

OVERVIEW OF THE MAIN PROBLEMS OF THE FORMATION AND IMPLEMENTATION OF STATE POLICY IN THE SPHERE OF TRANSFORMATION OF THE LAW ENFORCEMENT SYSTEM

*Kostyantyn Malyshev*¹

Received: 2021-12-03

Accepted: 2022-01-12

DOI: <http://doi.org/10.46489/gpj.2022-2-1-11>

Annotation. The development of our country as a strong, independent, sovereign state is characterized by certain features of the spheres of its social life; in particular, this applies to the sphere of law enforcement, determined by internal and external phenomena and processes, among which European integration and globalization influences occupy a prominent place. The national system of law enforcement activities is accompanied by complex processes of transformation, which are aimed at the radical reformation of the insufficiently effective system of law enforcement agencies obtained from the recent past. It becomes clear that under such circumstances, this system needs immediate modernization, which would make it possible to create a balanced, reliable and efficient modern system of law enforcement agencies.

Current areas of research in the methodology of state policy in the field of transformation of the law enforcement system are determined by the following problematic issues: clarifying the content of the concept of state policy in the context of the theory of interests; determination of initial provisions; formation of a step-by-step model of the process of formation and implementation of state policy in the researched area in the context of coordination of public, public and private interests.

The problem of reforming the system of law enforcement agencies in Ukraine is gaining more and more relevance in the general process of democratization of society and the state, as well as their transformation in connection with the need to approach European and Euro-Atlantic standards. After all, the law enforcement system is designed to protect human rights and the democratic assets of a civilized state.

Keywords: state, state policy, law enforcement activity, law enforcement system, transformation of the law enforcement system.

¹ Kostyantyn Malyshev, Zhytomyr Polytechnic State University, Ukraine, ORSID: <https://orcid.org/0000-0003-2856-3641>

INTRODUCTION

The current stage of the development of Ukrainian statehood shows the need for a radical reform of the system of law enforcement agencies, whose activities are the key to building a democratic society. The issue of transformation of the law enforcement system in Ukraine is caused by a combination of these problems.

Legislative uncertainty regarding the activity of the system of law enforcement agencies of Ukraine causes negative consequences that entail inconsistency: this is also a vague formulation of functional duties, which leads to duplication and inefficient performance of professional duties; lack of a mechanism for implementing regulatory and legal guarantees of social and legal protection of law enforcement agencies; a complicated system of principles of activity and tasks of each law enforcement agency. The above shows that the domestic system of law enforcement agencies needs a certain reorganization, which should be carried out not hastily (as it has always been done), but on the basis of a scientifically based state concept or program of judicial reform.

In general, the 50s of the 20th century can be considered the beginning of the development of state policy as a separate field of scientific research. Harold Lasswell, C. Lindblom, E. Dror and other researchers from the USA and Great Britain are considered pioneers. The analysis of politics, which A. Wildavsky called the message of truth to power, drew attention to social sciences as a means to make human society better" (State policy, 2014). The problems of the formation and implementation of state policy in the field of transformation of the law enforcement system were considered in theses and the field of knowledge of public administration: V.V. Evdokimov, O.O. Khrobust, Y.G. Khomich.

The purpose of the article is to identify and analyze the main problems of transformation of the law enforcement

system and to propose ways to minimize them.

RESULTS

Politics is an important sphere of activity of society and the state, because the prosperity and well-being of the state, the sustainable development and well-being of society, the freedom of man and the satisfaction of his spiritual and material needs depend on its balance and justification. The formation of a democratic, social and legal state is impossible without the creation and implementation of a proper and effective state policy, which helps to identify problems in society in a timely manner, carry out their effective analysis, determine and implement optimal solutions. Under the conditions of globalization, the transition from a post-industrial to an information society, the development of democracy and institutions of civil society, integration into the international and European legal space, such a form of organization of state activity as state policy, which acquires importance as a form of interaction between the state and various institutions of civil society, is becoming widespread in Ukraine society, influence on the organization and activities of the state democratic institutions, democratic control over its activities, etc. (State policy, 2014).

Development and implementation of effective state policy in law enforcement sphere will contribute to the reduction of manifestations of organized crime, strengthening social and political stability in the state, increasing trust in institutions of civil society to state authorities, raising the level protection of citizens from criminal encroachments, expansion and deepening dialogue between society and the government, strengthening the positive image of Ukraine in the world and its investment attractiveness, raising the level of legal culture View metadata, citations and similar papers at core.ac.uk brought to you by CORE provided by Kharkov National University of Internal Affairs Institutional Repository (KhNUIAIR) population.

Special attention should be paid to the importance of effective production normative and legal framework for the implementation of state policy in law enforcement sphere. Therefore, the importance of developing an effective state policy in the law enforcement sphere and the effective mechanism of its implementation are determined relevance of this research.

"The search for an acceptable model of democracy, the formation of a modern system of public administration causes increased attention to research and analysis of state policy. Modern world practice proves that ensuring proper state administration is impossible without establishing the process of development and implementation of state policy. Openness and transparency should be decisive in this process, as this ensures the maximum consideration of the preferences and preferences of citizens, a wide range of social groups in public policy, which, ultimately, makes it possible to achieve compliance of such policy with the real needs of society. Today, the state is only one of the subjects (actors, players) in the state-political process and not always the main one. Civil society, which is autonomous in relation to state power, acts as an external environment for the state administration system, began to play a significant role in determining the direction of government actions in solving social problems" (Kuprii, 2007).

The main goal of state policy in the field of law enforcement is bringing the activities of state authorities functioning in law enforcement, in accordance with the best global standards and domestic needs, provision of social services activities of the specified bodies by optimizing their tasks and functions, structure and numbers, improvement of legal, personnel, social, material and technical and financial support.

Taking into account the above goal among the main tasks State policy in law enforcement includes the following:

- ensuring compliance with the principles of the rule of law in activities state authorities;

- creation of a scientifically based model of state authorities, which must perform a law enforcement function in accordance with the needs of the building public service model of public administration;

- update of the regulatory and legal framework for the implementation of state policy in law enforcement sphere by developing new normative legal acts and making changes and additions to the current ones;

- expansion of forms of civil democratic control over activities bodies of internal affairs;

- provision of conditions for obtaining by citizens of Ukraine and others persons of quality services provided by law enforcement agencies;

- creation of effective mechanisms of interaction and coordination of activities law enforcement agencies with other authorities, local authorities self-government and population;

- creation of an effective system of responding to crimes and others offense;

- creation of a modern flexible training and promotion system personnel qualifications for law enforcement agencies;

- expansion of the participation of state authorities in international affairs cooperation in law enforcement;

- formation of a new positive image of law enforcement agencies, in particular, by increasing the public's trust in them, ensuring them partnership relations and interaction;

- increasing the efficiency and practical orientation of scientific ensuring the activities of internal affairs bodies.

"A feature of modern political processes is a significant increase in the demands that society puts on the political system, which prompts the state to transfer some functions to other, non-state actors, who are increasingly actively involved in the processes of forming and developing policies aimed at ensuring public interests and tasks. The importance of public policy in the system of managerial social relations is that it should be a tool for regulating relations between

members of society, taking into account their diversity. The need to consider public policy in theoretical, methodological and practical dimensions is due to a number of reasons related to the change in the state of quality and functional capabilities of modern political institutions in the conditions of a globalized political space, which, in turn, influenced the transformation of political and administrative mechanisms in state systems and contributed to updating the practices of interaction of public actors in the field of politics both on a global scale and at the national level. Global trends were reflected in the subjectivity of public actors in various types of systems, complicating the process of public policy formation and distinguishing national models of this multifaceted phenomenon, which have their own unique features, problems and effectiveness" (Homolyako, 2018).

Therefore, one of the main characteristics of law enforcement agencies should be attributed to the fact that their activities are aimed at preventing and countering offenses, ensuring the rights, freedoms and interests of individuals (the main direction of their activity), i.e. performing the law enforcement function of the state; they are represented exclusively by state bodies, and therefore non-state formations, public organizations, etc. cannot be attributed to them. At the same time, we note that the last of the above-mentioned features needs some clarification. Thus, some scientists, defining the essence of law enforcement agencies as state, point out that they are exclusively representatives of the executive power.

An equally important aspect of the reform of the domestic special service of Ukraine and the proper provision of human rights and freedoms is the issue of distinguishing the functions of the Security Service of Ukraine from the functions of other law enforcement agencies. In particular, along the line of pre-trial investigation, it is possible to initiate changes to the current criminal procedural legislation of Ukraine regarding alternative liability in accordance with the established procedure. Such measures will serve to avoid duplicating the functions of

various law enforcement agencies, crossing the interests of these agencies and their divisions that carry out operational and investigative activities in relation to the same object, dispersing their efforts, diverting a certain share of forces and means that would be more appropriate to use in other important areas of the fight against crime in accordance with the tasks defined by the law.

The subjects of interaction with stakeholders are: policy makers (individuals, groups of individuals responsible for the formation and implementation of state.

Thus, based on the results of the research, a comprehensive approach to the methodology of formation and implementation of state policy in the field of transformation of the law enforcement system has been developed. It is substantiated that state policy should be understood as: the process of development, formation, implementation and evaluation of state management decisions, which consist in action or inaction, imply a set of methods, procedures, tools, principles used by subjects of state power in relation to the influence on social relations as a whole or their individual components to solve a ripe social problem, which as a result should harmonize public, public and private interests.

State policy in the field of transformation of the law enforcement system is a process of development, formation, implementation and evaluation of state management decisions, which consist in action or inaction, provide for a set of methods, procedures, tools, principles used by subjects of state power to influence the process of transformation of the law enforcement system as a whole or its individual components to solve pressing problems, in terms of ensuring state security, public order, combating and preventing crimes, which as a result will ensure social consensus through the coordination of public, public and private interests.

The methodological provisions developed based on the results of the research fall into the following successive stages: establishing the symptoms of a social

problem, which determines it as an object of state policy; initial provisions of state policy in the sphere of transformation of law enforcement activities; interaction with interested parties (stakeholders); subjects of the formation of the implementation of state policy; methodological regulations for the formation and implementation of state policy in the field of transformation of the law enforcement system; analysis and evaluation of the effectiveness of state policy in the field of transformation of the law enforcement system. For each stage, substantive and procedural components are substantiated, which allows a complex approach to the solution of the social problem, which lies in the planar transformation of the law enforcement system.

Therefore, it is quite important to develop a comprehensive model of the formation and implementation of state policy in the field of transformation of the law enforcement system, which includes the following components:

1) Identified main symptoms of the problem of state policy: growth of crime of various types and their consequences; underfunding of law enforcement activities; public distrust of law enforcement agencies; fragmentation of reforms in the sphere of the law enforcement system;

2) the properties of the object-subject field are determined;

3) the content of the goal of state policy is substantiated (making state-management decisions and mechanisms for their implementation regarding the transformation of the law enforcement system in general and the activities of law enforcement agencies in particular, to ensure state security, protection of public order and prevention and countermeasures against crime, which is the basis of coordination and protection of public, public and private interests) and setting tasks;

4) a mechanism of interactions with stakeholders during the formation and implementation of state policy mechanisms is proposed;

5) it is proposed to group the subjects of formation and implementation of state policy in the sphere of transformation of the law enforcement system as follows: bodies of the central executive power implementing state policy in the sphere of transformation of the law enforcement system; bodies of the central executive power, implementing policy in the spheres of formation of appropriate support of the law enforcement system; law enforcement bodies of general and special purpose;

6) determining methods of implementation of state policy;

7) a system of state policy principles is proposed;

8) the mechanism for evaluating the effectiveness of state policy is substantiated.

CONCLUSIONS

So, in the course of the conducted research, it was established that the development of a comprehensive approach is possible provided that the specifics of the elements of the law enforcement system are identified. Considering the complexity of the law enforcement system as a social system integrated into the general system of state administration, because it is aimed at ensuring the performance of security functions of the state, we propose to define its elements according to the following components:

the object of the law enforcement system – there are social relations that are related to the realization of public, public and private interests, and are regulated by the legal system, in particular regarding the establishment of the boundaries of such relations (legal and illegal);

the subject of law enforcement relations - the central bodies of executive power that implement state policy in the researched area, local self-government bodies and law enforcement agencies that implement the law enforcement function of the state act;

methodological action – actual law enforcement activity, which, through appropriate actions, has an impact on the

object of the law enforcement system; feedback - there is a transformation of the interaction between the object and the subjects of the law enforcement system, which is determined by the state of the object and the requirements of civil society.

References

1. Homolyako O. (2018). Formation of public policy: theoretical and methodological aspects. URL: [http://www.dridu.dp.ua/vidavnictvo/2018/2018_04\(39\)/6.pdf](http://www.dridu.dp.ua/vidavnictvo/2018/2018_04(39)/6.pdf)
2. State policy. (2014). Nat. Acad. state example under the President of Ukraine; ed. number : Yu. V. Kovbasyuk (chairman), K. O. Vashchenko (deputy chairman), Yu. P. Surmin (deputy chairman) [and others]. K.: NADU. 448 p.
3. Korshunova N.V. (2018). The concept of state policy: a theoretical and legal study. thesis for obtaining sciences. candidate degree law Sciences (Doctor of Philosophy): 12.00.01 "Theory and history of the state and law; history of political and legal students" (081 - Law). – National Academy of Internal Affairs, Kyiv.
4. Kuprii V.O. (2007). Organizations of civil society as subjects of development of state policy. Dissertation for obtaining the scientific degree of candidate of sciences in public administration. 25.00.01 - theory and history of public administration. KYIV.