



Ukrainian Law-Enforcement Reform Digest

Digest is dedicated to the process of reform of law enforcement authorities in Ukraine, first of all of police, prosecution authorities, State Bureau of Investigation and criminal justice legislation. It is published with the aim to better inform the society, expert community and international institutions on the state of reforming mentioned authorities and spheres of their activity.

** second issue covers a three-months period, next ones – two months*

I. NATIONAL POLICE

System of law enforcement authorities in Ukraine undergoes a long transformation process from soviet system of internal affairs authorities directed at protection of state security to law enforcement agencies with European standards, which should be oriented on provision of services to population and human rights observance.

However, as of the beginning of 2017, changes occurring in police have a more non-systemic character as a result of the lack of detailed, step-by-step roadmap for conducting a reform elaborated in the form of one comprehensive document, and the very process of reforming is sometimes oriented on the interests of the institution itself rather than on the needs of people.

1. Legislation in the sphere of police activity

1.1. Ministry of Internal Affairs of Ukraine elaborated a draft Decree of the Cabinet of Ministers of Ukraine on the order for assessing the level of trust of population in police

In June within the Ministry of Internal Affairs created

a working group that is now processing proposals to the first version of the document which elaborated on by the institution. Unfortunately, it was prepared without engaging the public and relevant specialists. In particular, it was severely criticized by the expert society – for example by the coalition of NGOs “Reanimation Package of Reforms”.

Among members of the working group were representatives of the Cabinet of Ministers of Ukraine, Ministry of Internal Affairs of Ukraine, National Police, MP’s, sociologists, scholars and representatives of the civil society.

It should be noticed, that according to part 3 of article 11 of the Law of Ukraine “On the National Police of Ukraine” the level of trust of the population in police is the main criterion for evaluation of effectiveness of activity of police agencies and units. However, this provision of the law remains a declarative norm since the Ministry of Internal Affairs and the National Police have not elaborated a relevant document to implement this important part of the reform.

The provision of the Law of Ukraine “On the National Police of Ukraine” that defines the level of trust of population in police as a main criterion of its effectiveness stays declarative. The Cabinet of Ministers together with the Ministry of Internal Affairs and the National Police of Ukraine have still not elaborated the manner by which sociological services could measure the dynamics of changes of level of trust of the population in police following the standard algorithm

Unfortunately, the current version of the draft Decree includes many disadvantages and has the potential to pervert the entire process of police evaluation based on the level of public trust. For this reason at the first meeting of the working group, created under the Ministry of Internal Affairs, they presented the *considerations* prepared by RPR group on reform of law enforcement calling on them to not adopt the document in the current version, but instead to comprehensively elaborate these principles further, after having consulted with representatives of civil society. These considerations were submitted to the Governmental Committee on Economic, Financial and Legal Policy, Development of the Fuel and Energy Complex, Infrastructure, Defense and Law Enforcement that had the first version of the draft Decree under consideration. At the moment of the first meeting part of those had already been considered – the order of publication of results of the research was brought in correspondence with the Decree №996 of the Cabinet of Ministers, and the order of engagement of independent sociological services to the legislation in the sphere of public procurement. However, all other key amendments, first of all, regarding limitation to only quantitative methods in sociological polls (representative questionnaire), approval with the National Police of the Action Plan of evaluation and ensuring its fulfilment etc. were not considered.

With an aim towards studying the opinion of sociological experts there was an expert discussion on identification of the order of evaluation of the level of trust of population in police, organized by the NGO “LEAD-office” on June 1st. Among the participants of the working meeting were representatives of leading Ukrainian sociological polling services, particularly, “TNS”, “GfK Ukraine”, Group “Rating”, Center “Socis”, Center “Social Monitoring”, “Active-group”, “UMG”.

Based on the results of the discussion, all participants who participated in the expert discussion came to the conclusion that the existing draft Order needs to be further elaborated upon. In particular, it was

emphasized that there needs to be a clear legal definition of “index of trust” (spheres of evaluation – parts of the trust index) in National Police of Ukraine in the text of the respective orders, which shall cover all parts of trust in National police agencies.

Such an index exists in many countries and allows for the application of a universal approach to the evaluation of the level of trust in law enforcement authorities, irrespective of who is the implementer of polling service. At the same time, expert elaboration of the relevant Index and the methodology of evaluation needs a substantial amount of time and certain financial expenses.

A more detailed information is on the website of the Expert group “Police under control”: <https://goo.gl/NwpeoR>

Information about the working group at the official website of the National Police: <https://goo.gl/x78wMg>; <https://goo.gl/8vMZ1o>

1.2. The Parliament of Ukraine registered a draft law on bringing the Law on the National Police in correspondence with the international standards in the sphere of human rights protection

On 10 August the Verkhovna Rada of Ukraine registered a draft Law of Ukraine “On Amendments to the Law of Ukraine “On the National Police” (regarding bringing the law in correspondence with the international standards in the sphere of human rights protection)” (*register № 7023*).

The initiator of the draft law is the Cabinet of Ministers of Ukraine. Text is prepared by the Ministry of Justice pursuant to provisions of the National Strategy in the Human Rights Sphere approved by Decree of the President №501/2015.

Proposed provisions of the draft law can be divided into three groups:

1) *actions of a police officer during detention of a person or the use of other preventive police measures.*

One proposal included adding provisions into the law, which exist in other regulatory acts, regarding the obligation of a police officer to inform the secondary legal aid provision center about any case of detention, as well as to provide the possibility for a detainee to inform his relatives about such a case by themselves. The draft law also foresees the obligation to urgently draw up a protocol on temporary limitation of actual possession of personal property as a result of conducted police preventive measure – this is one of 29 considerations that were provided by

the Council of Europe (2015) when the Law “On the National Police” was adopted;

2) *actions of a police officer during detention of a person or the use of other preventive police measures.*

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3) *An annual report on the activity of police that is published in the order defined by article 86 of the Law is proposed to be obligatory included to the statistical and analytical data regarding bringing police officers to criminal, administrative, civil and disciplinary responsibility.*

Despite public interest to data on bringing police officer to criminal, administrative, civil and disciplinary responsibility – this information has never been regularly published

We'd like to mention that part of this information has already been regularly published (with analysis), for example criminal and legal statistics made by the Prosecutor's General Office of Ukraine. At the same time, information on disciplinary responsibility was never regularly published and are of considerable interest to the public, therefore these proposed norm can be regarded as a positive development.

1.3. The Order №440 of the Ministry of Internal Affairs of Ukraine regulating the activity of stations of police units came into force

In June, Order №440 of the Ministry of Internal Affairs of Ukraine came into force. It approves the Instruction for Organization of Activity of Duty Service of agencies (units) of the National police of Ukraine. It replaced the previous Order №181 of the Ministry of Internal Affairs of Ukraine of 28 April 2009 “On the Organization of Activity of Duty Stations of internal affairs agencies and units of Ukraine aimed to protect interests of society and state from unlawful encroachments”.

The new regulatory act became, particularly, a result of a joint work of the newly created Department for Human Rights Observance, Legal Department of the National Police of Ukraine and Ukrainian Parliament Commissioner for Human Rights (Ombudsman). It is within the mandate of the Human Rights Department to ensure that rights and freedoms of detained, delivered and visitors of police units, rooms for detainees and delivered as well as temporary holding facilities, meaning police detention places, are observed.

Order №440 of 23.05.2017 on the website of the Verkhovna Rada of Ukraine: <https://goo.gl/HwDkpo>

1.4. Amendments to the specialized law on the National Police regarding payment of one-time cash assistance to the police officer are adopted

Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amendments to Article 97 of the Law of Ukraine “On the National Police” regarding payment of one-time cash assistance to a police officer”.

According to the provisions of this article a one-time cash assistance in case of death, determination of the loss of working capacity by a police officer is a social payment, guaranteed assistance from the state. It is appointed and paid to police officers who lost their ability to work due to injury (contusions, traumas or disability) received in the line of duty or as a result of a disease caused by police service.

This small draft law was submitted to ensure social protection of acting policemen who previously served in militia and received mentioned injuries and before adoption of the mentioned amendments could not apply for the relevant social assistance.

2. Reform of investigative and operative units

2.1. In June, 2017 an experiment on the introduction of detectives in police began

After nearly three years of police reform, the first steps were made towards real changes in the work of the Criminal Block of the National Police of Ukraine. In January, 2017 the National Police, together with international partners, initiated a pilot project based on Boryspil Police Unit in the Kyiv region which united functions of investigative and operative officers under one chain of command and subordination. Unfortunately, to date there is no public report on this experiment that is why it is too early to talk about its effectiveness.

In June a pilot project was spread to eight regions: Kharkiv, Lviv, Odessa, Khmelnytsk, Zaporizhzhia,

Sumy, Poltava and Kyiv. There is one police unit in each region that takes part in the experiment. According to the Head of the National Police, around 75-90% of personnel of the Criminal Police Division received the status of investigative officers.

Problems with the introduction of the institute of detectives were discussed at the expert level on 15 June at the meeting of the IV Parliamentary and Civil Platform – a joint initiative of the EU Advisory Mission in Ukraine (EUAM Ukraine) and the OSCE Project Coordinator in Ukraine which gathered in Kyiv 180 representatives of law enforcement authorities, parliamentarians, experts, civil activists in order to determine specific steps to raise effectiveness of criminal investigations and improvement of coordination within law enforcement authorities.

Participants discussed not only the institute of detective but also other parts of improving effectiveness of combating crime – problematic issues with introduction of criminal misconduct and the termination and/ or closure of criminal proceedings.

It is worth keeping in mind that on the state policy level in Ukraine, the necessity to introduce the institute of detective arises indirectly from the essence of the “Concept of Reforming Criminal Justice” from 2008 and the Criminal Procedure Code of 2012. The Strategy of reforming law enforcement authorities, approved by a Decree of the Cabinet of Ministers of Ukraine №1118-p of 22.10.2014, mentions the service of detectives on general crimes, however it does not indicate the term of its introduction. Thus, the reform of the “police core” – the criminal police, has become one of the very first step towards the reform of the Criminal Block of the NPU.

The strategy of reforming law enforcement authorities approved by the Decree of the Cabinet of Ministers in 2014 foresaw the creation of a detective service, however it is only today that the reforms have started to touch the Criminal block – investigative and operative officers

During the meeting, a particular focus was given to the comprehensive character of the reform of the Criminal Block (Pre-Trial Investigation Authorities and Operative Departments of Criminal Police) which must soon be followed by legislative and institutional reforms in order to facilitate the effective work of new detectives.

The institutional changes include, in particular, elements such as optimization of the system of

distribution of criminal proceedings and reduction of the detective’s workload; discontinuing the practice of evaluating the work upon quantitative and statistical indicators, many of which continue the dynamics of “crimes solving” towards a comprehensive system of evaluation upon quantitative and qualitative criteria; the introduction of electronic system of proceedings management (electronic document flow management between pre-trial authorities, prosecution and court) etc.

As of now the experiment does not foresee immediate amendments to Ukrainian legislation, since operative officers were reclassified into the positions of investigators without changing the law. So far, these changes have occurred under the existing legal framework because, according to the Criminal Procedure Code, investigative officers have the right to conduct both open and covert investigative and search activities. At the same time, an important task to raise the effectiveness of criminal proceedings in Ukraine is to introduce the institute of criminal misdemeanors. Introduction of the institute of criminal misdemeanors would greatly reduce the workload of pre-trial investigation authorities. This will give the possibility to use existing resources more effectively in order to investigate general medium, grave and especially grave crimes by investigative officers. Along with this development, investigative structures will be created in the Patrol Police, District Police officers (Dilnichi) and other police units in order to facilitate the effective investigation of criminal misdemeanors in the sphere of traffic security and minor property crimes which do not pose a serious threat to public security. Once police have the legal authority to solve minor thefts of cellular phones or electronics from cars, the police will be able to significantly raise its credibility in the eyes of society as an effective law enforcement body.

Information about the meeting of the platform on the official web-site of the Ministry of Internal Affairs of Ukraine: <https://goo.gl/f1z8XF>

Article “Reform of the criminal block of police: problems and perspectives” of the lawyer, specialist of the Expert group “Police under control” Eugene Kravyin in the newspaper “Weekly Mirror”: <https://goo.gl/wv89Jk>

Article “Experiment “Police Detective” of the lawyer Vladyslav Vlasiuk in the blog on LB.ua: <https://goo.gl/t8XhXw>

2.2. Introduction of the system of criminal analysis as part of the work of the criminal block of police

On June 15th, the Head of the National Police

of Ukraine, Serhiy Kniazev, announced plans to introduce the system of criminal analysis in the activity of investigative and operative units. According to him, “reform of the criminal police is the main ‘tool’ of the law enforcement system. When educating future police officers, we have to move towards the new model of training of officers of the Criminal Block. We are changing the approach of criminal police, moving to new technologies”. He added that within the departmental educational institutions one needs to teach the disciplines specializing on “criminal analysis”.

Criminal analysis is the application of modern technologies to solve and investigate crimes by making the most optimal decisions. Police units will be able to systematize the information received using technology both from our own development and of other European countries. In practice, the methodology is used for such tasks as visualization of the existing information, analysis of big data trends and formation and management of data bases. Based on the received results a program is created, each of the elements of which can be changed depending on the situation. This allows to simplify the work of officers and allows police to conduct preventive criminal analysis. A systematized information will further help police officer to speed up their work in the sphere of crimes solving, elaboration of methods for ensuring public security as well as prevention of offenses.

A more detailed information in the official website of the National Police: <https://goo.gl/DRdnBJ>; <https://goo.gl/ehdeDr>

One example of the use of systems of criminal analysis was a pilot project begun in the Department for Combating Crimes connected with Human Trafficking of the National Police of Ukraine. On 15 January 2016 in the Ministry of Internal Affairs of Ukraine with participation of international institutions held a presentation of the Expert Report on introduction of the system of criminal analysis. During the 2014-2016 implementation of a project on the creation in the Department for Combating Crimes connected with Human Trafficking of the National Police of Ukraine of criminal analysis systems and analysis of risks based on the best national and international practices which can foster effective investigation of crimes connected with human trafficking.

More information about the Expert report on the official website of the National Police: <https://goo.gl/4eABYt>

It is important to mention that Ukrainian law

enforcement officers have previous experience with using the method of criminal analysis in their activities. The State Border Service according to the Instruction for Organization and Conducting Criminal Analysis by Operative and Investigative Units of the State Border Service, approved by the Decree №28 of 15.01.2008 has been using the method for nearly 10 years. Above that, relevant methodologies have long been used in the activity of police in European countries, and even before that – in the USA.

3. Reform of police education

Reforming police education stopped on the stage of announcement of a concept that introduced a modern European model of police officer education based on step principle with colleges being the main educational institutions. The implementation stage has, however, not started.

Educational institutions within the system of the Ministry of Internal Affairs providing higher education stayed without reorganization. Along with this, apart from patrol police, preparation of new staff and units continues to be carried out according to old programs and methods which leads to a low level of professionalism among police officers and their unpreparedness to perform duties put on them.

3.1. A new stage of reforming police education has started

The Ministry of Internal Affairs continues discussing the draft Concept of reforming education which has to introduce a new model of training of professionals for the National Police of Ukraine. The model shall be based on a combination of both learning and practical training. According to the plans announced during the meeting with participation of chiefs of the National Police, the Department of Patrol Police, and the presidents of the higher educational institutions within the system of the Ministry of Internal Affairs, the initial step should be the professional training with further traineeship and mandatory service in patrol police. After that a police officer will have the right to receive higher education and get promoted to other positions in the department. According to the model, each next level of educational qualification will be passed along with the service on the position that corresponds to the level. This means that the police officer’s knowledge will be constantly updated. First of all, their knowledge of legislation with its amendments and professional skills will be constantly improved which shall positively influence the quality of work both of a police officer and of the law enforcement agency as a whole.

Information about the meeting of the working group on the website of the National Police of Ukraine: <https://goo.gl/SyhA7g>

Interview of the head of the Expert Center for Human Rights Yuriy Belousov for "Hromadske radio" regarding police education: <https://goo.gl/YY53r6>

3.2. A police academy is created in the National Police

Head of the National Police reported that he signed the order approving the Regulations for the new Departmental Police Educational Institution – a police academy. According to the plans announced by Chief Serhiy Kniazev, the NPU will first recruit 500 police officers, and later – between 1,000 – 1,200. The primary goal in creating the departmental educational institution will be reducing the scarcity of personnel during recruitment for service.

Information on the official website of the National Police: <https://goo.gl/htH4Jc>

The creation of a new police academy was also needed because of the future rotation of officers within the Patrol Police. Today, 70% of patrol officers have higher education and the need in further professional development within police hierarchy – these officers will eventually take the positions of operative, district and investigative officers as well as other positions in the National Police.

At the same time, Patrol officers without a higher education will have the possibility after a year or two years of service to be sent by the leadership to a year educational course in the Police Academy. Then they will again pass a practical course and get a diploma giving the right to be appointed to a leadership position. According to the Head of the National Police this system will not replace the specialized higher educational institutions of the Ministry of Internal Affairs but rather complements the system.

A more detailed interview of Serhiy Kniazev to "112 Ukraine" channel: <https://goo.gl/wNSJUK>

We are talking here about the realization of the previously announced plans by former Chief Khatia Dekonaidze, a concept that foresaw a separation of the system of universities within the Ministry of Internal Affairs educational system from professional training of police officers. At the same time, having introduced a promotion system starting from the "field assignments", means moving patrol police to the leadership positions, from less qualified job to a more qualified position.

At the same time, the vision of the ex-Head of the

National Police was different from the concept adopted by police – a police academy had to become a separate institution for receiving special knowledge in the sphere of management for policemen taking up leadership positions. How is the vision of the current police leadership different from the plans of previous leaders we will only be able say later – after the Concept of reforming police education mentioned above is published.

On 29 August announced was a competition for the position of the head of the Police Academy which was created in July this year. The term for submission of applications for those wanting to take up this position is extremely short – 5 days (till September 3rd). Besides that, only acting policemen are eligible to apply. A competition commission to select the candidates is now also only being formed.

More details on the official website of the National Police: <https://goo.gl/8Kg1EV>

Experts of the RPR group on reform of law enforcement called the police to conduct an open and transparent competition for the position of the Head of the Police Academy. They are convinced that competitions for the relevant positions have to be conducted according to the requirements of Laws of Ukraine "On the National Police" and "On the Civil Service". Meaning that competitions must be open for all candidates meeting the requirements of the position and be conducted in a transparent way. In particular, according to the law, candidates for positions of such level have to be reviewed by police commission of the secretariat of the central police body which is still not formed. Such commission shall include, besides police officers, representatives of the civil society, human rights defenders, lawyers, scholars etc. An independent and authoritative commission for selection is an important element of each competition.

Full text of the statement on the RPR website: <https://goo.gl/aZ9z75>

3.3. Cabinet of Ministers plans to cancel the existing system of preparation of most of the lawyers with budget funds in the departmental universities

Cabinet of Ministers of Ukraine plans to allocate more than 60% of budget funds for education to prepare lawyers in higher educational institutions of the Ministry of Internal Affairs, Security Service of Ukraine, Ministry of Defense, Fiscal and Criminal executive services. It is only higher educational institutions of the Ministry of Internal Affairs of Ukraine that will prepare 1,5 times more bachelors

of law than ordinary universities which is not in line with international practice. Lawyers, particularly, judges, prosecutors, attorneys and notaries, are prepared by classical universities but not by those within law enforcement system.

Thus, now we have another attempt to torpedo the reform of legal education. Such a decision was adopted by the Government in July. “Formally, the structures are under the control of minister of education Lilia Grynevych, Minister of Internal Affairs, Arsen Avakov, and Minister of Justice, Pavlo Petrenko, who are responsible for this sector of work in the Cabinet of Ministers. However, “the author” of the idea to transform legal education into a police education is believed to be the state secretary of the Ministry of Internal Affairs Oleksiy Takhtai” – says the Director of the Foundation DEJEURE Mykhailo Zhernakov.

Experts of the Reanimation Package of Reforms say that state funding for educating lawyers in old militia higher educational institutions is in fact contradicting the introduction of specialized training of future policemen in the newly created Police Academy of the National Police of Ukraine which will be preparing policemen but not lawyers. At the same time, in the higher educational institutions of the Ministry of Internal Affairs they still educate lawyers demanding from applicants who passed External Independent Testing, to pass a “creative” competition “Future profession – a policeman”.

Law enforcement structures are the place to work for holders of law degree – judges, prosecutors, attorneys, notaries. For budget funds departmental educational institutions have to prepare people in specialties “law enforcement activity”, but not “law”. Until lawyers – future judges, prosecutors, attorneys, notaries – will be educated by higher educational institutions within law enforcement system, Ukrainian justice system will continue getting further away from standards of the rule of law.

This is already not the first attempts to stop the reform of legal education. Particularly, the Ministry of Internal Affairs of Ukraine wanted to give the specialty “law enforcement activity”, that does not have anything in common with jurisprudence, a “higher education” level; in addition to exclude the departmental higher educational institutions from the system of choosing of applicants based on the results of external independent testing. At that time, thanks to principle position of the civil society and the government, these counter-reform actions could be stopped. We mentioned this in the first issue of our Digest.

A more detailed information in the blog of Mykhail Zhernakov, director of the Foundation DEJEURE on UP:
<https://goo.gl/QcYFsd>

Statement of the coalition of non-governmental organizations Reanimation Package of Reforms calling the Government not to educate lawyers in higher educational institutions of law enforcement agencies:
<https://goo.gl/mh92zk>

4. Institutional changes in police

(creation of new units, reorganization of the old ones etc.)

4.1. Creation of tactical police

Today the National Police is creating a new unit, the tactical police whose mandate will include conducting preventive measures to ensure public security and order, particularly during mass events and assemblies (de-escalation of conflicts during such events). Besides that, one of its main tasks will be combating street crime.

As of July, the unit of tactical police was already created in Kyiv, and planned to be created all over Ukraine. According to the Head of the National Police Serhiy Kniازهv, police uses European experience, where “tactical police is a unit that ensures the order during mass events and protests. These are the policemen who talk to people, but not as SWAT standing with rubber batons and separated with shields”.

More details in the interview of the Head of the National Police Serhiy Kniازهv to the “Censor.net”:
<https://goo.gl/tUNkgK>

Until recently during protests police undertook standard measures inherited from Soviet times, and the leadership of the institution did not see this as a problem. A review of the strategies started before the Eurovision-2017, which stayed at the level of statements about leaving the practice of force measures and the need for dialogue of police with protesters after excessive actions of police on May 9th in Dnipro

According to the deputy head of the National Police Kostyantyn Bushuev tactical police is a new section in the system of public security. If the so called “dialogue police” or “communication police” is actively engaged with providing for public security during mass events when there is a threat of development of conflict situation. Only after policemen from communication group cannot regulate the situation and there is a threat of inflicting injuries to personnel, do the tactical

police come in play. They were also trained with participation of Canadian colleagues. The main task of this unit is to localize the conflict. And only when there is a threat of use of weapons by participants of mass events a special unit KORD comes in play whose main task is to combat armed criminals.

More details on the official website of the Ministry of Internal Affairs of Ukraine: <https://goo.gl/BPB78V>

You can read about changes in tactics of policemen during protests in the article of the analyst of the Expert group "Police under Control" Serhiy Baglai in the newspaper "Weekly Mirror": <https://goo.gl/euDTKz>

4.2. On June 12th traffic police started its work – a new unit within the Department of Patrol Police

Traffic police – a separate unit working on the intercity and international roads which, unlike the previous State Automobile Inspection ("DAI"), will not be based on stationary posts and organize "ambushes" but will be constantly patrolling the area.

Despite concerns of the society such a unit will not have any additional mandate different from the Patrol Police, all pretexts to stop vehicles and conduct police measures, as foreseen by the Law of Ukraine "On the National Police", remain unchanged.

In June first traffic patrol police units started working on the Highways between Kyiv-Kharkiv, Kyiv-Zboriv, Lutsk-Kovel and Yagodyn-Sarny.

Let us remind you that having appeared in cities of Ukraine, the new patrol police took up the functions of control over observance of traffic regulations in these cities as well as on some intercity highways. At the same time, the old State Auto Inspection (DAI) continued working on the automobile roads that was reorganized and passed the attestation.

More details on the official website of the National Police: <https://goo.gl/xrf1Pe>

Interview with Oleksiy Biloshytskiy, the head of the Department of Patrol Police, on "Freedom Radio": <https://goo.gl/3M1dDY>

It is too early to talk about the effectiveness of work of newly created unit since without legislative changes, using old instruments, traffic police will not be able to work to its fullest. The biggest problem is with outdated procedures of bringing to responsibility in the Code of Administrative Offences of Ukraine of 1984. It the drawbacks of this Code that allow offenders to avoid responsibility and make police officers sometimes violate human rights and freedoms by conducting unofficial work practices.

Newly created institutes within the National Police have to work according to old rules because the Code of Administrative Offences of Ukraine has been in force since 1984. Outdated legislation creates a number of problems for human rights and allows offenders to avoid responsibility

Also of importance is the issues of subordinate legal regulations, first of all a complete introduction of automated electronic recording of traffic violations. For this, relevant Decrees of the Cabinet of Ministers have to be adopted, one needs to procure the equipment and define the end model of recording of violations and steps of realization. Certification of equipment is also a topical problem, today patrol officers do not have the necessary equipment to record traffic violations in movement and cannot prove these violations in court. Even if police record a car driving through a red traffic light or crossing double continuous center lanes, according to acting procedures such charges can easily be dropped in court. Without a consent of an offender to bring him to responsibility (meaning an offender acknowledges the guilt and does not contest the fact of committing the violation), it becomes simply impossible. In addition to that, police officers do not have the right to appeal in such proceedings.

More details in the material dedicated to introduction of traffic police on "Freedom Radio": <https://goo.gl/t3Xrab>

4.3. Juvenile prevention

In July, the Department for Juvenile Prevention was created. In effect this means that the previously existing unit was reorganized and received more responsibilities. The changes were explained by the need to strengthen the work with children in pace with the development of new technologies, instant information sharing and new tendencies among youth. The police must look for and implement new methods and approaches that will correspond to modern challenges facing youth.

Information on the official website of the National Police of Ukraine: <https://goo.gl/Yvz8sw>

Before police reform, the function of juvenile prevention was given to the Criminal Militia for Children, a unit with reputation of causing more than help, particularly psychological, to children.

Regarding the legislative regulation of the work of juvenile prevention, the Ministry of Internal Affairs

and the National Police are at work on the draft Decree of the Ministry of Internal Affairs of Ukraine “On Approval of Instruction for Organization of Work of juvenile prevention units of the National Police of Ukraine”. This draft has to replace the outdated *Decree №1176 of the Ministry of Internal Affairs of Ukraine* of 19.12.2012, which approved the Instruction for organization of work of units of Criminal Militia for Children.

Draft Decree on the official website of the National Police: <https://goo.gl/ZYnx2q>

At the same time, it is not only about legislative regulation but also about enforcement of the law. For example, Decree №1176 establishes such a progressive institute as the methodology “Green Room” according to which children who suffered or became victim of crime are being interviewed under conditions that minimize and prevent repeated traumatization of the child’s psyche, taking into account their individual psychological and psychophysiological peculiarities. In practice, there were very few cases when a real psychological actually worked with a child. Usually, there is a predominantly biased attitude towards any child that committed a violation as a “juvenile criminal”.

On 18 August, a strategy was presented for reforming juvenile justice, elaborated within the framework of a 7-year project of Canadian Government in Ukraine “Juvenile Justice Reform”. The strategy should become a kind of a guideline for necessary changes in legislative and political spheres of organization of work of relevant authorities and services that will promote the introduction of effective system of juvenile justice for minors in Ukraine.

According to the Deputy Minister of Internal Affairs, Anastasia Deeva, the Ministry of Internal Affairs together with the National Police is actively engaged in working on the document. In particular, elaborating recommendations regarding:

1. The functioning of the unit of police for protection of children as an independent specialized unit according to the requirements of international law, which will provide the possibility to introduce an effective mechanism of ensuring children safety and organization of preventive police work with children.
2. The elaboration of educational programs of work with children for further inclusion into the programs of training, education of newly appointed policemen and programs for raising qualification of officers of the National Police of Ukraine.
3. An introduction of the best international

methodologies of work with children who require police assistance.

More details on the Facebook page of Deputy Minister of Internal Affairs Anastasia Deeva: <https://goo.gl/tpJTGg>

At the same time the problem of relations of the state and a child in the criminal law field needs substantial reforms, particularly, in the legislative sphere. “[The] Norms of the Ukrainian legislation foresee certain peculiarities of a criminal process for minors...however as of now they are either not enough or their enforcement in practice is practically impossible”, said Borys Malyshev, a chief expert for the group “Police under Control” and the Foundation DEJURE, in his interview where he characterized the status-quo of juvenile justice in Ukraine.

At the same time with the aim to reform this sphere in May of this year an **Interdepartmental Coordination Council on Justice for Minors** was created as a temporary advisory body of the Cabinet of Ministers of Ukraine.

The Interdepartmental Coordination Council on Justice for Minors in its first decree approved an action plan for June 2017 – May 2018. According to the approved plan, they created five working groups (spheres of work):

1. Working group on collection and analysis of acting policies, procedures and practices of activity in the sphere of prevention juvenile crimes.
2. Working group on studying the necessity of introduction of special measures for implementation of programs of conciliation in criminal proceedings against minors in Ukraine.
3. Working group on elaboration of a concept of a draft law on juvenile justice.
4. Working group on elaboration of regulatory acts regarding the effectiveness of implementation of the system of penitentiary probation for minors.
5. Working group on evaluation of risks and needs of minors held in penitentiary colonies.

For more details about the problems in juvenile justice, see the interview of Borys Malyshev: <https://goo.gl/CnzAb>

More details about the spheres of work of the Interdepartmental Coordination Council on the official website of the Ministry of Justice of Ukraine: <https://goo.gl/TN9udB>

4.4. A Police Network on combating domestic violence was created

In June, a system of combating domestic violence

“Polina” (police against violence), was created within the framework of which there are mobile groups consisting of police officers from various units. The experiment was initiated in several districts of Kyiv, Odessa and Severodonetsk (Luhansk region). “Polina” mobile groups will be created throughout all territories of Ukraine by the middle of 2018.

The project is managed by, particularly, the Deputy Minister of Internal Affairs of Ukraine, Anastasia Deeva. According to her, there are around 348 facts of domestic violence recorded every day in Ukraine, and around 60% of women suffer from it constantly, as well as male victims.

Among members of mobile groups are representatives of different police units – district police officers and officers of juvenile prevention from the department for preventive activities, investigative and operative units as well as, distantly, patrol police crew. They have been trained, particularly, on combating and reacting to the facets of family violence. And in pilot groups there was also a training and a specialized educational course on the base of Dnipropetrovsk State University of Internal Affairs supported by international partners and colleagues from OSCE, UNDP, “UN Women” and Canadian Police Commission, which experts took part in elaboration and implementation of educational trainings for participants of the mobile groups.

“Polina” is not a separate specialized unit, but only an algorithm of cooperation between the operators of “102” line and patrol officers, district officers, juvenile police, investigators and operative officers in order to react and prevent domestic violence. “102” line operator sends a patrol crew on the scene who clarify all circumstances. If there is an offence an additional police officer comes. If there is a

child involved, who witnessed or against whom an offence was committed, a juvenile prevention officer is engaged. If there are signs of criminal offense, investigators and officers of homicide division will also be engaged.

According to the data published by the Deputy Minister of Internal Affairs, for the 1st month of operation the police received 376 calls regarding domestic violence. Mobile groups “Polina” made 341 visits, during which they conducted 140 preventive conversations, issued 54 official warnings, made 115 administrative protocols, gave 4 protective orders and initiated 4 criminal proceedings.

“Polina” is a foundation for further timely and effective detection of domestic violence cases due to well established cooperation and algorithm of actions of relevant services. At the same time, these mechanisms require improvements. For this Ukraine needs to ratify a Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul convention) and adopt the Law of Ukraine “On Preventing and Combating Domestic Violence”. As of now Verkhovna Rada of Ukraine has draft laws – №4952 of 12.07.2016 (adopted in first reading) and №5294 of 20.10.2016 (adopted in first reading) accordingly – under consideration.

Please read about the results of work of mobile groups for the first month on the official Facebook page of Anastasia Deeva: <https://goo.gl/tAEEWm>

Interview regarding the work of the system with Vasyl Bogdan, deputy head of the unit of district police officers of the Department for Preventive Activity of the National Police: <https://goo.gl/ywq8ut>

II. PROSECUTOR’S OFFICE

Reform of prosecution authorities stays one of the unfulfilled obligations of Ukraine to the Council of Europe since 1995. It’s been for a long time since 1991 that the Law “On Prosecutor’s Office” stayed in force and preserved the centralized, militarized structure of post-soviet prosecution with internal unconditional subordination of prosecutors to their superiors and aspirations to cover all spheres of life of a person, society and state with prosecutor’s control. The new Law “On Prosecutor’s Office” that was adopted on 14 October 2014 foresaw removing the prosecution authorities over the functions of general oversight, holding competitions for the

positions in the newly created local prosecutor’s offices in all regions of Ukraine and the creation of bodies of prosecutors’ self-government.

1. Legislation in the sphere of prosecutor’s activity

1.1. Verkhovna Rada of Ukraine registered a draft law regarding the requirements to the candidates on the position of the Prosecutor General

Draft Law №6763 of 18 July 2017 “On Amendments to the Law of Ukraine “On Prosecutor’s Office” regarding requirements to the candidates for the position of the

Prosecutor General” was caused by the information of the Special Anti-Corruption Prosecutor’s Office about the investigation of facts of abuses of power during the appointment of the current Prosecutor General. In particular, in mass media there was information that the head of the Special Anti-Corruption Prosecutor’s Office, Nazar Kholodnitskiy, included to the Unified State Register of Pre-Trial Investigations information on two facts of possible violations. The first of which was about a deliberately false information submitted by the current Prosecutor General, Yuriy Lutsenko, in his declaration, and secondly about abuse of office during introduction of amendments to the Law of Ukraine “On Prosecutor’s Office” which made it possible for Yuriy Lutsenko to be appointed to the position of the Prosecutor General. As we know, his appointment was accompanied by amendments to the Law of Ukraine “On Prosecutor’s Office” which previously required that all candidates for the position of the Prosecutor General must have a higher legal education.

On the contrary to other law enforcement authorities, where a law degree is only a question of person’s competence, one should not forget that the Prosecutor General’s Office is empowered with a number of procedural rights (in the criminal, civil, administrative proceedings as well as during consideration of cases on administrative offences). That is why a draft law foresees the requirement that the prosecutor in Prosecutor General’s Office has no less than 10 years of work experience in prosecution instead of 5 years in the law sphere, and return to the requirement that the Prosecutor General must have a higher legal education and substantial working experience in the sphere of law or in law enforcement authorities of at least 5 to 10 years.

A number of international legal acts also talk about the necessity for prosecutors to have legal education and a relevant working experience. For example, requirements regarding relevant professional training are mentioned in the UN Guiding Principles saying about the role of a prosecutor (adopted by the eighth UN Congress on Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August – 7 September 1990), REC Recommendation (2009) of the 19th Committee of Ministers of member states of Council of Europe “On the Role of Public Prosecution in the Criminal Justice System” (adopted by Committee of Ministers on 6 October 2000 during 724th meeting of deputy ministers) etc.

1.2. Verkhovna Rada of Ukraine registered a draft law that better defines and amends grounds for disciplinary proceeding against a prosecutor

Draft Law №6581 of 12.06.2017 “On Amendments to some legislative acts of Ukraine (regarding prevention of violations of human rights and freedoms, guaranteed by the European Convention on Human Rights (ECHR))” foresees the introduction of additional guarantees and prolongation of a preventive measure according to requirements of the ECHR, as well as the practice of the European Court of Human Rights (cases “Kharchenko v. Ukraine”, “Chanev v. Ukraine”, “Ignatov v. Ukraine”).

Along with this, a draft law proposes to introduce amendments to the Law of Ukraine “On Prosecutor’s Office”, adding a new ground to bring a prosecutor to disciplinary responsibility for actions (or negligence) leading to a recognition by the European Court of Human Rights according to a decision, that came into force, that Ukraine violated a ECHR.

Thus, we are talking about a personal responsibility of a prosecutor for actions that caused the violation of a person’s human rights and freedoms. At the same time, in case the draft law is adopted the enforcement of this norm in practice will create a number of questions, since today there are also grounds established by the law for bringing such a prosecutor to disciplinary responsibility as well as criminal responsibility.

1.3. Verkhovna Rada of Ukraine registered a draft law aimed at legislative provision for activity of General Inspection

Draft Law №6553 of 07.06.2017 “On Amendments to Some Legislative Acts of Ukraine aimed at legislative provision for activity of General Inspection” was required due to the lack of regulation at the legislative level of activity of General Inspection within the Prosecutor’s General Office.

Let us remind you, that the General Inspection of Internal Investigations and Security was created within the structure of the Prosecutor’s General Office in November 2015. In particular, former Federal Prosecutor, United States Assistant Attorney General Bogdan Vitvytskiy was involved in the process. In the end of 2016 upon the results of the competition Volodymir Uvarov, a professor of Dnipropetrovsk State University of Internal Affairs who before that worked at the leadership position in the Regional Department of the Ministry of Internal Affairs of Ukraine, was appointed as the head of this institution. Yuriy Lutsenko, when reporting on his activity at the position of the Prosecutor General of Ukraine, mentioned that as of May 2017 the General Inspection fired 46 prosecutors for frivolity and incorrect data in electronic declarations.

About current work of the General Inspection please read the interview with its Chief in the editorial "Censor.net": <https://goo.gl/f1kVGu>

Our opinion regarding this very draft law is that it requires correction since it substantially contradicts the course of reforming prosecution authorities that is defined, first of all by the Constitution of Ukraine. According to the acting version of the article 131-1 of the Constitutional, pre trial investigation is not a functions of the prosecution, but today's investigators of the prosecutor's offices will eventually have to be transferred to the State Bureau of investigations as soon as it starts working. At the same time, a draft law foresees that the General Inspection has the mandate to conduct pre-trial investigation of criminal offences committed by prosecutors. Above that, as of today we have the National Anti-Corruption Bureau of Ukraine and the Main Investigative Department of the Prosecutor General's Office of Ukraine – bodies that are empowered to investigate the specified category of cases. This means that there is a contradiction of the mentioned legal provisions with the Constitution. The Main Scientific and Expert Department of the Secretariat of the Verkhovna Rada of Ukraine also mentioned this in their [conclusions](#), recommending that the results of consideration in the first reading to return the draft law to subjects of legislative initiative for further elaboration.

Let us also mention, that the name of the draft law is much more limited than its content, since it regulates not only the activity of the General Inspection, but also other important activities of the prosecution institutes. First of all, the order of disciplinary proceedings against prosecutors, evaluation of its results, peculiarities of application to prosecutors of disciplinary punishments, etc. Meaning that the draft law is a package of prosecution's "desired" amendments in different spheres of its activity for the preservation of its power as a law enforcement agency.

2. Work of the Qualification and Disciplinary Commission of Prosecutors

This year marked the start of work of bodies of prosecutors' self-government and bodies that ensure the activity of prosecution became possible after relevant provisions of the Law of Ukraine "On Prosecutor's Office", adopted in 2014, came into force on 15 April of this year.

Bodies of prosecutors' self-government include the All-Ukrainian Conference of Prosecutors and the

Council of Prosecutors of Ukraine. The all-Ukrainian conference of prosecutors has a number of important tasks, first of all: appointment of members of Council of Prosecutors of Ukraine for the period of 5 years and of the Qualification and Disciplinary Commission of Prosecutors for the period of 3 years. According to provisions of the Law, the Council of Prosecutors of Ukraine issues recommendations for appointment or dismissal of prosecutors from administrative positions, introduces measures to ensure the independence of prosecutors, social and legal protection of prosecutors, their families etc.

Their work is connected with the agency that provides for the activity of the prosecution – Qualification and Disciplinary Commission of Prosecutors. Its main task is to review disciplinary proceedings against prosecutors, select candidates for a prosecutor position and rotation of prosecutors between different prosecution bodies.

2.1. The Qualification and Disciplinary Commission of Prosecutors has announced recruitment for 300 prosecutor positions in local prosecutor's offices

On June 26th, there was a regular meeting of the Qualification and Disciplinary Commission of Prosecutors during which they discussed and approved the plan of priority measures regarding the independent organization of recruitment process to local prosecutor's offices. Members of the Qualification and Disciplinary Commission of Prosecutors agreed upon the order of coordination of actions between the commission, National Academy of Prosecution of Ukraine and relevant units of the Prosecutor General Office with the aim of conducting a quality recruitment and training of prosecutors. In particular, the terms for submission of documents and their form were defined out outlined. Thus, the recruitment of 300 prosecutor positions in local prosecutor's offices has already been announced during the meeting of the commission.

More details on the official website of the Qualification and Disciplinary Commission of Prosecutors: <https://goo.gl/uUHaeR>

2.2. Adoption of Regulations for Automatized System of Distribution of Disciplinary Complaints and the necessity of elaboration of organizational and regulatory documents

On 12 July, there was a meeting of Qualification and Disciplinary Commission of Prosecutors with the aim to work on a number of important organizational and regulatory documents that are necessary for effective work of the Commission. They discussed

and approved *Regulations for Automatized System of Distribution of Disciplinary Complaints* (approved by a decision of Qualification and Disciplinary Commission of Prosecutors №18зп-17 of 12 July 2017). Indicated system assigns the member of the Commission to decide on the initiation of a disciplinary proceeding with the help of relevant software and hardware complexes, send the information to the central databases, protection on a technological level from the unauthorized access etc.

Also approved was an Interim Order of Document Flow of the Qualification and Disciplinary Commission of Prosecutors and Interim Classification of Cases of Qualification and Disciplinary Commission of Prosecutors. Besides that, members of the Commission discussed the procedure of registration of complaints against decisions, actions or inactivity of a prosecutor, that will be submitted to Qualification and Disciplinary Commission as well as specialized training and competitions procedures in prosecution authorities.

More details on the official website of the Qualification and Disciplinary Commission of Prosecutors: <https://goo.gl/fcJ4y3>

Before that, during a meeting with the EU Advisory Mission Ukraine and Council of Europe Office in Ukraine, representatives of Qualification and Disciplinary Commission of Prosecutors mentioned that with the aim to ensure independence of their activity the issue of salaries of its members, material and technical provision for activity of the agency as well as creation of its independent Secretariat that will not be part of the structure of the Prosecutor General Office of Ukraine and needs to be solved quickly. Part of these issues were regulated, for example, the salaries of members of Qualification and Disciplinary Commission of Prosecutors – and the relevant *Decree of the Cabinet of Ministers №456* was adopted on July 4th.

More details on the official website of the Prosecutor General Office: <https://goo.gl/RUR3AJ>

2.3. For the first months of its work the Qualification and Disciplinary Commission of Prosecutors received 146 complaints for consideration

The Qualification and Disciplinary Commission of Prosecutors has generalized the first results of consideration of disciplinary complaints. As of now they received 146 complaints against actions of prosecutors and all of them were distributed amongst members of the Qualification and Disciplinary Commission of Prosecutors pursuant to the Regulations for Automatized System of Distribution of Disciplinary Complaints.

Upon the results of their consideration 75 disciplinary proceedings were initiated against 108 prosecutors. Particularly noteworthy is that 42 proceedings were initiated upon results of inspection of integrity of prosecutors. At the same time, facts that were provided in 17 complaints were not proven, and therefore the Commission refused to initiate proceedings.

According to members of the Qualification and Disciplinary Commission of Prosecutors, the most common grounds for initiation of disciplinary proceedings are violation of principles of declaring wealth, results of inspections of integrity, shameful acts and improper performance of official duties. Particularly noteworthy is the fact that there are facts of public statements of prosecutors violating presumption of innocence for which a disciplinary responsibility is foreseen. At the same time, these facts gained public importance and such public statements should be fully and impartially evaluated by the Commission.

More details on the official website of the Qualification and Disciplinary Commission of Prosecutors: <https://goo.gl/ReUH2d>

III. STATE BUREAU OF INVESTIGATIONS (SBI)

An important reform in law enforcement must be the creation of the State Bureau of Investigation – the main controller of all law enforcement officers, high-level officials and judges.

Investigators of this newly created authority will investigate all crimes (except for severe corruption crimes), committed by any law enforcement officer, including the detectives of National Anti-Corruption Bureau of Ukraine.

We are talking about abuse of office, torture, traffic incidents that caused severe consequences etc.

In 2015 the Law of Ukraine “On State Bureau of Investigations” was adopted, and in 2016 the competition commission on selection of a director of the State Bureau of Investigations and his/her Deputies began its work. It is these commissions who will have to guarantee the independence and apolitical character of the State Bureau of

Investigations, and they are responsible for the recruitment of officers and the formation of structure of this body, therefore the transparency of the competition is crucial.

However, the process is accompanied by direct violations of legislation which can obstruct a timely and transparent formation of the State Bureau of Investigations. As any decisions of the commission adopted by the current members, can be later appealed against in court. In particular, two members of the commission could not prove that they have higher legal education which is an obligatory legislative requirement for all members of the commission. Their participation in conducting interviews and further adoption of decisions puts the legitimacy of the whole process of appointment of the leadership of the State Bureau of Investigations under question.

The process of creation of the State Bureau of Investigation will only be started after its Head and his/her two Deputies are selected. Other officers will have to be recruited on a competitive basis. In addition to that, a sectoral law foresees 7 territorial departments of the State Bureau of Investigations.

1. A law enforcement committee turned down a draft law №6430, that proposed amendments to the law on the State Bureau of Investigations

On June 21st, a Committee on Legislative Support of Law Enforcement of the Verkhovna Rada of Ukraine turned down during its meeting a draft Law №6430 "On Amendments to the Law of Ukraine "On State Bureau of Investigations", initiated by the Cabinet of Ministers of Ukraine.

In the explanatory note the draft law was submitted as necessary for full functioning of the State Bureau of Investigations. In particular, issues of bringing to disciplinary responsibility of officers of the State Bureau of Investigations, establishment of special ranks for ordinary and commanding staff of the State Bureau of Investigations, the order of carrying service by ordinary and commanding staff of the State Bureau of Investigations etc. Along with this how the existence of special ranks (that are at all generally used by militarized bodies which the State Bureau of Investigations is not) will impact the start of the work of the Bureau is unclear.

Above that, a draft law proposed to introduce a condition according to which the State Bureau of Investigations will start its activity in part of functions of pre-trial investigations and operative and investigative activity, namely – starting from the day investigative and operative units are formed for

50%. Such a provision is more an obstacle to start of its activity, and the prosecutor's office is the agency that is interested in this because it does not want to give the functions of pre-trial investigation away.

Members of a profile committee mentioned in its conclusion that the proposed by the draft amendments do not fully solve legislative obstacles for full start of the Bureau and proper execution of its functions.

2. Regarding the course of the competition for the position of the Director of the State Bureau of Investigations and his/her deputies – polygraph testing

Obligatory polygraph testing (inspection of candidates on lie detector) when entering service in the State Bureau of Investigations is directly foreseen by law. Since it is for the first time in history that a state agency is formed like this, we foresee having a number of problems with regulation and organization of this process.

In July, a Decree of the Cabinet of Ministers of Ukraine №449 of 11.05.2017 came into force. It approves the long-awaited *Procedure for carrying out a psycho-physiological study with the use of a polygraph at the State Bureau of Investigations*. Along with this, the norm about the mandatory use of polygraph appeared in the first version of the Law on State Bureau of Investigations that was published in January, 2016. The Cabinet of Ministers adopted a relevant Decree only in May 2017 understanding the necessity of legal regulation of its enforcement from the very beginning. Due to this fact, it is surprising that the Procedure does not determine the source of funding for the use of the polygraph during the competition, which once again slows down the process of launching the State Bureau of Investigations.

On 18 July during the *meeting of the Competition commission* on forming the State Bureau of investigations they agreed on the necessity to procure services on *carrying out of psycho-physiological research using a polygraph* for 19 candidates for the position of the Director of the State Bureau of Investigations and his/her deputies. They agreed upon 2 options for funding: a) through the State budget; b) through the international donor organizations. The Commission decided to address recognized international organizations that traditionally supported the reform of criminal justice with a proposition to finance the polygraph testing.

Estimated cost of this testing around 70-75 thousand UAH for all 19 candidates. According to one of the

members of the Competition Commission, Denys Monastyrskiy, it may take from one to two months to conduct the testing (from the time of decision on how such a research will be financed).

More details in the article “Polygraph for the State Bureau of Investigations: whose idea and who pays?” of the member of the Competition Commission, expert of the “Ukrainian Institute of the Future Denys” Monastyrskiy in the blog on “Censor.net”: <https://goo.gl/RLfgfh>

At the same time, already in April the All-Ukrainian Association of Polygraph Examiners (the biggest professional civil organization of Ukrainian polygraph examiners that has over 150 members) addressed the Competition Commission with a

proposal to give the State Bureau of Investigations free of charge for constant use a polygraph “Rubikon”, produced in Ukraine and complying to the State standard (state standart 8692:2016 “Polygraphs”).

More details in the official letter from All-Ukrainian Association of Polygraph Examiners, published on “Censor.net”: <https://goo.gl/gaJio3>

More details about the general context and interests of its key stakeholders please read in the article “State Bureau of Investigations: blocked engine of transformations” of experts of the Reanimation Package of Reforms Volodymyr Petrakovskiy and Alexander Lemenov in the newspaper “Weekly Mirror”: <https://goo.gl/GFBEd>

IV. CRIMINAL JUSTICE LEGISLATION

Harmonization and consistency of criminal and criminal procedure legislation with European standards stays a problematic issue. The introduction of criminal misdemeanors depends the effectiveness of the activities of criminal justice bodies in general, particularly the workload of investigative and operative units, the efficiency of criminal legislation and the observance of the principle of inevitability of punishment.

1. The Verkhovna Rada registered a draft law that proposes to introduce a Unified Register of Persons that were Convicted for Crimes connected with Pedophilia and increase responsibility for them

A Draft Law №6607 of 21.06.2017 proposed to create a Unified Register of Criminals convicted for crimes against sexual freedom and immunity of minors (holder – Ministry of Internal Affairs of Ukraine). According to the proposed model the heads of educational institutions or other establishments that work with children will have the right to receive information about whether a specific person is included in the Register during the hiring process. For example, heads of children camps, sanatoriums etc.

Besides that, it was proposed to strengthen criminal punishment for such crimes. It is also foreseen to make those convicted of these crimes ineligible for parole release. At the same time, having spent 10 years in prison, a person shall have a right to substitute the remaining part of sentence for a voluntary medical measure – chemical castration (taking medical substances that cause constant reducing of sexual desire and activity).

We'd like to mention that the existence of such

databases and application of special medical measures is an existing world practice in countries with sustainable democracy. However, along with this the context of legal regulation, activity of medical and social services has to be taken into account.

At the same time, from the position of legislative techniques, amendment of the general part of the Criminal Code is what raises the most concern. In particular, article 63 which defines the general requirements for such a punishment as deprivation of liberty for a certain period. Raising the upper level of punishment from 15 to 20 years misbalances the Criminal Code and entails the necessity to make amendments in other institutes – criminal record, exemption from criminal liability etc.

2. Verkhovna Rada registered a draft law that improves the order of petitions on application of preventive measures in criminal proceedings

Draft Law №6575 of 09.06.2017 article 186 of the Criminal Procedure Code of Ukraine is supplemented by a norm on consideration of petitions on application of preventive measures during working and non-working hours, including weekends and holidays. The reason for such changes became high-profile detentions of persons suspected in corruption conducted by officers of the National Anti-Corruption Bureau of Ukraine and the impossibility to select a preventive measure within the terms defined by the Criminal Procedure Code of Ukraine.

At the same time, the key to addressing the problem lies mostly within the institutional sphere, because duty judges that have been foreseen since 2012 do

not work due to lack of judges in the secretariat of court because of reform of judicial power.

3. The Verkhovna Rada registered a draft law that expands the list of crimes for which the investigation can be conducted in absentia

A Draft Law №6706 of 13.07.2017 “On Amendments to the Criminal Procedure Code of Ukraine (regarding refining the list of crimes in which a special pre-trial investigation may be conducted)” introduces amendments to article 297-1 of the Criminal Procedure Code of Ukraine providing for general regulations on conducting special pre-trial investigation (in absentia). It is proposed to supplement the existing list of articles of the Criminal Code, namely – with human trafficking or other illegal agreements concerning people

(article 149 of the Criminal Code of Ukraine) as well as illegal transfer of people across the state border of Ukraine (article 332 of the Criminal Code of Ukraine).

Let us remind you that for the last year the National Police actively develops the Department for Combating Crimes connected with Human Trafficking, because the number of victims from such crimes grows. In the first half of 2017 the number is two times greater than the one for the same period of last year. We are talking about spread of forms of human trafficking not connected with sexual exploitation. In particular, we mean the so called “labor” exploitation in such countries as Russian Federation, Poland, Turkey, Ukraine, Germany, Israel, Greece, United Arab Emirates and others.

Ukrainian Law-Enforcement Reform Digest. Issue 2: June-August 2017. – K. : Expert group “Police under control”, 2017. – 17 pages

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Expert group “Police under control” – platform of human rights organizations carrying out a comprehensive study of human rights in the activity of Law-Enforcement Agencies.

The Expert group engages to its work human rights defenders, lawyers, sociologist, political scientists, assistants to MPs and other experts in the sphere of Law-Enforcements activity.

Organizations-founders:

Association of Ukrainian Human Rights Monitors
on Law Enforcement
(Association UMDPL)

Center of Policy and Legal Reform
(CPLR)

Expert Center for Human Rights
(ECPL)

Experts of group are active members of the Law-Enforcement reform group of Reanimation Package of Reforms (RPR) – the largest coalition of leading non-governmental organizations and experts who have pooled their efforts to facilitate and implements reforms in Ukraine

More details about the group and results of work – police-experts.info.
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