

ANALYTICAL NOTE (SEPTEMBER 2018)

PUBLIC ORDER SQUADS IN UKRAINE:

TRENDS AND THREATS FOR HUMAN RIGHTS



Public order squads in Ukraine: trends and threats for human rights: analytical note
(September, 2018). Krapyvyn E.O., Kameniev M.V. – Kyiv, Association UMDPL, 2018. – 25 p.

Authors:

Eugene Krapyvyn – lawyer, expert of Association UMDPL

Mykhailo Kameniev – lawyer, expert of Association UMDPL, executive director of NGO
“Human Rights Initiative”

Design, page layouts – Ivan Yurchyk

Translation – Toivo Feinberg



For the past 4 years after the Revolution of Dignity in Ukraine (2014), public order squads (POBPS) and other forms of participation in public order protection activated. Positioning, methods of their activities have changed, and the movements themselves have become more massive and more provocative. Although in general, the strengthening and growth of civil society is a positive trend, often those public order squads are breaking the law line. The police are not sufficiently responding to such violations and there is a fear that the situation will only worsen towards elections. Illegal arrests, participation in the protection of illegal buildings, pressure on local councils and courts unequivocally violate human rights and undermine the government’s monopoly on legitimate violence. The analytical note is devoted to describing the current situation and predictions from experts how such things will affect the situation with respect for human rights and the fulfillment of positive state obligations to protect law and order.

The report was prepared specifically for the annual Organization for Security and Cooperation in Europe (OSCE) Human Dimension Implementation Meeting (HDIM) in Warsaw in 2018.

Table of content:

Introduction.....	4
I. Legal forms of citizens' participation in the protection of law and order: public squads.....	7
II. Legal forms of citizens' participation in the protection of law and order: municipal guards.....	13
III. Other types of squads and initiatives.....	19
Conclusions and estimates.....	24

Introduction

This analytical note is a preliminary description of both the legal forms of citizens' participation in the protection of public order, and the propositions of the UMDPL Association experts about the development trends of such formations and threats to human rights and freedoms. At the moment, the research team (which includes the authors of this analytical note), is conducting an in-depth study of this topic, the results of which are planned to be published in early 2019.

The idea of the research occurred in 2014. After the end of the Revolution of Dignity, the functions of protecting public order were briefly taken over by the participants of the Revolution, as well as by the right-wing radical organizations. Since that, such formations were monitored by experts, although there is very little information on their activities. At the beginning of 2018, the interest in this subject increased repeatedly for journalists and society, primarily due to demonstration of «power» during the march of one of the «National Squads» units, as well as the preparation of certain political forces for the 2019 elections of president and parliament.

On the first count, after the march where around 500 members of the public squad in uniforms participated, there were radical statements that their plans include combating certain types of crimes and illegal activities that, according to their opinion, are patronized by the law enforcement agencies. The forbidden and criminalized gambling business (such as slot machines), distribution of illegal drugs among youth, and sex work are among such types of activity.

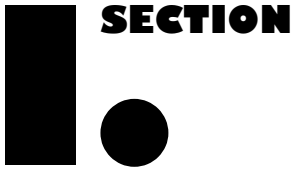
On the second count, it's not about the elections themselves, but the fact that young people, who often have proper physical training, can easily and illegally be used by some political forces during the election race as a power influence group. Part of the public squads express the right-wing ideas openly, including radical ideas. For the political scientists, the above-mentioned march perceived oftenly as the «demonstration of force» by these squads. Some of the squads are affiliated with militarized units who took part (or taking part now) in the Russian-Ukrainian war in the east of Ukraine. Most of them are loyal to Arsen Avakov, Minister of Internal Affairs and one of the key figures of the second most influential political force in Ukraine — the «People's Front» («Народный фронт», led by Arseniy Yatsenyuk). The above-mentioned groups are loyal due to the provision of infrastructure and the legal field for the participation of volunteers in counteraction to Russian aggression in the east of Ukraine by Arsen Avakov a while back.

The tasks of the research are quite ambitious. This is an analysis of the quality, completeness and systemativeness of the legal regulation of public formations for the protection of order and the practical application (which was done only at the level of individual thesis researches previously); a description of the activities of various forms of citizen participation in public order protection squads

(POBPS), their main tasks and functions; the study of the practice of court or bodies of pre-trial investigation and administrative jurisdiction appellations of the actions or inaction of public squads members. The research also includes the examination of the influence of public squads activity on the activities of law enforcement agencies and the level of public safety in society as a whole.

The same analytical note includes a brief description of the preliminary results of the study and our estimates. All data is set out in the context of the impact on the situation with human rights and freedoms observance for the annual Human Dimension Implementation Meeting of the Organization for Security and Cooperation in Europe (OSCE) in Warsaw in 2018.

Eugene Krapyvin
lawyer, expert of Association UMDPL



SECTION

**LEGAL FORMS OF CITIZENS' PARTICIPATION
IN THE PROTECTION OF LAW AND ORDER:
PUBLIC SQUADS**

Public formations that continue the tradition of Soviet vigilantes or members of voluntary people's militia¹ are typical for the entire post-Soviet space. Although in the USSR the squads had the status of public amateur organizations and received state, Communist youth league, party and trade unions assistance for their activities, their actual role was to patrol the streets together with official militia and to act as the witnesses while the militia applied measures to violators. Their powers were quite large, in particular they had the right to detain a person and take him to the militia station. Thus, several people were able to cope easily with petty offenders (such as hooligans, violators of silence, etc.). In some cases, the vigilantes could perform additional functions: for example, to deliver court summons and notices according to the tasks of the district militia inspector, etc.

Legal regulation

To continue this tradition, the law «On citizens' participation in the protection of public order and the state border» was adopted in Ukraine on June 22, 2000, which defines the procedure for the establishment and operation of public squads for the protection of public order, the duties and rights of members of such squads, social issues and means of encouragement and recovery that can be applied to members of public squads, etc. At the same time, the patrolling of the streets together with the police or patrolling of the border areas with the border guards and responding to violations are the main functions still. Such formations should perform the subsidiary activities and to be coordinated by local administrations, police and border guards. At the same time, they perform their activities on voluntary and unprofitable basis, not as the entrepreneurial activities to provide protection services, etc. Alas, there is no public state register of such formations.

Participants of the squads

POBPS are created by the members of these squads, who registered by the justice authorities after agreement with the local administration and the police or border guard service. The decision on the establishment of such squads should be the result of the citizens meeting, or conference, with not less than 10 participants (the maximum number is not determined). Members of POBPS can be only persons older than 18-year old whose «moral and business qualities» and health allow them to undertake voluntarily their tasks to protect order and state borders».

The aspect of health is revealed via the prohibition for some categories of citizens to participate in public squads. According to the law, it is impossible to join the public squads for those who violate public order, persons whose conviction has not been withdrawn or repaid in accordance with the law procedure, those who were convicted for willful crimes previously, those with chronic alcohol and drug addiction, persons recognized as incompetent or partially incapacitated legally and for some other categories of people in cases provided by the laws of Ukraine.

¹ The first voluntary people's squads for protection of public order were initiated by the collectives of a number of Leningrad enterprises in 1955-1957. By 1958, there were 179 detachments in Leningrad with 8,000 participants. See: B. Taukin. Born by life // «Soviet militia», No. 3, 1984, pp. 21-23.

Squads members must undergo legal and special training. Regulations on such training should be established by the Ministry of Internal Affairs in coordination with the border service subordinated to the Ministry of Internal Affairs. Only a special provision on this issue has been approved for the squads that take part in the protection of the state border. It was approved by order No. 948 in the form of an Instruction by the Ministry of Internal Affairs on September 15, 2014².

The activity of POBPS is based on the statute and the POBPS should be registered as a legal entity, and to be recorded in the United State Register of Legal Entities, Individual Entrepreneurs and Public Associations, maintained by the Ministry of Justice.

There're no specific limitations for the financing, the situation is similar to the rules for financing of non-profit civil associations. Of course, only the legitimate sources are possible and the squads are required to report their incomes and expenditures to the fiscal authorities. Both the state budget, the local budget, and private organizations or individuals can provide the investments. This can be a high-risk point due to unlimited numbers since it become possible to create large «private armies». At the same time it is quite legitimate with legitimate financing from businessmen and other interested persons also. These can be both «private armies» acting on behalf of individuals and municipal police (legally and de-facto), working to ensure law and order and public safety.

Powers

The main power of the public squads is the street and border patrolling together with the police or border guards. In some cases in rural areas, independent patrolling is also possible according to instructions of head of police. The route, time, place and other details of patrolling should be determined by the police and be recorded in appropriate orders.

The members of public squads have the right to check documents, bring people to the headquarters of a public squad, possess and use special means previously issued by the police, according to the above-mentioned law and a number of articles of the Code of Administrative Offenses of Ukraine (CAO). Also, there's the administrative responsibility for obstructing the activities of a squad member, according to the CAO. The Criminal Code of Ukraine describes qualified corpus delicti that increase the social insecurity of a person physically encroaching on the life and health of a member of the social group.. Also, the Administrative Code establishes administrative responsibility for obstructing the activities of a member of the social group. In turn, the Criminal Code of Ukraine contains qualified offenses that increase the social insecurity of a person encroaching on the life and health of a squad member physically.

The squad members were allowed to have self-defense means, such as gas and traumatic weapons, according to the order No. 379 of the Ministry of Internal Affairs of Ukraine of June 13, 2000.

At the same time, the Law doesn't describe the grounds and procedure for the use of force or other

² On Approval of the Instruction for Public Squads for the Protection of the State Border // Web site of the Verkhovna Rada of Ukraine [Online resource] / Access mode: <http://zakon.rada.gov.ua/laws/show/z1210-14>

measures toward people clearly enough, as well as the joint actions with the police. In practice, this leads to abuse of power and arbitrariness of squad members, considering that they perform their activities on a voluntary basis, thus the full knowledge, even after the short basic training, of all the law guarantees can not be expected, especially.

At the same time, the aforementioned powers of a squad member are excessive and do not correspond to today's realities. In practice, this leads to a number of violations of human rights and freedoms due to weak control over the activities of public squads. In any case, a policeman or a border guard officer has the authority to react in a particular situation while taking part in joint patrolling. And again, the role of a squad member is supplementary.

The procedure provided in Article 207 of the Code of Criminal Procedure of Ukraine can be applied to detain a person on a scene of a crime or immediately after it on track without a decision of the investigating judge or the court. This procedure provides the possibility to detain a suspected person by an unauthorized person prior to the arrival of the police or other law enforcement authority (so-called public detention), in contrast to authorized officials, — the employees of these bodies. Although, the legality of such detention, and the establishment of real reasons for the physical restriction of freedom of movement prior to the arrival of the police is often not evaluated in practice, this tool is quite effective in combating crime. All the citizens, and the squad members, also, can use it. Moreover, such detention is possible in case of any crime, unlike the detention by a police official (authorized official), which is limited to crimes that can have punishment in the form of deprivation of liberty only. So, there is no possible way to detain a person «hot on the trail» with the crimes such as malicious hooliganism, minor assaults, fraud with bank cards etc, and only a court decision after justifying the person's involvement in this crime can be a basis for the detention.

Getting back to the topic of excessive administrative authority, it should be mentioned that the authors of this publication took part in the development of the draft Law No. 8026 in early 2018. This draft law «On Amendments to Certain Legislative Acts of Ukraine on Improvement of Certain Provisions of Public Order and State Borders Protection Issues»³ was submitted to the Verkhovna Rada of Ukraine on March 27. This draft law aims to improve the procedure for registering and liquidating of public squads, coordinating with the police, reducing the influence of local administrations, etc. Moreover, it is proposed to strip the members of public squads of their powers of detention, ID check, use of special means, as well as to prohibit explicitly of any independent actions, that is, to limit the activity of public squads by joint patrolling with the police or border guards only, as it was assumed in 1990s conceptually. At the moment, the draft law was recommended for adoption as a basis in the first reading by Verkhovna Rada steering committee and awaits for the parliament consideration.

Quantities and prevalence

At the moment, several thousand of public squads are registered in Ukraine legally. 418 squads were

³ Draft Law № 8206 of March 27, 2018// Web site of the Verkhovna Rada of Ukraine [Online resource] / Access mode: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63749

created for the protection of state border at the bodies and units of the border guard service areas, with more than 5800 members, totally⁴.

Registration issues

Since POBPS is the oldest and most common form of non-state actors' participation in the protection of public order, the organizations which weren't even registered legally sometimes consider themselves as POBPS and believe that they have appropriate powers. The last example discussed in the media was the case of «National Squads» civil organization, which involves a set of separately registered and unregistered squads with different legal status in different regions. The nation-wide formation has the status of a civil organization, so it has no formal powers or coordination with the police and the border guard service. The very same organization organized a famous march in Kyiv on January 28, 2018, with more than 600 participants. Later the organization propped up the ZiK TV⁵ channel, although it is neither a private security company, nor public squad, nor any other form of citizens' participation in the protection of order. At the same time, there are the same «National Squads» in Chernivtsi, Volyn, Chernihiv, Zaporizhzhya, Ivano-Frankivsk, Dnipropetrovsk regions and the cities of Zaporizhzhya and Mykolaiv, registered as public organizations. Below you can find more data about this form of public squads.

Identification and insignias

POBPS members have to wear an identification bandage, as it was since the USSR period. Moreover, the Law clearly states that participation of POBPS in the protection of public order can take place only after receiving the bandage (insignia). The bandage is described in the Typical statute of POBPS (Decree of the Cabinet of Ministers No 1872 of December 20, 2000⁶). The bandage shall be carried on the shoulder joint of the left hand. It shall be of blue colour with the phrase «Protection of Order» in yellow (letters shall be 15 mm). However, the bandage does not contain any personal identification signs or numbers that could help identify a person in case of complaints about POBPS members' misbehaviour.

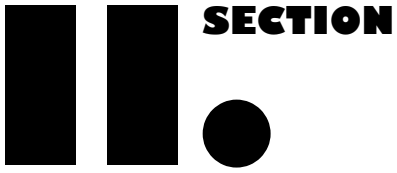
Key takeaways

At its core, POBPS are the only special form of participation of citizens in the protection of public order, which provide explicitly by the law. It is necessary to refine and revise it conceptually, to update the legal framework in accordance with contemporary requirements and to move towards the unification of all existing initiatives in this area. Clear functions, powers, order of formation and liquidation, strict and systemic control by state and local self-government bodies etc. are needed.

⁴ Data as of March 12, 2013, according to the State Border Guard Service. Source: <https://dpsu.gov.ua/gromadski-formuvannya-z-ohoroni-derzhavnogo-kordonu/>

⁵ «National Squads» took Dyminsky's channel under protection // «Insider» online edition, March 27, 2000 [Online resource] / Access mode: <http://www.theinsider.ua/politics/5aba148da5221/>

⁶ On Approval of the Model Statute of POBPS, samples of the certificate and the bandage for a POBPS member // Web site of the Cabinet of Ministers of Ukraine [Online resource] / Access mode: <http://zakon.rada.gov.ua/laws/show/1872-2000-%D0%BF>



**LEGAL FORMS OF CITIZENS' PARTICIPATION
IN THE PROTECTION OF LAW AND ORDER:
MUNICIPAL GUARDS**

IN

Ukraine, law enforcement agencies are centrally-acted and represent the executive branch. Repeated attempts were made to transfer some of the police powers to the local self-government bodies jurisdiction. However, these attempts didn't have any significant success. The maximum that MPs were capable of is to adopt one of the draft law in the first reading.

The issue of the establishment of law enforcement units subordinate to local government at the local level became the most acute after the Revolution of Dignity and the beginning of a nation-wide decentralization reform. The «municipal police» and «municipal guards» of all sort began to appear without any legislative changes.

Legal regulation

As a rule, municipal formations are the municipal enterprises created by local councils. The statutes of these municipal enterprises are also approved by local councils and registered with the justice bodies. So, the staff of the municipal formations do not have any special power and, in fact, can act with the same rights as ordinary citizens. The only powers that can be given to the staff of such structures legally are the powers in the area of urban beautification, for example, the right to fine for violation of the beautification rules or unauthorized trade. Since September 27, 2018, local governments will have the same power with the police to hold accountable for violation of parking rules, but the peculiarity of these legislative novels is that the staff of the local government bodies only, where the staff of municipal enterprises do not belong to, can be the subjects of liability.

It is worth noted individually the utilities, which titles include the word «police». Ukrainian legislation prohibits to use state bodies references for the titles of legal entities. Alas, the «municipal police» can be registered easily by the judicial authorities (for example, in Vinnytsia, Dnipro, Uzhgorod, Ternopil, Lutsk) without any further legal actions.

As a result of this issue, the government bill No. 7474 of December 29, 2017, which provides a new additional article to the Administrative Offences Code, «illegal usage of the National Police title and insignias», was submitted to the parliament. The draft law is recommended for adoption as a basis and as a law by the relevant committee and awaits for the parliament consideration.

Participants

Any able-bodied person, a citizen or a foreigner or a stateless person can be employed by the «municipal police». There're no special legal requirements imposed on such employees and their training. Thus, the people whose conviction has not been withdrawn or repaid in accordance with the legal procedure, those with chronic alcohol and drug addiction, persons recognized legally incapable or partially incapacitated, etc. can work in the «municipal police» easily. There's no quantitative limits of «municipal police» activity, except for financing, since a person can not work in communal enterprise on a free of charge basis — even if s/he works as a part-time employee, s/he must be

paid a minimum wage or a part of it. The employees of such enterprises also bear the criminal and administrative responsibility without special preferences.

«Municipal police» are typically financed by local governments from local budgets in the framework of public order and security protection programmes. Considering that «municipal police» are municipal enterprise that performs extralegal functions, it can be described as misuse of budget funds.

Even if such municipal enterprises will stop to use lookalike insignias and the word «police» as a part of the title due to the efforts of state bodies, this will not solve the issue of the systematic excess of powers (which, originally, they practically do not have) by the employees of «municipal guards». Clearly, local self-government bodies are not going to abolish the convenient «pocket armies» in the form of «municipal guards».

Powers

As mentioned above, the staff of such municipal enterprises can not have any other powers except in the area of urban beautification. But there is not a problem for the «municipal police» staff to take over the authority of the police and patrol the streets, to detain and deliver offenders, to have and use special means, etc.

The «municipal guards» staff do not even have the power of public squads to protect the order. In fact, they can only silently observe the situation on the streets. They can detain a person on the scene of the crime or immediately after during the persecution, according to Article 207 of the Criminal Procedure Code of Ukraine, as it was already described in this publication. This provision provides the possibility to detain a suspect by an unauthorized person prior to the police or other law enforcement authority arrival (so-called public detention), in contrast to authorized officials or the employees of such bodies. In this case, the «municipal guard» member has no difference with the ordinary citizen and acts as an ordinary «person on the street» and not as a member of the «municipal guard».

Prevalence

After the Revolution of Dignity, the «municipal guards» and «municipal police» became the society and local authorities response to a police confidence crisis and the lack of law enforcement agencies presence on the streets. But the «municipal guards» did not disappear even after the beginning of the militia reform and its transformation into the police, re-certification and a number of other changes due to a tangible social request for decentralization.

Thus, such enterprises exist both in regional centers, and in small towns and even in villages with local councils.

Identifications and insignias

If there main POBPS problem can be described as the lack of a visual distinction, so it is the opposite problem of the «municipal police». The staff of these structures are very distinguished by their form, and they're trying to copy the National Police. The methods are different for all types of «municipal police», but it can be copies of the Ministry of Internal Affairs and police emblems, the usage of epaulettes, chevrons, service stripes, personal tokens, uniforms (and caps, as well), similar car designs, use of helmets of the «sphere» type or bulletproof vests.

Such an attempt to copy the visual image of a policeman leads to the fact that ordinary citizens can not distinguish a policeman with broad powers from a public utility worker. The consequence is also claims to the police for violation of rights and freedoms, which are often found in the work of the «municipal police» employee, which affects the level of public confidence in the police.

It is impossible for citizens to distinguish a police person who has large powers from a municipal enterprise employee as the result of such an attempt to copy the police visual representation. The claims for violation of rights and freedoms towards police can also be a result of such situation, which decrease the level of public confidence toward the police.

Legal creation of municipal guard

The discussion on the introduction of municipal police, or the decentralization of the police and the involvement of volunteers who have strong connection between the community and the local police, is the cornerstone of the public order protection discourse. The concept that, at the expense of the local budget, more police forces can be available for a municipal community who can choose the priorities of their activities independently is positive. A number of draft laws were registered in Ukraine since 1991, and this idea has been repeatedly coined by different political forces.

Generally, the national police is ready to give up the least significant functions in the public order protection, as well as some of the patrol police authority. This will make the activity of the National Police easier, which is seems logical, since some police functions do not require significant training and physical parameters.

At the same time, due to corruption in small cities, as well as weak control by the law enforcement agency, we still can not decide which model of the police organization we need to choose:

1) centralized law enforcement agencies should face no changes;

OR

2) law enforcement agencies are centralized when it comes to pre-trial investigation, and public security units are created and subordinated to local self-government bodies.

The decentralized police does not practically exist in the context of terrorism, drug trafficking, human trafficking and other international threats — it is very important to point out in the second case.

Even in the UK over the past 10 years, the criminal police unit undergoes a period of significant centralization. At the same time, the UK can be an example of the lack of significant centralization of police forces. The issues of federal crimes, arms trade, drugs trade, etc. belong to federal agencies in the US, although there are more than 15,000 independent police units.

At the same time, the creation of municipal «armies» subjected to rather odious leaders of local self-government bodies poses a threat not only for law and order, but also for national security within the framework of hybrid threats and the Russian-Ukrainian war in the east of Ukraine. It is equally risky to transfer police functions to the communal level, since they will in fact be feudal armies due to the lack of strong connection between communities and local authorities in Ukraine.

Conclusions

«Municipal guards» and «municipal police» are extralegal and widespread phenomena in Ukraine. Their employees doesn't have any police powers, but in fact they are trying not only to look like the police, but also to act upon their powers. The violations of human rights and freedoms, as well as a decrease of trust toward police (while it's difficult to distinguish between «municipal police» and police) are the consequences of this situation.

There are more harm than good thus far in legal establishment of municipal guards in Ukraine.



**OTHER TYPES
OF SQUADS AND INITIATIVES**

POBPS and «municipal guards» have a leading position in the «market» of law enforcement services provided by society in cooperation and coordination with local authorities and police.

The following formations are far less the case:

- civil organizations;
- local government inspectors for the protection of public order (so-called «sheriffs»);
- volunteer assistants to district police officers.

Civil organizations

As mentioned above, any civil organization or initiative group can organize a number of joint activities with law enforcement agencies, and the National Police first and foremost, due to the principle of interaction with the society. The same is valid for the protection of public order.

It is the work format of the above-mentioned «*National Squads*». It is important to add that this organization is a part of the political project of Andriy Biletsky, MP and leader of the «National Corps» nationalist political party. The aim of the organization is «to establish the Ukrainian Order», according to the statements. When it comes to protection of public order, the National squads declared their fight (which includes the violence) against illegal gambling, drug traffickers and sex workers. The organization often conducts firing and tactical training also, according to the descriptions of photos of «squad members» depicts them with firearms and cold steel.

The organization «C14» (or «Sich»), which participates in rallies actively, conducts direct actions and declares the protection of public order, is another example. This organization is often criticized for its right-wing radical views and aggressive statements and actions toward certain social groups. So, Andreas Umland⁷, the well-known German political scientist, and Vyacheslav Likhachev⁸, the researcher of xenophobia, as well as others researchers note that the organization has the neonazi attributes.

It is necessary to describe the activity of this organization. For example, this organization openly declared the pogrom of the Roma settlement located on «Lysa Hora» in Kyiv⁹. Instead of statement for the law enforcement agencies, the representatives of this organization consider the actions of

⁷ See: Andreas Umland: «Except for banderovtsy, the Kremlin would invent something else» / «Slon» online edition, April 03, 2014 / Access mode: https://republic.ru/world/andreas_umland_esli_by_ne_banderovtsy_kreml_izobrel_by_chto_to_eshche-1079098.html

⁸ Vyacheslav Likhachev. The «Right Sector» and Others: National Radicals and the Ukrainian Political Crisis of Late 2013 — Early 2014 // Forum of the newest Eastern European history and culture. - 2014, Vol. 11. No. 2 (22). - P. 93.

⁹ Pogroms in Kyiv. Nationalists against Roma // Correspondent.net online resource, April 25, 2014 / Access mode: <https://ua.korrespondent.net/ukraine/3964931-pohromy-v-kyievi-natsionalisty-proty-romiv>

Roma as illegal and decide themselves capable to dismantle someone else's property and to act arbitrarily.

Arbitrary detentions are another example. The case that happened on May 14, 2018 in the city of Vyshneve, Kyiv region, is indicative. According to their opinions, the activists of C14 and the Municipal Guard of Kyiv detained the «Luhansk People's Republic» former militant¹⁰. The man was seized in the entrance of his house; he tried to resist. The activists tied him up and arranged an interrogation. Allegedly there is photo of him standing in «LPR» Russian camouflage with the according insignias, weapons, military decorations etc. in his profile in «Vkontakte» social network. The «detainee» claimed that he was from Georgia, didn't recognize «LPR» as a state, and he moved from the occupied part of Luhansk region to Kyiv in spring 2017. These actions were described and justified by «activists» as the so-called «public detention».

On a point of law, «public detention» is a legal detention without the decision of the investigating judge, the court, according to the Article 207 of the Code of Criminal Procedure of Ukraine. But it is possible only upon two requirements:

- during an attempt on a crime or at the time of actual crime;
- immediately after the crime or during the prosecution of such a person.

That is, if anyone sees a person who commits criminal acts, s/he can detain this person and restrict person's freedom of movement before the arrival of law enforcement. S/he can also persecute the person, but perpetuity is important here. It can not be in a day, two days or a month after the crime. In this case, a considerable time passed. Moreover, the detainee must be taken to law enforcement agencies, immediately and without delay. No interrogation or other imitation of investigative actions cannot be perform before it.

It must be said that public organizations use such a technique and go beyond the limits of the powers provided by the CPC of Ukraine ever and again. At the same time, no one is held accountable for such actions due to the weak police control. There are formal elements of the definitions of the crimes, such as «arbitrariness» or even «unlawful confinement».

«Sheriffs»¹¹

The lack of police force is the main problem of rural areas. There can be one district police officer for the 60-70 kilometers area with more than a dozen villages. S/he can be unprovided with police

¹⁰ Right-wing radicals «detained» allegedly a «LPR» militant in Kyiv. The man was tied up and interrogated at the entrance hall // Human Rights Information Center, March 15, 2018 [Online resource] / Access mode: https://humanrights.org.ua/material/u_kjjevi_pravoradikali_zatrimali_nibito_bojovika_inr_cholovika_zvijazali_ta_dopituvali_u_pidjizdi

¹¹ For more information see: Study of «sheriffs» activity in Ukraine and the world // «Vgoru» online edition, May 22, 2018 [Online resource] / Access mode: <http://vgoru.org/index.php/politsiya-dlya-gromadi/item/30014-doslidzhennia-roboty-sheryfiv-ukraini-ta-sviti>

car or, if there is one, not to be provided with fuel for it, which in practice leads to the fact that the very close settlements are serviced. Accordingly, there is a great need for any forces to protect the order there. Moreover, they may not have any powers, and prevention, coordination with the police for the security infrastructure, explanation of legal norms etc. are their main duties. Again, their functions are supplementary to the police.

At the same time, their activities are out of the police control totally. It is difficult to evaluate the quality of their work, including the possibility of illegal actions, abuse and so on. This form of citizen participation in the protection of order indicates the big problems with the police in small settlements, which should be one of the priorities of the reform, for example, the reform of district police officers.

Volunteer assistants to district police officers

In recent years, the volunteer assistants to district police officers were forced out from the protection of public order due to the police reform. More precisely, they found themselves in a «legal vacuum», because the legal norms that allowed them to partially perform the functions of district police officers and use powers were excepted from the law¹².

The activity of volunteer assistants to district militia officers was described in depth in the Order No. 550 of the Ministry of Internal Affairs of Ukraine «On approval of the Regulations on the service of district militia inspectors in the system of the Ministry of Internal Affairs of Ukraine» of November 11, 2010. Later it was replaced by Order No. 650 of the Ministry of Internal Affairs «On approval of instructions for organizing the district police officers activity» dated July 28, 2017. At the same time, there is lack of provisions regulating the activities of public (voluntary) assistants to district police officers in the new regulatory legal act.

The aforementioned assistants were assigned to a particular district police officer, who supervised their activities and provided them with instructions. Volunteer assistants worked together with district police officers and had the appropriate insignias. The regular training for such assistants were conducted regularly by the leaders of municipal and district bodies and district police officers. The volunteer assistants worked in close «union» with the district officer and had the opportunity to assist the police in the protection of public order effectively. Doing so, they acted on an ongoing basis and effectively enough.

So, two local volunteer assistants to police officers have been working in the village of Stara Zburiyivka (Kherson region) for several years already. Local residents got used to «sheriffs» who perform the preventive maintenance and crime investigations. And the result was not slow to arrive: the number of offenses is 8 times less there than in neighboring villages with no volunteer assistants. Besides, the documentary «Ukrainian Sheriffs» (directed by Roman Bondarchuk) was filmed, and nominated for the Oscar by Ukraine in 2016.

¹² Public assistants to police officers were «multiplied to zero» // «Vgoru» online edition, August 15, 2018 [Online resource] / Access mode: <http://vgoru.org/index.php/politsiya-dlya-gromadi/item/33187-hromadskykh-pomichnykh-dilnychnykh-pomnozhyly-na-nul>

Conclusions and estimates

The citizens of democracies take part in the protection of public order together with the police. To some extent, this is a part of civil control over police, because it makes the preventive police measures and coercive actions more transparent, and the police become more accountable to citizens.

The discussion on the introduction of municipal police, or the decentralization of the police and the involvement of volunteers who have strong connection between the community and the local police, is the cornerstone of the public order protection discourse. The concept that, at the expense of the local budget, more police forces can be available for a municipal community who can choose the priorities of their activities independently is positive. A number of draft laws were registered in Ukraine since 1991¹³, and this idea has been repeatedly coined by different political forces.

At the same time, due to corruption in small cities, as well as weak control by the law enforcement agency, we still can not decide which model of the police organization we need to choose:

1) centralized law enforcement agencies should face no changes;

OR

2) law enforcement agencies are centralized when it comes to pre-trial investigation, and public security units are created and subordinated to local self-government bodies.

The decentralized police does not practically exist in the context of terrorism, drug trafficking, human trafficking and other international threats — it is very important to point out in the second case. Even in the UK over the past 10 years, the criminal police unit undergoes a period of significant centralization. At the same time, the UK can be an example of the lack of significant centralization of police forces. The issues of federal crimes, arms trade, drugs trade, etc. belong to federal agencies in the US, although there are more than 15,000 independent police units.

At the same time, the creation of municipal «armies» subjected to rather odious leaders of local self-government bodies poses a threat not only for law and order, but also for national security within the framework of hybrid threats and the Russian-Ukrainian war in the east of Ukraine. It is equally risky to transfer police functions to the communal level, since they will in fact be feudal armies due to the lack of strong connection between communities and local authorities in Ukraine.

Currently, local communities strive to create various kinds of public formations, squads, guards, and

¹³ For example, after the Revolution of Dignity (2013-14) the Draft Law №4276 «On municipal police» of October 7, 2014 (http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51694) and the Draft Law №2890 «On municipal guard» of May 18, 2015 (http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=2890&skl=9). The second Draft Law was adopted in the first reading.

so on with no previous tradition of citizens' participation in the protection of public order, so these tendencies are important to mention. This is a natural desire of all the people to influence own security, which fits into «we pay taxes, therefore we have the right to manage the local budget and ensure own security collectively» model. Another thing is that such formations cause fear due to the relatively weak control by the state in modern Ukraine. This, in turn, brings discredit to the state in general and its ability to administer the law. It is known that there is a state's monopoly on violence, and, according to the German sociologist Max Weber¹⁴, this is the concept of the state. There is a risk of losing the state's monopoly on violence, which can pose a threat to Ukraine's national security and to the rights and freedoms of each individual.

In 2019, Ukraine will hold presidential and parliamentary elections, which influenced the formation of the country's political agenda already. Politics doesn't shy away from the issues of public squads. Political experts and civil activists talk about the usage of ever-growing forces of public squads for political aims oftenly. Moreover, they indicate that the «National Squads» can be used by the «National Corps» party together with the «People's Front» as combat units in favor of Arsen Avakov, Minister of Internal Affairs, etc. According to this, the above-mentioned march of the squads was a kind of power play, obviously. It is difficult to assess the possibility of this prediction, but the outbreaks of violence can lead to escalation and the elections can transform into mass protests or even illegal actions that destabilize the state and be a threat to national security because of the society tightening as a result of the war.

The police, who does not respond to such violations and does not call for law compliance, and for the observance of rights and freedoms of the citizens, especially, is the weak element of the system. Any illegal actions taken either by municipal guards, or by national squads, or by someone else, are under the police jurisdiction by default. It is true for the whole spectrum of crimes, from hooliganism and property damage to illegal deprivation of freedom. Why the police does not control public formations properly and does not communicate about existing problems openly and does not bring perpetrators to justice — these are the main issues to map out today's discussion. After this control will become real, it will be possible to switch to a substantive discussion about the municipal police, the expansion of the powers of POBPS and the new functions. Until this, we will be blunt about threats, private armies and human rights violations.

¹⁴Weber M. Politics as a vocation and profession // Weber M. Selected works. Moscow, 1990.