

Police Commissions in Ukraine: results of the research

Summary of the report and infographics



KYIV 2018



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CONTENT

Introduction.....	4
Methodology.....	4
I. Legislation on police commissions.....	6
II. Types and composition of police commissions.....	6
III. Main peculiarities of formation and work of police.....	10
4.1. Order of formation.....	10
4.2. Meetings of police commissions.....	11
4.3. Scope of work of commissions.....	11
4.4. Realization of powers by members of commissions.....	12
4.5. Organizational, technical and material provisions of work of police commissions.....	12
Generalized recommendations.....	13

Introduction

Reform of law enforcement agencies in Ukraine foresees new forms of public control over their activity. Police commissions — is a new instrument that improved transparency, quality of selection and career possibilities of police officers. However, identified were drawbacks of legislative regulation of such commissions and practice of their implementation which impact their effectiveness.

In 2016-2017 police commissions were created within units of the National Police in all regions of Ukraine. As a result of a lack of communication between police and society as well as absence of a sufficient level of interest of media in the work of these commissions — there is either no information about them or just knowledge of the fact that they are foreseen by the Law.

This research is the first basic description of activity of police commissions. It includes the information on formation of commissions, problems of legislative regulation of their activity, judicial practice of appealing against decisions of commissions and other elements of this mechanism of public control.

Methodology

The research was conducted during the second half of 2017 — first quarter of 2018 by the group of experts of the Center of Policy and Legal Reform, Association of Ukrainian Human Rights Monitors on Law Enforcement (Association UMDPL), as well as with the help of partner organizations in different regions of Ukraine.

Researchers applied common scientific methods. In particular, the research is based on a complex of qualitative and quantitative methods of collection of information. The research had two main stages:

- a) Analytical research;
- b) Field research.

Analytical research was aimed at studying international standards in the sphere of public control, analysis of the legislation regulating activity of police commissions, analysis of statistical data regarding activity of police commissions and over 150 answers on requests to access public information, studying documents (protocols, applications etc.) of police commissions, as well as analysis of court decisions in case of appeals against decisions of commissions.

Field research was conducted with the aim to study practical experience of activity of police commissions and collect empirical data. There were 16 in-depth semi-structured interviews with the members of commissions in 6 regions of Ukraine. Interviewed were members of commissions from public sector and police. Monitored were also reports in regional mass media regarding activity of police commissions.

As a result of a conducted research the following findings were formulated (key findings):

1. After the Law of Ukraine “On National Police” came into force in 2015, 84 police commissions were created and started operating. They fully ensure a competitive selection of candidates to police.
2. Work of police commissions is carried out according to requirements of legislation having no major drawbacks. And the majority of procedures in commissions adhere to the rules established by the legislation and any mandate of members of commissions is being limited.
3. One of the proofs of this fact is a low number of administrative cases in courts (only 7 in 2017 and as of beginning of 2018), where violations of requirements of legislation were detected in activity of police commissions and territorial police authorities during competitions.
4. However, the number of created commissions is in fact ten times less than it is required by the Law, as a result of which territorial communities lose the possibility to influence staffing policy of the National Police. Police commission of the Secretariat of the central body of police management has also not been created.
5. Among members of police commissions there are not enough representatives of civil society, politicians take part in the activity of police commissions and gender balance is also not being observed by commissions. Civil society does not play a decisive role in decision-making on police staff issues, at the same time activity of commissions makes this process more transparent and controlled by society.
6. There is a number of drawbacks and collisions in acts of legislation regulating the activity of police commissions regarding the obligatory competition when selecting candidates to all positions in police, mandate on setting priorities of police activity, absence of methodological recommendations on activity of commissions, making decisions on inconsistency of a police officer with his position, scoring interviews etc.
7. Model and mechanisms of participation of civil society in control over the activity of police, particularly police commission, need an in-depth study and analysis. As of today, it is foreseen to create disciplinary commissions in the work of which civil society will be involved. Thus, citizens can take part in decision-making on staffing and disciplinary issues and not only being consulted with as it was before. That is why the scope of mandate, order of formation and liquidation, control over the activity of commissions, councils etc. — have to be balanced and such that will facilitate human rights observance in police activity.



I. Legislation on police commissions

Activity of police commissions is regulated by the Law of Ukraine “On National Police” and the Order of Activity of Police Commissions, approved by the Decree of the Ministry of Internal Affairs of Ukraine №1631. However, there is a number of gaps and collisions in these legislative acts.

In particular, a competition for positions in the National Police shall be obligatory conducted only among persons who apply for police service for the first time. In cases of promotion of a police officer, in particular for leadership positions, a competition is not obligatory. Thus, indicated positions can be filled without competition.

Another example — appointment for leadership positions and promotion in the National Police is conducted mostly through a non-competitive procedure. It is possibly caused by the fact that members of commissions don't feel illegal influence or pressure since there are not many people who are interested in selection of police officers being accepted to service for the first time.

II. Types and composition of police commissions

police commission of the secretariat of the central body of police management

DOES NOT WORK

-  2 representatives designated by the Minister of Internal Affairs who don't belong to police;
-  1 representative, designated by the Head of the National Police;
-  2 representatives of civil society, recommended by the Ukrainian Parliament Commissioner for Human Rights from among those persons who have impeccable reputation, high professional and moral qualities, public authority.

police commissions of territorial police authorities

-  1 representative, designated by the Minister of Internal Affairs, not from among the police officers;
-  1 representative, designated by the Head of the National Police;
-  1 representative, designated by the Head of the relevant territorial police authority;
-  2 representatives of civil society, selected by relevant regional council, Verkhovna Rada of the Autonomous Republic of Crimea, Kyiv City Council, Sevastopol City Council, from among the persons who have impeccable reputation, high professional and moral qualities, public authority.

Due to inconsistent changes in legislation regulating police activity, there are territorial and interregional police authorities:

- Department for Protection of Economy;

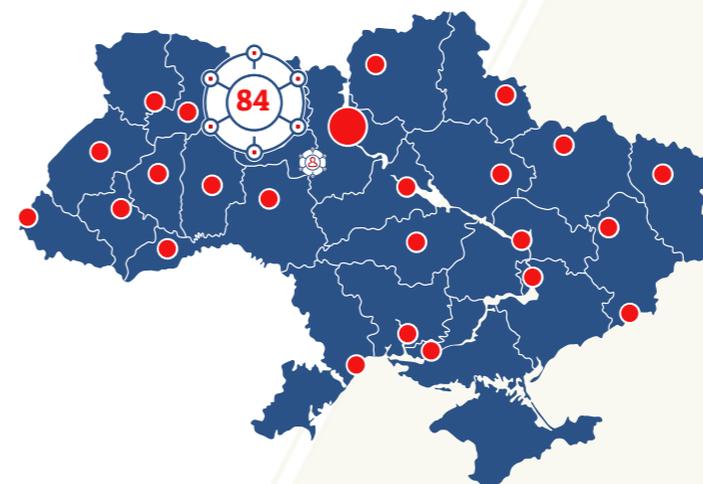
- Department of Cyber police;
- Department of Security Police;
- Department for Internal Security.

Inconsistency lies in the fact that in October 2015 the Cabinet of Ministers of Ukraine created them by its decree, and only in May 2016 the Parliament legitimized these government decisions by amending the Law on the National Police.

As a result, there is an unreasonable practice, according to which Department for Protection of Economy, Department of Cyber Police and Department for Internal Security have only one police commission each, and Department of Patrol Police and Department of Security Police have police commissions in each region. Along with this, police commissions were created in separate districts (for example, there are two patrol police commissions in Kharkiv region), and in the system of security police there are commissions even on the city and interdistrict level (Kryvyi Rih City Unit, Mariupol Interdistrict Unit).

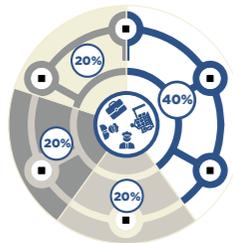
From another side, existing approach introduces a substantial imbalance to the system of relations between state and local authorities. Since part of members of police commissions of the Department for Protection of Economy, Department of Cyber Police and Department for Internal Security are being selected by Kyiv City Council representing interests of only the territorial community of Kyiv city. However, these police commissions have the mandate to conduct competitions to positions of police officers who can work in other cities and territorial communities all over the country.

Today there are 84 police commissions working in Ukraine:



-  25 police commissions of territorial departments of the National Police;
-  28 police commissions of the Department of Patrol Police;
-  28 police commissions of the Department of Security Police;
-  1 police commission of the Department for Protection of Economy;
-  1 police commission of the Department of Cyber Police;
-  1 police commission of the Department for Internal Security;

Total number of members of 84 police commissions is 420 persons, among whom there are:



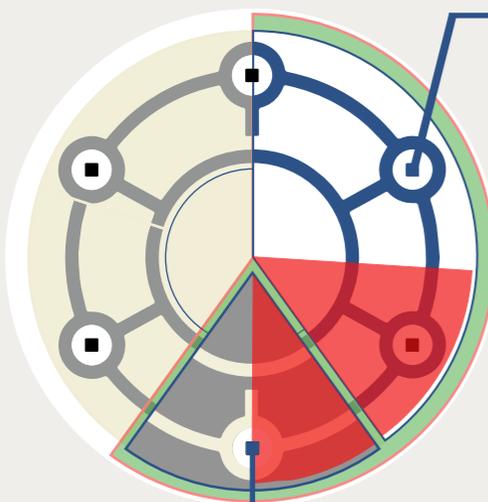
- 84 persons delegated by the Minister of Internal Affairs;
- 84 persons delegated by the Chief of the National Police;
- 84 persons delegated by relevant leaders of territorial or interregional police authorities;
- 168 persons selected by relevant regional councils or Kyiv city council.

Main problems with formation of police commissions:

1. *Violation of requirements of the Law regarding membership in commissions.* Minister of Internal Affairs is obliged to designate, according to his quota, persons to commissions, who are not police officers. Appointments made by the minister to police commissions in Kherson region, commissions of security police in Chernihiv region and commissions of patrol police in Lviv region undermine legitimacy of activity and of all decisions of mentioned commissions which can be appealed against in court

60% (252 of 420 members) — should be civil society representatives

40% (169 of 420 members) — real number of civil society representatives



40% (168 members) — local government's quota

35% — do not respond to requirements (59 members):

- 48 — local government deputies;
- 9 — public servants;
- 2 — heads of communal enterprises.

20% (84 members) — Minister's of MIA quota

45% of them: — are not civil society representatives (38 members):

- 23 — works in bodies, which under MIA
- 4 — MP's*;
- 6 — Minister's of MIA councillors;
- 2 — deputies of regional councils;
- 2 — public officials.

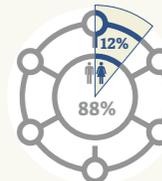
* three of them are representatives of «People's Front» party

2. *Lack of representatives of civil society.* Pursuant to the provisions of the Law, each police commission has to have at least two representatives of civil society selected by regional councils, Kyiv city council and one representative not from among police, designated by the Minister of Internal Affairs. Actual number of representatives of civil society in police commissions is 169 persons, which makes 40% from the general number of members of police commissions. Along with this, 59 of those persons do not meet the requirements regarding the impeccable reputation, high professional qualities, public authority. It is because 48 of them are deputies of relevant regional or city councils, 9 are civil servants or officials of local authorities and 2 are the leaders of municipal enterprises. When selecting their colleagues as members of police commissions, deputies of regional councils turn the formation of police commissions into the issue for political bargaining.

Regarding the quota of the Minister of Internal Affairs, according to which representatives of civil society could also be appointed, sometimes the Minister designated Members of Parliament of Ukraine as members of 4 commissions in Dnipropetrovsk (Y.Bereza), Lviv (M.Velychkovych), Khmelnytsk (O.Ksendzhuk) and Chernivtsy (M.Burbak) regions or his advisors. In other 14 police commissions, within the quota of the Ministry of Internal Affairs, selected were representatives of veteran organizations of internal affairs, state service of security, tax service, trade union of officers of internal affairs etc.

3. *Difficulties in ensuring quorum and effectiveness of commissions.* Meeting of a police commission is legitimate when there are not less than 2/3 of its members present. At the same time, 26 persons are members of 62 police commissions, which makes 74% of the total number of commissions. Generally, in 13 regions of the country one and the same person performs duties in two or even three police commissions at the same time. Meaning there are situations when commissions conduct competitions at the same time and their members have to choose between these commissions.

4. *Violations of gender balance in commissions.* Among 420 delegates to police commissions there are only 12% of women (51 persons). There is only one commission in Luhansk region where women are majority — 3 of 5. In general, women are represented in 38 police commissions — 45%, even though in most cases such representation is limited by one woman. Observance of gender balance in activity of police commissions is an important factor in the view of necessity of equal treatment of candidates during the selection process irrespective of their sex.





III. Main peculiarities of formation and work of police commissions

Having researched the work of police commissions for the last years, one can describe main stages of their activity as well as the degree of compliance with the requirements of the legislation.

1. Order of formation



Inclusion of civil society in police commissions is ensured through invitation to join the work of police commissions made by local councils. Candidates submit documents directly to the relevant council, sometimes they have to undergo interviews. It is very often that they are being deputies of the same council, connected with the sphere of law enforcement.



Later, according to the Law, candidates are approved by the decision of a local council. *Representatives of commissions from police* have generally been included to the commission based on the decision of the head of regional police department. Along with this, there is a practice when police officers are being offered to become members of commissions according to their own will.



Selection (appointment) of leadership of police commissions is done by the decision of the very same head of police department who delegated police officers to the commission. That is why *head and secretaries of commissions* are mostly representatives from police, and only in several cases – representatives of the civil society. It can be explained by the fact that all organizational work is being performed by the leadership of the commission, also with the aim to control the quality and adopt timely decisions this work is being put on colleagues in service.



Training of members of police commissions is not foreseen by the legislation, therefore, in most cases it was not done. Though in some regions a training process was established. Thus, in the beginning of the work of commissions heads and secretaries of police commissions were gathered in Kyiv city. At this event the leadership of the National Police and of the Ministry of Internal Affairs provided general instructions on the work of commissions (general provisions). It's worth to separately mention a police commission in Odessa region which has a methodology with basic rules of conducting interviews, tactical and psychological techniques allowing to receive necessary information from the candidates during a formal interview.



2. Meetings of police commissions

Frequency of meetings of police commissions fully depends on the fact of announcement of competition for vacant positions. On average meetings of police commissions take place *once in a quarter*. During such one-day meeting members of the commission interview **20-28** candidates, and the meeting itself lasts for nearly **5** days in a row.



Police commissions deal not only with final interviews but also *take part in overseeing other stages of competition*. Organization of a competition is a task of Recruiting Center or Staff Unit of a territorial police department.



Regarding *transparency*: all police commissions, despite requirements of the Law, do not have Web pages. This substantially lowers the level of transparency of their activity and hinders access of civil society to information about selection of policemen.



Interviews are being held from **10:00** to **18:00**. Generally, one interview takes **15 minutes**. During the interview members of police commission ask the candidate questions relating to their professional, moral and business qualities as well as to managerial and organizational skills.

As of now Website of “Staff Recruiting System” (<https://nabir.np.gov.ua/>), is under development. It has to accumulate all information in order to optimize its search by candidates for entering police service.



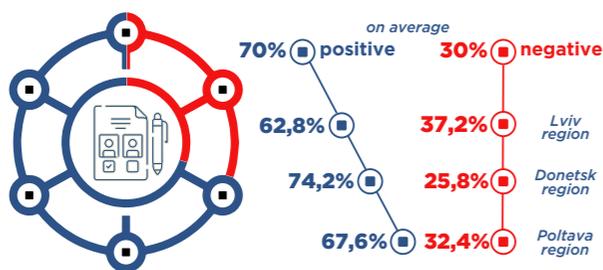
3. Scope of work of commissions

There is no unified register of decisions made by commissions, therefore one can have only approximate information regarding average *workload of commissions*.



Depending on the scope of competition, number of candidates to enter police service can be different. For example, police commission in Mykolaiv region conducted **22** competitions for **378** positions, and a police commission in Kherson region – **12** competitions for **157** positions. A police commission in Kyiv had **47** meetings and **1101** candidates. Such a difference can be explained by the fact that one competition can be held to close **5** positions just as well as **30**.





The ratio of positive and negative conclusions is on average **70%** in favor of positive recommendations. For example, a police commission in Lviv region adopted **406** decisions, among which **255 (62,8%)** were positive and **151 (37,2%)** negative; a police commission in Donetsk region adopted **348** decisions, among which **258 (74,2%)** were positive

and **90 (25,8%)** negative; a police commission in Poltava region adopted **408** decisions, among which **276 (67,6%)** are positive and **132 (32,4%)** are negative.



4. Realization of powers by members of commissions

Results of interviews show that in part of *realization of their powers members of police commissions* are satisfied with working atmosphere during the meetings. There were no conflicts, accusations of bias or *unworthy/unethical behavior* during the work of commissions. Usually, members of commissions try to reach consensus and understand aim of their work. Along with this, representatives from *civil society do not face any pressure*, and all members of commissions, upon their wish, can use (or used) their powers foreseen by the legislation.

5. Organizational, technical and material provisions of work of police commissions



Members of police commissions say that their work is done in decent conditions and that there are no problems with organization of working premises. Police units often find free rooms where a police commission can hold its meetings.

HR Department of the National Police usually controls completeness of interviews and their quality.

It's worth turning separate attention to *realization by a police commission of other powers foreseen by the legislation*. We are talking about formulation of priorities of work for relevant police authority in the order foreseen by part 2 of article 86 of the Law. *Police commissions did not set such priorities to police and claim they don't know of such mandate*.



GENERALIZED RECOMENDATIONS

Conducted analysis of activity of police commissions shows that authorities need to take the following steps.

Verkhovna Rada of Ukraine – shall introduce amendments to the Law on National Police regarding the following:

- introduction of competitive grounds for appointment to any positions in police and career promotion;
- increasing transparency of competitive procedure, particularly, introduction of short deadlines for the publication of the results of each stage of the test and possibilities for representatives of civil society and mass media to be present during tests;
- transfer mandate to prepare conclusions on inconsistency of a police officer with his position from police officers to attestation commissions.

Cabinet of Ministers of Ukraine shall:

- amend the Decree № 730 of 16 September 2015 with the aim to bring the list of territorial police authorities in conformity with requirements of the Law.

Minister of Internal Affairs shall:

- approve methodological documents (instructions) regarding activity of police commissions;
- introduce amendments to the Order of Activity of Police Commissions regarding:
 - the order and form of realization of mandate of commissions to set priorities of police work;
 - giving the Chief of National Police a mandate to determine the number of police commissions for each territorial body;
 - order of taking decisions by a commission on secretarial functions;
 - regulating the terms, grounds and forms of providing information to members of police commission by police authorities;

- supplementing the rules on reimbursement of costs to members of commission related to exercise of their powers;
- amendments to the rules of taking decisions by a commission regarding recommending/not recommending a candidate for a position, as well as regarding determining rules of the quorum;
- introduce amendments to the Standard Order of Running a Competition for Entering Police Service and/or Taking a Vacant Position regarding:
 - procedure of conducting interviews as a process aimed at identification of the level of clearly defined professional, moral and business, managerial and organizational skills of the candidate;
 - transparent and objective way of evaluation of each skill by members of a police commission as well as the formula for calculation of a general score of the candidate as a result of an interview;
 - formula for calculation of a general score of the candidate for rating purposes;
- delegate his representatives to a police commission of the Secretariat of the Central Police Management Body;
- delegate, within his quota, representatives of civil society to police commissions;
- dismiss police officers from a police commission in Kherson region, commission of Security Police in Chernihiv region and commission of Patrol Police in Lviv region;
- dismiss members of parliament of Ukraine from police commissions in Dnipropetrovsk, Lviv, Khmelnytsk and Chernivtsy regions;
- dismiss deputies of regional councils from a police commission in Poltava region and commission of Security Police in Zaporizhzhya region;
- consider the possibility to dismiss civil servants of executive authorities subordinated to the Ministry of Internal Affairs as well as other civil servants and officers of local authorities from police commissions.

Chief of National Police shall:

- introduce systemic training and improvement of qualification by members of commissions;

- ensure creation of web-sites of police commissions;
- provide for timely special inspection of candidates for police officers positions by internal security units before the commissions make their decision;
- to establish the minimum and maximum number of vacancies for which a competitive selection may be announced;
- delegate his representatives to a police commission of the Secretariat of the Central Police Management Body;
- consider the necessity of existence of separate police commissions in Department of Patrol Police, Department of Security Police, Department for Protection of Economy, Department of Cyber Police and Department for Internal Security;
- dismiss deputies of local councils from a police commission in Kyiv region, commission of Security Police in Kryvyi Rih and Zaporizhzhya region;
- delegate representatives of civil society to police commissions.

Head of territorial police authorities shall:

- comply with decisions of police commissions on recommending/not recommending a candidate for entering service.

Local councils shall:

- 1) dismiss deputies of local councils, civil servants and officers of local authorities, heads of municipal enterprises from police commissions;
- 2) carry out procedures for nomination and delegation of members of commissions in accordance with the requirements of the Law and regulations of the respective councils.

Police commissions shall:

- approve methodological recommendations for conducting interviews with candidates and adhere to the established rules of interviewing;
- substantiate their decisions to refuse the recommendation of candidates for appointment;
- to form the rating of all candidates, who take part in the competitive selection.

