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Foreign experience in providing public security and order by police during mass events and the possibility of using it in Ukraine

VITALII PCHELIN^{1*}, LINA FOMINA², RUSLANA MAKSAKOVA³ and
IVAN KUBARIEV⁴

The article substantiates the expediency of studying the foreign experience of police activity and, in particular, the provision of public security and order by the police during mass events. The experience of the countries of the European Union, the USA, Canada and other highly developed countries in the sphere of providing the public security and order by the police during the mass events is analyzed. The possibilities of using this experience in Ukraine are formulated. To achieve the goal of this work and to ensure the scientific objectivity of the results obtained, a complex of general scientific and special methods of scientific knowledge was applied. Analyzing and summarizing the foreign experience of the police ensuring public safety and order during public events, we conclude that in Ukraine it is advisable to use the following some positive aspects in Ukraine.

Keywords: foreign experience, mass events, police, public order, public security.

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INTRODUCTION

The history and practice of holding mass events in Ukraine testifies to the existing shortcomings both in the regulatory framework and the organization of mass events, as well as in ensuring public safety and order during their holding. Often, mass events are accompanied by violations of human and citizen rights, riots, damage to private and public property, etc. At the same time, in most countries of the European Union, as well as in other developed countries of the world, mass events (sport, entertainment and cultural, religious and, what is especially important for Ukraine, political, etc.) are characterized by a high degree of legislative regulation and orderliness, high level of public safety and order.

A significant role in this process is played by the police, which, as a rule, are directly assigned the function of ensuring public safety and public order, incl. during mass events. However, the police of different countries have their own characteristics, forms and methods of activity, which determines the relevance of the study of foreign experience of the police ensuring public safety and order during public events with the aim of improving it in Ukraine.

However, the foreign experience of precisely ensuring public safety and order by the police during mass events and, in particular, the possibilities of its use in Ukraine has practically not been studied, and now these issues are highlighted in a rather fragmentary way in legal science.

The Constitution of Ukraine proclaims the right of citizens to conduct peaceful mass events in a legally determined manner. Restrictions on the realization of this right may be established exclusively by the court in the interests of national security of the state, public security and order and with the aim to protect human and civil rights and freedoms. In accordance with the constitutional requirements, these provisions should be detailed in a special law that will regulate the conduct of mass events and public safety during mass events. Currently, in Ukraine, such legislation is designed only to ensure law and order in connection with the preparation and conduct of football matches, but a law that would regulate the organization of mass events in general has not yet been adopted. The above mentioned facts, in their turn, complicate the process of ensuring public security and order during massive measures by the police, whose activities and legal regulation in a certain area also have some disadvantages. At the same time, the realities of the present are characterized by a significant increase in social activity, expressed in mass events of a different nature: political, social, economic, cultural, sports, gender, ecological, etc. Such measures include the use of special law enforcement regimes, methods and forms. Moreover, during demonstrations, rallies, strikes, street hikes, gatherings, football matches, cultural-entertainment, religious and other events, there often are mass riots, manifestations of extremism, violations of the order and rules of the event, rights and freedoms by organizers and participants of these events, including the authorities and law enforcement agencies. Under such conditions, the issue of ensuring public safety and order during mass events in Ukraine becomes of particular importance, considering 5 possible threats, risks and negative consequences directed at the prevention, neutralization and elimination of the activities of many public safety and security subjects, first of all the National Police of Ukraine. Some aspects of ensuring public safety and order, including those during mass events, were investigated by domestic and foreign scientists: A. Akhmetov (2018), S. Cherniavskiy (2019), O. Kirillova (2018), O.D. Tereshchuk (2014), V.V. Zarosylo (2016), I. Petrov (2011) etc. However, in spite of significant scientific progress, comprehensive research on the provision of public security and order by the National Police in Ukraine during mass events is practically absent in domestic legal science; the essence of public security and order as an object of administrative and legal protection remains unexplored; the domestic regulatory framework, principles, forms, methods, organizational measures and peculiarities of ensuring public safety and order during the conduct of mass events are in need of further development and improvement.

The purpose of this article is to study the foreign experience of the police ensuring public safety and order during mass events and the possibilities of its use in Ukraine.

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MATERIAL AND METHODS

To achieve the goal of this work and to ensure the scientific objectivity of the results obtained, a complex of general scientific and special methods of scientific knowledge was applied. The basis of the research methodology is the systematic approach, which has been used to explore the system of public security and law enforcement, based on its complex structure and links with other phenomena. The general scientific method of dialectics made it possible to determine the place and role of the studied issues, to describe the current state of ensuring public safety and order during mass events and the tendencies of its change, especially the legal regulation of ensuring public safety, etc. General methods of analysis, synthesis, generalization, abstraction, analogy are used during the clarification of the conceptual apparatus, subjects and objects of ensuring public safety, their interrelations, etc.

It is expediently proclaimed in the European Security Strategy – “A safe Europe in a world that should become better”. Nowadays Europe faces new threats, that are more diversified, less pronounced and less predictable (terrorism, proliferation of weapons of mass destruction, regional conflicts, statehood fiasco, organized crime, etc.). Under such conditions, security is an indispensable condition for development, because conflicts not only destroy infrastructure, including the social one, but also serve as the basis for the development of crime, they discourage investments, make normal economic activity impossible (ESS 2009). One of the main subjects of public safety and order in almost all countries of the world is the police. However, as Tereshchuk (2014) rightly points out, the work of the police in foreign countries was analyzed, but there were little practical proposals on improving the work of the Ukrainian police. According to the author, the lack of such proposals is mainly due to different approaches to police structural systems and different attitudes towards mass events (Tereshchuk 2014). Therefore, it is important to investigate the peculiarities of ensuring public safety and order by the police in various countries of the world, whose police practice is characterized by a high level of efficiency.

Exploring the foreign experience of ensuring public safety and order by the police during mass events, we consider it expedient to draw attention to some of the tenets of the European Convention on Violence and Inappropriate Behavior on the part of spectators during sports events, and especially during football matches at August 19, 1985 No ETS N 120, because there are sports mass events that occupy a significant share compared to other mass events in Europe and the world. In particular, according to Art. 3 of the Convention, the parties are obliged to ensure the development and adoption of measures aimed at preventing and controlling violence and disorderly behavior of viewers, which, in particular, provides for:

- 1) ensuring the involvement of sufficient resources for the protection of public order and the fight against explosions of violence and hooligan behavior, both in areas immediately adjacent to stadiums and stadiums, and on the paths used by the audience;
- 2) facilitating close cooperation and the exchange of relevant information between police units of different localities that concern about it or may concern;
- 3) the application or, if necessary, the adoption of legislation that provides for the imposition of appropriate penalties or, when necessary, the adoption of administrative measures against persons found guilty of committing offenses related to violence or inappropriate behavior on the part of the viewers;
- 4) ensuring that the design and material infrastructure of the stadiums ensure the safety of the spectators, do not directly contribute to the clashes between the spectators, allow for effective crowd control, have proper barriers or fencing and allow security and police to operate;
- 5) effective separation of groups of rival teams fans and accommodation of groups of fans arriving from other places in separate stands in the case of visiting matches;
- 6) ensuring such separation through strict control over ticket sales and taking special measures immediately before the match;

7) the withdrawal of existing or potential violators of order, as well as persons who are under the influence of alcohol and drugs, from stadiums and matches, or prohibiting such persons from entering stadiums and matches, if this is legally possible;

8) equipping stadiums with an effective communication system with spectators and ensuring a full measure of using such a system, match programs and other promotional materials in order to encourage viewers to behave correctly;

9) a ban on spectators from bringing alcoholic drinks to the stadiums; restrictions, or better a ban of sales and any distribution of alcoholic beverages in stadiums, as well as ensuring the sale of all beverages in safe packaging;

10) conducting inspections to ensure that spectators do not bring to the stadiums objects that can be used in acts of violence, pyrotechnic products or similar objects;

11) ensuring cooperation between official bodies before matches to determine how to control the crowd and jointly apply the relevant rules, etc.

In our opinion, these measures on ensuring public safety and order are advisable to apply not only in the case of sports events, but also of the events of a different nature. Moreover, most of them are implemented in practice in many countries of the world. Let us consider in more detail the peculiarities of the police ensuring public safety and order in some countries.

For example, in Germany, during mass events, units of both the state police and the federal police may be involved (there is the two-level police system in Germany – the federal police and the state police). At the same time, as noted by Kovalenko (2012), there are developed plans for the delivery of federal police units to the places where mass events are planned. Moreover, in Germany public security is maintained by special units within the Federal Office of the Ministry of the Interior, which performs many police functions. For example, the Federal Border Guard is involved in law enforcement during demonstrations, nationwide political events etc. At the same time, at the local level in all federal states, the function of ensuring public safety and order is assigned to the public order police (patrol service) and the riot police (the Federal Government may subordinate the police forces of one or more lands to its direct instructions in case of danger or threats) (Vasileva 1996). As a rule, the functions of the riot police are to assist the police in the protection of public order and the criminal police during mass events mainly by force methods.

RESULTS

In addition, the experience of Germany is indicative for Ukraine as the German law provides the organizer's duty to notify the police (and not local governments) about the planned events, which, after considering the submitted applications for a mass event, allow or prohibit such an event (Zarosylo 2016a). It is important to note that the German law provides for the possibility of holding spontaneous meetings, if their occurrence is due to recent events. Serious punishments in the form of imprisonment for up to one year are threatened to the organizers only if they hold a pre-planned event without notice (messages about the meeting are submitted to the local police station no later than two days before the event) (Simakin, 2012).

Similarly, in the UK, there are police executives who give permission to hold a mass event, and an application for permission to hold a mass event must be submitted to the police station no later than 6 days before it starts (Zarosylo 2016b). In this country, the most severe punishments are provided for participants in mass riots – up to 10 years in prison, for provocation and incitement to violence – up to 6 months or a fine of up to 5,000 pounds. In addition, there may be sanctions for event organizers in the case of violation of the order of activities (violation of the established notification periods, uncoordinated change of the date, time and route of march, etc.) – imprisonment for up to 3 months or a fine of up to 1000 pounds (Simakin, 2012).

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In general, in the UK all regular police are made up of uniformed police and “plain-clothes” police, but there is no clear distinction between those who maintain public order and prevent wrongdoing, and it is provided that all law enforcement officers are involved into prevention of crime and offenses of public order and public safety. Therefore, it is not surprising that patrol service in this country reaches 55-60% of the total police working time (SSHD, 1996). In addition, the London police established a mounted police department, whose immediate task is to ensure law and order with a large crowd of people, and which is involved in official events. Mounted police have the appropriate equipment, portable radio stations for quick communication. Moreover, according to Kostiuk and Molotai (Kostiuk & Molotai 2011), it is advisable to use this type of patrol in Kyiv, in forest zones and during mass cultural events, because it has advantages over dismounted patrol by speed, and over auto patrol by its maneuverability, which we consider to be a possible event for practical implementation in modern conditions in Ukraine.

Also, the following aspects of ensuring public safety and order by the British police during public events should be mentioned as positive experience, useful for use in the work of the police and, in particular, the patrol police activity:

1) patrol officers on patrolling try to prevent the formation of groups of people who are in rest areas in the evening and at night in order to prevent mass offenses;

2) the police maintains close contact with residents of those regions where entertainment facilities are concentrated and where public order disturbances are most likely to emerge (contact is maintained by telephone or by direct police contact with citizens);

3) technical and electronic means of observation are widely used (video cameras, etc.);

4) a mandatory body search of visitors to entertainment institutions is introduced in order to reduce the facts of use and sale of narcotic drugs;

5) the state has tight control over the sale of alcoholic beverages and the system of the alcoholic beverages sale itself;

6) there is a service of volunteer police assistants – special constables who serve as police personnel for several hours a week at no charge (Heavens 2011, Chernii 2003).

In contrast to the considered countries, in France the national gendarmerie plays the leading role in ensuring public safety and order during mass events instead of police. Unlike civilian police institutions, the gendarmerie has the same organization, form, rank and discipline as the French army. In particular, the Gendarmerie of France, serving more than 90% of the state territory where 60% of the population lives, reports to the Ministry of Defense and fulfills its directives, while the police, serving only 10% of the territory and 40% of the population, reports to the Ministry of Justice (Dien 1996). In this context, it should be noted that the gendarmerie’s jurisdiction extends to small towns and rural areas, and the police jurisdiction extends to megacities and particular areas of activity. As you can see, France is characterized by the presence of units designed to strengthen the police functions of ensuring public order, because in the event of an emergency, these two law enforcement organizations act jointly and in concert.

In its turn, in Italy, similarly to the French gendarmerie, the Carabinieri Corps operates, which, although it is an army unit responsible for the defense of the state, the protection of its infrastructures and public safety, also performs the functions of protecting public order (Vasileva 1996). At the same time, organizers of mass events are obliged to notify the local police department of the planned event at least 3 days before the event. According to Italian law, the organizers of unauthorized meetings may face a fine (the maximum amount is not limited: especially to those demonstrators who caused material damage to city or private property, the court may impose a fine in proportion to the caused damage) or imprisonment for a term from 1 to 12 months (Zarosylo 2016a).

On the other hand, we consider the positive experience of Sweden which consists in the fact that if the police stop a meeting, demonstration, march, picket or any other mass event, the organizers will not receive permission to hold such events in the future.

Analyzing the experience of the police in ensuring public safety and order during mass events of the European Union countries, it should be noted that in these countries, in order to stop the riots, law enforcement officers, according to the law on the police and other regulations, are allowed to use non-lethal weapons. In addition, persons who violated public order, committed hooligan actions during mass events or became participants in mass riots, may be detained by police for up to 8:00. At the same time, they must be brought to court without delay, and in such cases the judiciary works at any time of the day (Tereshchuk 2014). And in the case of organizing demonstrations in the immediate vicinity of the European Parliament building, a special unit is formed consisting of representatives of the European Parliament's security service and national police forces, and a security perimeter is established.

The experience of Israel in the studied issues is interesting as well. In particular, in this country the leading role in the protection of public order is assigned to the Department of Law Enforcement and Public Safety, which is the largest and most powerful police unit, consisting of a number of structural units, including a network of duty units (emergency call centers), a patrol department and patrol service, etc. (Kostiuk & Molotai 2011). In Israel, a meeting of more than 50 people, within which a speech is proclaimed, a lecture is given, political issues are discussed; processions with the participation of more than 50 people; meetings for the purpose of joint movement from one place to another are conducted only with the permission of the police. However, this requirement does not apply to pickets until political speeches are not proclaimed on them, and the meeting participants do not start moving. In addition, the police have the right to intervene in the course of the demonstration if the organizers do not have permission (when it should be according to the rules), if the demonstration turned into riots (or there is the possibility of such a development of the situation). It is important to pay attention to the experience of the police ensuring public safety and order during public events in the United States and Canada. Unlike other countries examined, in the United States and Canada the organization of permits for mass events is not the responsibility of the police, but of local authorities, as it is now in Ukraine. However, more than 50% of the work of the US police is occupied precisely by the protection of public order, the lion's share of which is assigned to the local police patrol and guard service, whose primary task is to prevent crimes or wrongdoings and the initial investigation of crimes on "hot scents". The patrol service of the territorial bodies is entrusted with preventive work with the population under the methodological guidance of special preventive subdivisions, moreover, in megacities there are areas where disturbances of public order are most frequent, and more patrolmen are sent there (Kostiuk & Molotai 2011).

In addition, in the United States the units of the National Guard are used to curb riots in some cases. Unauthorized actions are considered public unrest that poses a threat to public safety and order. In this case, the police have the right to disperse demonstrations and arrest the most active participants who may face the maximum punishment – 10 years of imprisonment (subject to participation in riots with weapons). In the overwhelming majority of cases, protesters are punished with an administrative fine for hampering the passage of people and the passage of vehicles, the maximum amount of which is \$ 3,000. Although in some states, for example in Texas, for such actions you can go to prison for up to 6 months (Zarosylo 2016b).

So, despite the differences in the provision of public security and order by the police during mass events, the organization of the police system on a territorial basis is common for almost all countries; internal functional specialization of police bodies and units; the presence of specialized units created to strengthen police functions; high legislative regulation of the procedure for holding mass events and ensuring public order and security during their holding; detailed regulation of sanctions and liability for participants in mass riots and violators of the rules for holding a mass event, etc.

DISCUSSION

Ukraine has not yet adopted a special law regulating the implementation of the right to peaceful assembly. Adoption of such a law is also important in the context of the formation and further

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development of civil society, as it will contribute to increasing the effectiveness of interaction between different socio-political groups and authorities.

The significance of the problem is also increasing due to the statements of some human rights organizations that Ukraine still violates the right of citizens to peaceful gatherings, which can not be neglected. In this context it should be noted that during the independence period of Ukraine, the Verkhovna Rada of Ukraine considered a number of bills on the realization of citizens' right to peaceful assembly, however, the expected results – the adoption of the bill – was not achieved.

I. Valiushko (2017) on this occasion believes that the main drawbacks of the above-mentioned draft law on peaceful gatherings / peaceful measures are the following:

1) unjustified extension of powers of the executive and local self-government representatives to stop peaceful activities, which creates conditions for abuse and violations of the right to peaceful assembly;

2) the partial shifting to organizers of mass actions of the duties of law-enforcement bodies and local self-government bodies on compliance with the procedure unjustifiably reduces the extent of the responsibility of the latter in the event of incidents;

3) inaccuracies in determining the basic legal terms create opportunities for their ambiguous interpretation, which does not contribute to the realization of the freedom of peaceful assembly;

4) the determination of the time required to report a peaceful event is not well-founded (this issue can be called the most problematic, since too long period during which organizers should report a peaceful event can lead to a loss of relevance of the event itself). On the contrary, a short period may not allow the authorities to prepare for the event in order to ensure compliance with the order during its implementation);

5) ambiguous, and often discriminatory, definition of the circle of persons who can organize or simply participate in a peaceful assembly;

6) need to clarify the provisions on the use of acoustic technology, pyrotechnic means;

7) imposing restrictions on buildings that may serve as objects of meetings or determining the minimum distance to them should not be discriminatory.

In our opinion, a significant disadvantage is not only “inaccuracies in the definition of the basic legal terms”, but also the uncertainty of some concepts, features, procedures, responsibilities, sanctions, the specific timing of reporting, the possibility / impossibility of conducting spontaneous mass events, the concrete administrative and legal status of subjects of ensuring public safety and order during mass events, etc.

Exploring the shortcomings in the legislative provision of the work of the National Police, which also affects the state of ensuring public safety and order during mass events, it is worth noting the following. Until now, the Disciplinary Statute of the National Police, which should establish a transparent and objective procedure for the consideration of complaints about the actions of the police and the procedure for imposing sanctions on their misdemeanors, has not been adopted. The Verkhovna Rada has the draft law of Ukraine “On the Disciplinary Statute of the National Police of Ukraine” dated 16.05.2016, No. 4670, which is submitted by the Cabinet of Ministers, but its substantial disadvantage are very narrow opportunities for the public to control the legality and objectivity of disciplinary investigations of police misconduct (Verkhovna Rada of Ukraine 2016).

CONCLUSION

Analyzing and summarizing the foreign experience of the police ensuring public safety and order during public events, we conclude that in Ukraine it is advisable to use the following positive aspects in Ukraine:

1) assigning the function of granting permission to hold a mass event directly to the police (countries of the European Union), in contrast to the local authorities powers in this area, as it is now in Ukraine;

2) legislative recognition of the period of advance notification of the authorized bodies of the police to holding a mass event (European Union countries);

3) detailed legislative regulation of the grounds and procedure for bringing to justice both participants who violated the rules of conduct, and organizers of a mass event who violated the established procedure for holding a mass event (administrative, criminal liability) with specific indication of sanctions (European Union countries);

4) prohibition of obtaining permission to hold a mass event in the future if the organizer's event was stopped by the police (Sweden);

5) promoting close cooperation and the exchange of relevant information between police units, police interaction with citizens (United Kingdom and other countries of the European Union);

6) legislatively securing and using the functions of the riot police during mass events, which consist in assisting the police in ensuring public safety and order, predominantly by force methods if necessary (Germany, etc.);

7) legislative consolidation of the possibility to use weapons classified as non-lethal with the aim of stopping riots (European Union countries);

8) expansion of the use of technical and electronic means of observation, special means;

9) expanding the range of powers of police officers to curb offenses during public events, in the field of entertainment, etc.;

10) attraction of non-governmental organizations and associations of citizens to the protection of public order;

11) legislative consolidation and detailed regulation of the procedure for holding mass events and ensuring public safety and order during mass events in special laws, etc.

We believe that this study has no restrictions on countries that have assigned national police the functions of ensuring public order and security during mass events. Problems and disadvantages of the legislative settlement, which were analyzed in the research, could become the basis for further scientific studies in foreign countries and the basis for legislative regulation.

RECOMMENDATIONS

This research is a thorough analysis of the problem of the functioning and operation of the police authorities in ensuring public order and safety during mass events. Mainly, study of foreign experience was aimed at studying the experience of the most developed countries of the world. We believe that further study of this problem can be directed to the study of the experience of post-socialist countries.

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