ukraine, to identify the features of internal regulations of the National Police on the basis of the relevant proposals were formulated. The method of generalization was useful in formulating proposals to improve the legal preconditions for testing of integrity of the police officers. The logical method of scientific knowledge served as a basis for determining the principle of integrity of police officers, as well as the criteria for testing of integrity of police officers.

LITERATURE REVIEW

A comprehensive study of the administrative and legal support of the integrity of law enforcement officers was conducted by Pysanets (on the procedures for checking the integrity of the employees of the National Bureau of Investigation, State Bureau of Investigation, prosecutors, police officers) (2020). The work of Shatrava (2017) on the prevention of corruption in the activities of the National Police as the necessary component of anti-corruption policy of the State is also worth attention. Semkin (2017) conducted a thorough analysis of the state of implementation of the institute of testing of integrity in the legislation of Ukraine. The concept of integrity under legal framework was revealed by Bihun (2019). Sorokina (2017) explored the essence of integrity as the necessary moral and ethical component of a public servant.

The work of foreign scholars deserves attention as well; in particular, the research of Punch (2000) (on the features of preventing corruption in the police), Poerting and Vahlenkamp (1998) (on internal strategies to prevent and combat corruption in the police).

At the same time, there are currently no comprehensive studies on the procedure and legal regulation of integrity checks with the definition of criteria for such inspections of police officers in Ukraine. Therefore, the practical significance of the specifics of determining the procedure for checking the integrity of police officers is currently particularly relevant.

RESULTS AND DISCUSSION

A systematic impetus to the introduction of tools to verify the integrity of persons authorized to perform the State functions (among which are also police officers according to paragraph 1, Part 1, Article 3 of the Law of Ukraine “*On Corruption Prevention of Corruption*”) (Law of Ukraine, 2014), can be considered the Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014-2017 (Law of Ukraine, 2014). This legal act states that testing of integrity, which should be conducted to ensure professional integrity, prevent corruption among civil servants, verify their compliance with their duties, ethical standards of conduct, identification, assessment and elimination of factors leading to corruption, can significantly strengthen the resistance of the public service to corruption, as well as the trust of citizens in it. The procedure for testing of integrity should be determined by law.

Given that the main task of the Cabinet of Ministers of Ukraine is to direct and coordinate the work of Ministries, other executive bodies and to control their activities (Law of Ukraine, 2014), a significant number of measures to implement the principles of State anti-corruption policy in Ukraine, including ensuring the integrity of legislative, executive and judicial branches of government provided for in by-laws. In particular, the State Program for the Implementation of the Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2015-2017 (hereinafter-the State Program) (Order of the Cabinet of Ministers of Ukraine, 2015), approved by the Ministry of Justice and the National Anti-Corruption Bureau of Ukraine (hereinafter-the NABU) provides for conducting inspections for the integrity of persons authorized to perform State functions. For this purpose it was necessary to develop a Draft law of Ukraine to regulate the procedure for conducting testing of integrity for persons authorized to perform State or local government functions, conducting its public discussions, ensuring its international expertise and promoting by the Verkhovna Rada of Ukraine.

However, to date, this measure has been partially implemented. The prepared Draft Law of Ukraine “*On Testing of Integrity*” was submitted for the discussion to the European Commission “*For Democracy through Law*” (Venice Commission) according to the established procedure (Order of the Cabinet of Ministers of Ukraine, 2011). The Venice Commission concluded that it needed to be finalized taking into account foreign experience on this issue; so, it has not yet been introduced to the Verkhovna Rada of Ukraine.

It should also be noted that the deadline for the implementation of the Anti-Corruption Strategy was completed in 2017, and due to the imperfect mechanism of introducing the institution of testing of integrity of persons authorized to perform State functions in the legislation of Ukraine, there are some difficulties in its practical implementation by different agencies, as well as some unresolved issues of legal, theoretical and organizational nature, which significantly complicates the introduction of this procedure.

In particular, today the concept of integrity and some other concepts that are part of the conceptual apparatus are vague at the legislative level, which complicates its use in law enforcement practice. The debatable meaning of the term “*integrity*” and its ambiguity is noted by Bihun (2019), who believes that integrity is:

1. One of the criteria for compliance with the office;
2. A preventive tool in the fight against corruption;
3. A qualitative characteristic of a State institution;
4. A principle of activity;
5. A principle of ethical behavior of the candidate for the position;
6. A principle and a standard of ethical behavior in the performance of duties, etc.

Sorokina (2017) notes that integrity is a moral concept, which, along with duty and responsibility, indicates the forms of individual development of moral values. According to the author, this category belongs to the fundamental categories of the science of ethics, reflects the subjective form of morality and indicates the result of the detection of certain stable positive moral values in personality behavior.

Along with this, we would like to draw attention to the fact that the Law of Ukraine “*On Corruption Prevention*” does not enshrine concept of “*integrity*” as well.

Currently, just the Law of Ukraine “*On the Public Service*” (Law of Ukraine, 2015) enshrines integrity as one of the principles of public service, which is defined as the focus of the public servant on protecting public interests and his (her) refusal to prevail private interest in the exercise of his powers. It is in line with NATO’s integrity policy (2017), according to which integrity is the link between behavior and principles. In the institutional sense, integrity is directly related to good governance. Strengthening the foundations of integrity within the relevant institution is a matter of institutionalizing the principles that the organization seeks to uphold.

It is worth noting that the report on the results of expert analysis of Ukraine’s self-assessment of the implementation of the integrity building program for 2019 (State Border Guard Service of Ukraine, 2019) states that there are two sides of integrity in the police-professional productivity and ethical behavior, and therefore in our opinion good behavior of a police officer in the context of preventing corruption should be considered as a necessary moral and ethical component of his (her) activities, which determines the limit and manner of his (her) behavior,

based on the principles of policing. At the same time, given that the police service is a public service of a special nature, which is a professional activity of police officers in the exercise of police powers, we believe that the proper level of integrity of police officers can be ensured by enshrining integrity as a principle in the Law of Ukraine “*On the National Police*” (Law of Ukraine, 2015). Accordingly, the legal regulation of this principle will contribute to the strengthening of moral and professional qualities of the candidates for the position of police officer and working police officers. In this regard, we propose to supplement Section II “*Principles of Police Activity*” of the Law of Ukraine “*On the National Police*” with a provision defining the principle of integrity of a police officer, as the course of actions to ensure the protection of rights and human freedoms, combating crime, maintaining public safety and order and refusing of prevailing private interest in the exercise of his (her) powers.

Besides, given that the unambiguous use of terms in the legislation is ensured primarily by the conformity of their content, respectively, differences in the terminology of general and special laws are unacceptable. In this regard, and in order to unambiguously interpret the concept of integrity and its further use in by-laws, as well as to exclude the possibility of arbitrary interpretation, and to define clear criteria for testing of integrity of police officers, it is appropriate to define and enshrine the concept of integrity in the Law of Ukraine “*On Corruption Prevention*”.

In addition, when examining the issue of testing of integrity of police officers, it should be borne in mind that public authorities, their officials are obliged to act only on the basis and within the powers and in the manner prescribed by the Constitution and laws of Ukraine (Law of Ukraine, 1996). Taking into account the above, we believe that the mechanism of introduction of the institute of testing of integrity of police officers should be systemic and legislative basis with the definition of the legal basis for organizing the testing, the procedure for conducting it, the entities authorized to conduct the testing, as well as presentation of its results and legal implications (Semkin, 2017).

Currently, the main legal act that determines the legal basis for the organization and activities of the National Police, the status of police officers and the procedure for serving in the National Police is the Law of Ukraine “*On the National Police*” which, in particular, lacks a legal basis for testing of integrity of police officers.

The Rules of Ethical Conduct for Police Officers, which is generalized collection of professional and ethical requirements for the rules of conduct of police officers, do not regulate integrity. It should also be noted that today there is no procedure for testing of integrity of police officers in the system of departmental regulations of the National Police, unlike the NABU and the Prosecutor’s Office, which is a rather serious regulatory omission according to Pysanets (2020).

Studying the procedures for testing of integrity of the employees of NABU (Order of the Directorate of the National Anti-Corruption Bureau of Ukraine, 2019) and the Prosecutor’s office (Order of the General Prosecutor’s Office of Ukraine, 2016), it should be noted that their components are the implementation of financial control over the property of employees, collecting and processing information about the employee, conducting surveys (in the Prosecutor’s office), as well as modeling situations, in which bad faith may be manifested (in NABU). In case of a negative result of such an inspection, an official investigation shall be appointed in respect of a specific employee.

As one can see, each of these law enforcement agencies has particular features of the procedure for testing of integrity of its employees, which must be taken into account when developing the procedure for testing of integrity of police officers. It should also be noted that the Anti-Corruption Strategy provides that testing of integrity of public servants should be conducted by simulating situations similar to those that arise in their daily activities. However, it is emphasized that such inspections may be in the nature of a provocation to provide an illegal benefit and therefore cannot be a basis for initiating criminal proceedings. The expediency of introducing an alternative method of integrity testing, which does not require modeling the situation, is noted in the relevant Conclusion of the Venice Commission (2015).

Given the above, it should be noted that according to the Law of Ukraine “On Corruption Prevention” police officers are referred to the subjects of declaration, which is the submission of an annual declaration in the form prescribed by the National Agency for Corruption Prevention; it is a form of State control over the integrity of persons performing certain functions of the State, including police officers (Constitutional Court of Ukraine, 2019). There are also other effective anti-corruption standards for ensuring the integrity of the legislative, executive and judicial branches of government: ethical standards, prevention and settlement of conflicts of interest, anti-corruption programs, corruption detection, etc.

The Law of Ukraine “*On Corruption Prevention*” refers to the following anti-corruption standards: restrictions arising in connection with official activities to prevent corruption and corruption-related offenses (Section 4), prevention and settlement of conflicts of interest (Section 5), rules of ethical conduct (Section 6), financial control (Section 7). That is, this Law establishes a number of provisions, which are certain rules and requirements for the conduct of police officers that are measures to ensure good conduct of police officers in the course of performance of their official duties. Accordingly, we believe that the criteria that should be determined in the course of testing of integrity of police officers and according to which they should be tested include: compliance with the rules of prevention and settlement of both real and potential conflicts of interest, financial control rules; compliance with restrictions on the combination of the main activity with other paid activities, as well as on the receipt of gifts; compliance with the procedure for preventing the receipt of illegal benefits or gifts; compliance with the ban on the use of official powers.

The procedure of testing of integrity of police officers should be understood as a set of organizational and practical measures, which consist in collecting, analyzing and verifying data that testify to the moral and professional qualities of police officers and their compliance with prohibitions, restrictions and enforcement measures.

CONCLUSION

Summing up, it should be noted that the definition of the principles of general departmental policy to prevent and combat corruption in the Anti-Corruption Strategy and its implementation through the State Program and Priority Action Plans of the Government contributed to the gradual establishment of effective mechanisms to prevent corruption in the police and the establishment of institutional support for their compliance.

At the same time, it should be noted that the introduction of new institutions usually causes some difficulties in law enforcement, as well as in practice, which requires finding optimal ways to solve these problems.

Therefore, in order to determine the effectiveness of legal instruments to ensure the integrity of police officers, it is necessary to introduce and conduct testing of the integrity of police officers. Accordingly, the information obtained as a result of a negative integrity test of police officers can serve as a basis for describing the risks of corruption, analyzing the factors that give rise to them and formulating recommendations for improving integrity in police agencies and departments.

Therefore, in order to ensure the objectiveness of such testing, it is necessary to develop and approve its procedure, which should be enshrined in the internal regulations of the National Police.

Besides, it should be noted that testing of integrity should be conducted in strict compliance with the fundamental human and civil rights and freedoms and with respect for the human dignity and professional honor of the police officers.

REFERENCES

- Bihun, V. (2019). Integrity as a legal regime and legal relations. *Journal of Kyiv University of Law*, 3(1), 20-24.
- Constitutional Court of Ukraine. (2019). *Decision of the of 06.06.2019 № 3-r on the initiative of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights and 65 People's Deputies of Ukraine*. Retrieved from <https://zakon.rada.gov.ua/laws/show/v003p710-19/print>
- Law of Ukraine (2014). *On the cabinet of ministers of Ukraine of February 27, no. 794-VII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/794-18#Text>
- Law of Ukraine (2014). *The constitution of Ukraine of June 28, 1996 no. 254k/96-VR*. Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>
- Law of Ukraine (2015). *On the national police of July 02, 2015 no. 580-VIII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>
- Law of Ukraine (2015). *On the public service of December 10, 2015 no. 889-VIII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/889-19#Text>
- Law of Ukraine. (2014). *On corruption prevention of October 14, 2014 no. 1700-VII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/1700-18#Text>
- Law of Ukraine. (2014). *On the principles of State anti-corruption policy in Ukraine (anti-corruption strategy) for 2014-2017 of October 14, 2014 no. 1699-VII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/1699-18#Text>
- National Agency on Corruption Prevention. (2020). *Draft anti-corruption strategy for 202-2024*. Retrieved from https://nazk.gov.ua/uk/departament-koordynatsiyi-antikoruptsijnoyi-polityky__trashed/antikoruptsijna-strategiya/
- National Agency on Corruption Prevention. (2020). *National report on the implementation of anti-corruption policy in 2019*. Retrieved from <https://nazk.gov.ua/wp-content/uploads/2020/05/Proyekt-Natsdopovidi-2019.pdf>
- NATO'S Integrity Policy. (2017). *NATO building integrity policy, endorsed by the heads of state and government participating in the meeting of the North Atlantic council in Warsaw 8-9 July 2016*. Retrieved from https://www.nato.int/cps/uk/natohq/official_texts_135626.htm?selectedLocale=uk
- Order of the Cabinet of Ministers of Ukraine. (2011). *On sending bills to international organizations by central executive bodies of December 28, no. 1346*. Retrieved from <https://zakon.rada.gov.ua/laws/show/1346-2011-%D1%80#Text>
- Order of the Cabinet of Ministers of Ukraine. (2015). *On approval of the state program for the implementation of the principles of State anti-corruption policy in Ukraine (Anti-Corruption Strategy) for 2015-2017 of April 29, 2015 no. 265*. Retrieved from <https://zakon.rada.gov.ua/laws/show/265-2015-%D0%BF#Text>

- Order of the Directorate of the National Anti-Corruption Bureau of Ukraine. (2019). *Regulations on the Department of Internal Control of the National Anti-Corruption Bureau of Ukraine of November 29, 2019 no. 142*. Retrieved from <https://nabu.gov.ua/nakaz-pro-zatverdzhennya-polozhennya-pro-upravlinnya-vnutrishnogo-kontrolyu-nacionalnogo>
- Order of the General Prosecutor's Office of Ukraine. (2016). *The procedure for conducting secret inspection of the integrity of prosecutors in the Prosecutor's office of Ukraine: of June 16, 2016 no. 205*. Retrieved from <https://zakon.rada.gov.ua/laws/show/z0875-16#Text>
- Poerting, P., & Vahlenkamp, W. (1998). Internal strategies against corruption: Guidelines for preventing and combating corruption in police authorities. *Crime, Law and Social Change*, 29(2), 225-249.
- Punch, M. (2000). Police corruption and its prevention. *European Journal on Criminal Policy and Research*, 8(3), 301-324.
- Pysanets, V. (2020). *Administrative and legal support for integrity of employees of law enforcement agencies of Ukraine*. Open International University of Human Development: Ukraine.
- Semkin, T. (2017). Introduction of the institute of testing of integrity in the legislation of Ukraine. *Bulletin of the National Academy of the Prosecutor's Office of Ukraine*, 2(48), 11-16.
- Shatrava, S. (2017). Corruption prevention in the activities of the National Police agencies as the necessary component of the State's anti-corruption policy. *Forum Prava*, 5(1), 427-434.
- Sorokina, N. (2017). Integrity as a necessary moral and ethical component of a public servant. *National Law Journal: Theory and Practice*, 5(1), 39-42.
- State Border Guard Service of Ukraine. (2019). *Report on the results of expert analysis in Ukraine. Self-assessment of the state of implementation of the integrity building program*. Retrieved from <https://dpsu.gov.ua/ua/Zvit-za-rezultatami-ekspertnogo-analizu-v-Ukraini/>
- Venice Commission. (2015). *Interim opinion on the draft law on integrity checking of Ukraine, adopted by the Venice Commission at its 104th Plenary Meeting (CDL-AD(2015)031-e)*. Retrieved from [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)031-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)031-e)