

UDC 342.9; 351.74

DOI: 10.31733/2078-3566-2020-5-97-101



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SOME FEATURES OF SERVICE IN THE POLICE ACCORDING TO THE LEGISLATION OF THE REPUBLIC OF LITHUANIA

Андрій Іваниця. ДЕЯКІ ОСОБЛИВОСТІ ПРОХОДЖЕННЯ СЛУЖБИ В ПОЛІЦІЇ ЗГІДНО ІЗ ЗАКОНОДАВСТВОМ ЛИТОВСЬКОЇ РЕСПУБЛІКИ. У дослідженні йдеться про особливості служби в поліції Литовської Республіки щодо загальної системи державної служби, статусу поліції та посадових осіб поліції, висвітлюються нормативні акти, якими регулюється діяльність поліції. Вказується, що в кожній країні на формування специфіки державної служби та служби в поліції впливали історичні особливості, перебування у певній правовій сім'ї, форма держави. Встановлено, що в Литовській Республіці існує особлива категорія державних службовців, які називаються статутними державними службовцями й на них поширюється спеціальне законодавство та статuti, які регламентують їх правила добору на службу, процес проходження служби, соціальні гарантії, правовий статус та повноваження, систему звань, правила розрахунку заробітної плати, умови та підстави звільнення тощо, на них не розповсюджується дія Закону «Про державну службу». Наводиться правовий статус посадової особи поліції, який мають поліцейські, поліцейські чиновники та слухачі відомчої академії поліції за деяких умов. Висвітлюються норми Закону «Про поліцію» та Статуту про внутрішню службу щодо умов добору кандидатів в поліцію, вимог та цензів, які ставляться до них, підкреслюються обставини, за яких особа не може стати поліцейським або посадовцем внутрішньої служби, серед яких акцентується увага на вимогу про вірність та лояльність до Республіки Литви (наводяться умови, за якими особа не вважається лояльною, а саме співпраця з іноземними спецслужбами, заклики щодо порушення територіальної цілісності тощо). Визначаються вимоги та підстави, за якою особа не вважається із бездоганною репутацією. У дослідженні на основі Статуту про внутрішню службу вказані обставини, які унеможливають права особи обіймати посади в системі Міністерства внутрішніх справ. Наводяться підстави та умови звільнення з лав поліції та умови, за яких особа підлягає звільненню із служби в системі Міністерства внутрішніх справ. Акцентується увага на необхідності впровадження в Україні литовського досвіду щодо умов вірності та лояльності до держави.

Ключові слова: статутний державний службовець, посадова особа поліції, цензи, добір, підстави звільнення, лояльність, репутація.

Relevance of the study. After the fundamental political changes that took place in 2014, Ukraine has taken a decisive course towards integration into the EU, the NATO bloc and in general has chosen the path of building a state of liberal democracy. However, the «club» of Western civilization sets high standards in many areas, including the rule of law, protection of citizens' rights and freedoms and confidence in the institutions entrusted with the task of observing and ensuring this. The state of affairs in the law enforcement system, in particular the police, is an important indicator of the state's readiness or unwillingness to join the EU. Of course, countries with developed democracies, where the police have high standards of social and material security of the police, the standards of a fair and impartial body, which has a high level of trust on the part of citizens, have gone through the police for hundreds and decades, they have had much more time than in Ukraine. At the same time, there is a particularly important and relevant for Ukraine experience of the states that were part of the Soviet Union, as well as Ukraine, but as a result of the reforms they already meet EU standards in public administration and are in this community. They did not have hundreds of years to build a police force, they started next to Ukraine, but they achieved much greater success in a much shorter time.

Therefore, it is necessary to study the experience of Poland, Lithuania, Latvia, Estonia, the Czech Republic, Slovakia and other countries comprehensively, including the relevant and

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important vector of research in the specifics of police service in these countries, the relevant regulations. The chosen research issues become especially relevant for Ukraine, taking into account that the National Police of Ukraine appeared recently, namely in 2015, and of course that it will continue to develop for a long time, and scholars, lawyers and legislators look for ways to improve Ukrainian legislation regulating the service in the National Police of Ukraine.

Recent publications review. Problems of development of civil service in general and service in police, in particular, are covered by domestic and foreign researchers, among which we can mention the following: V. Averyanov, Y. Bytyak, R. Botvinov, A. Britko, M. Bilynska, S. Dubenko, M. Inshin, V. Kikinchuk, D. Lemesh, V. Malinovsky, G. Mamchur, V. Oluyko, O. Parkhomenko-Kutsevil, L. Prokopenko, N. Sidorenko, O. Solonenko, L. Stelmashchuk, I. Shabatina, N. Yanuk and others.

The article's objective is to highlight the peculiarities of police service in the Republic of Lithuania in accordance with current regulations and to determine the rules that can be used in Ukraine.

Discussion. Service in the police in foreign countries due to their belonging to the Anglo-Saxon, Romano-Germanic systems of public service, has its own characteristics in the context of the role and place in the structure of the public service. In general, researchers identify several key factors that may also influence the specifics of the public service system, including features of the historical development of the country (for example, stay in the Russian Empire or the Soviet Union, depending on the duration had a fundamental impact on a number of post-Soviet countries including not only Ukraine, but also Georgia, Poland, Latvia, Lithuania and Estonia and others); the specifics of belonging to a legal family have already been mentioned; form of state, i.e. the form of state order, government and political regime [1, p. 42].

In the Republic of Lithuania, police officers are classified as a special category of public servants. In general, the basic principles of service in the police are determined by the Law «On Police» of 1990 [5] and the Law «On Police Activities» of 2000 [4]. The Law «On Public Service» of 1999 stipulates that among the categories of public servants there are so-called statutory public servants, whose service is regulated by the statute approved by law, which establishes various special rules for selection for civil service, service process, special rules for calculating wages and social guarantees, dismissal and other circumstances related to the peculiarities of the conditions of service (Part 7 of Article 2) [3]. Also in item 10 of h. 6 Art. 4 of the Law states that this Law does not apply to statutory civil servants.

Art. 1 of the Law on the Police of 1990 states that the police are the executive body of state power that ensures the protection of law and order. The main tasks of the police are the prevention of crimes and other offenses, the detection of crimes, protection of public order, etc. [5]. According to Art. 5 of the Law, which determines the legal status of a police officer, the state and laws of the Republic of Lithuania guarantee the honor and dignity, life and health, rights and freedoms of police officers, such as policemen, police officials and in some cases students of the Lithuanian Police Academy. This article states that a police official is a citizen of the Republic of Lithuania who is in the service of the police and holds a position and performs police functions. It is also stated that he/she everywhere and always has the legal status of a representative of the authorities and the official title (which indicates the peculiarity of the process of police service included) [5].

The Law «On Police Activities» of 2000 specifies that according to Part 3 of Art. 2 a police official is a citizen of the Republic of Lithuania who has been admitted to a police institution as a statutory civil servant and empowered in the field of public administration in relation to persons who are not subordinate to him/her, and in Part 5 of Art. 2 specifies the content of the status of a police official – is defined by this and other laws a set of official rights and responsibilities, which is established by legal regulations governing the recruitment and dismissal of a police official, his/her rights, duties, responsibilities, wages, social and other guarantees [4].

Section III «Service in the Police» of the Law «On Police» of the Republic of Lithuania defines the basic requirements for police candidates, the procedure for selection and service, as well as dismissal and training of candidates for service in the Police. According to Art. 25 of the Law, recruitment to the police takes place on a voluntary basis through selection. There are a number of requirements and qualifications for police officers. The age requirement is the minimum limit of 18, there is a language qualification, namely the need to speak the state language, it is also noted that the education, personal qualities, business and physical training and health status of a person should be able to perform duties a policeman, i.e. a police officer or a police official. Selection for the service takes place only after the conclusion of the medical

commission at the Ministry of Internal Affairs. Persons who are hired for the first time and who do not have special or higher education receive the status of an intern (for a period of one year). There is a common practice in Europe ban on membership in political parties for the police. The order of service and its conditions, except for the Law «On Police» and other legislative acts, are regulated according to par. 6 Art. 25 of the Law approved by the government by the Statute on internal service in the police and the Statute of the police. Police officers are allowed to engage in research and teaching activities in addition to police service [5].

Art. 27 contains provisions on police ranks in order to determine the length of service, qualifications and positions held by a person and for internal hierarchical interaction. Ranks are awarded in case of appointment to the position, as well as after passing the qualifying exam. It also provides for the use of qualification categories of job titles to indicate the qualifications of a police officer. Art. 28 identified nuances of uniformity in the police [5].

The conditions under which police officers are to be dismissed are important. In total, the Law provides for eight of them: at one's own will, upon reaching the age limit; for health reasons; in the attestation procedure; in cases stipulated by the Police Statute (i.e. for violation of discipline, etc.), in case of participation in strikes; by court decision or verdict; due to loss of citizenship [5]. Police officers have the opportunity to appeal the dismissal in court.

Among the peculiarities of service in the Police, according to Section III of Art. 30 it provides for the possibility of involving interior employees in the performance of police duties. Art. 31 of the Law defines the issue of forming a police reserve, which includes police officers who were dismissed for objective reasons. The conditions and procedure for formation are defined by the Regulations on the Police Reserve of the Republic of Lithuania [5]. Also Art. 32 of Chapter III contains provisions on training for the police, which must be trained in special schools, and for persons with higher education who have joined the police, retraining courses are provided.

Regulations on service in the Lithuanian police are detailed and specified in the «Statute of the Internal Service» [6]. Art. 1 defines the purpose of the statute, namely the establishment of the principles of internal service, the status of officials of the internal service system, admission and dismissal, admission and training in departmental vocational schools, responsibility, promotion, wages, social and other guarantees. In addition that Statute provides for the definition of principles and features of trade unions in statutory institutions [6].

According to Art. 2 of the Law «On Police» the principles of policing are the principles of democracy, humanism, legality, social justice, publicity, professional secrecy, unity and collegiality [5]. Service in the internal affairs bodies is based on the principles of the rule of law, equality, political neutrality, transparency, career, compensation for the peculiarities of the internal service, subordination, as well as the continuous performance of official duties [6].

The Statute also details the requirements for a candidate for service in the police and the internal service in general (in the Ministry of the Interior). It should be noted that in 2018, the Statute was amended in accordance with the Law «On Amendments to the Statute of the Internal Service» [2], which was reflected in the requirements for candidates, the procedure for dismissal, and so on. In addition to the mentioned citizenship qualification and language qualification, the age qualification is specified, the minimum age of 18 is specified according to the Law «On Police», but the maximum age limit of 60 is also mentioned here. A police officer must have an impeccable reputation. Art. 3 contains rules on factors that do not allow the candidate's reputation to be considered faultless [2].

Such factors are convictions for an intentional criminal offense, regardless of whether the conviction has been expunged or revoked; if the person is released from criminal liability in the manner prescribed by law and less than three years have passed; if the person has previously worked as a public servant, judge, notary, prosecutor, lawyer, or in the national defense system and was dismissed for humiliation of an official, contempt for a judge, professional ethics and violation of ethical norms of notaries, etc.; for dismissal from the civil service for illegal actions and from the date of dismissal less than three years have passed, or for a disciplinary offense in the form of dismissal from office and less than three years have passed; was dismissed or lost the right to engage in certain activities due to non-compliance with the requirements of impeccable reputation, as determined by other laws, or due to violation of ethical norms, and less than three years have passed since the dismissal; was a member of an organization that is prohibited by law and less than three years have passed since the termination of membership in the organization [2].

The next important condition is extremely relevant for today Ukraine, the situation contained in paragraph 4 of Part 1 of Art. 8 of the Statute in accordance with the Law «On Amendments to the Statute of the Internal Service» on Loyalty or Loyalty to the Republic of Lithuania. According to Art. 10 of the new version of the Statute of Loyalty to the Lithuanian State, persons and officials applying for internal service must be loyal to the Lithuanian state. Signs of disloyalty are the presence of interests that are contrary to the interests of the Republic of Lithuania, if a person cooperates or has cooperated, maintains or was maintaining relations with special services or security services of foreign states or a person who cooperates or maintains such relations; a person takes part or was participating in the activities of a terrorist organization or terrorist group, maintains or was maintaining contacts with a person belonging to such organizations or groups; receives or has received funds from the military, special services or security services of foreign states, unless otherwise provided by international treaties or agreements of the Republic of Lithuania; calls for the abolition of the independence of the Lithuanian state, the violation of territorial integrity, the overthrow of the constitutional order or supports movements that call for such actions; if the person is engaged or has been engaged in other activities or has connections, or there are other circumstances or facts related to the person that give grounds to believe that the person's service in the internal service system will be incompatible with national security interests [2].

The Statute also specifies the minimum educational qualification set at the level of secondary education. The person must also have a sufficient state of health to perform the duties, in addition, the physical condition necessary for the specifics of the internal service (paragraphs 5-7 of Part 1 of Article 8) [2]. Article 16 additionally establishes the requirements according to which a person may not be hired for internal service, namely, one that does not meet the requirements of faultless reputation specified in the Statute (paragraph 1, part 1 of Article 16); if a person is suspected of committing a criminal offense (paragraph 2, part 1 of Article 16); if a person provides knowingly false information about himself/herself (paragraph 3 of Part 1 of Article 16); if the person is not loyal to the Lithuanian state (paragraph 4, part 1 of Article 16); if a person has conflicts of interest in matters of appointment to a position in a public institution in relation to close relatives and direct subordination (paragraph 5 of Part 1 of Article 16); in the presence of the circumstances specified in items 1, 4-6 of Art. 24 of the Statute (paragraph 6, part 1 of Article 16), namely, if a person is elected or appointed a member of a self-governing body, works at an enterprise, institution or organization and receives remuneration for it; holds more than one position of a civil servant, works under an employment contract in a government agency, where he/she is an official; to participate in or be a member of a political party or organization; if other compromising data were found (paragraph 7, part 1 of Article 16) [2].

Article 72 provides the grounds for dismissal of a person from the internal service: at his/her own request, after reaching the age limit specified in Art. 73 (there is a differentiation according to which managerial level the person holds, in the case of primary levels after reaching 55 years of age, middle level – after 60 years of age, and senior officials – after reaching 65 years of age); decision on dismissal on the proposal of the attestation commission; for health reasons; loss of citizenship; rejection of the oath; when a person's behavior degrades the name of the official; for unsatisfactory internship results; upon the entry into force of a court decision according to which a person has been convicted of an intentional crime or an intentional criminal offense or deprived of the right to work in law enforcement agencies; in cases of obviousness of the circumstances which are contained in item 16; in the case of entry into force of a court that declares illegal the decision to admit a person to the internal service; if the position of the person is liquidated and he does not agree to another proposed position; at the own request of the state pension of officers and soldiers; in the case of official punishment in the form of dismissal; by agreement of the parties [2].

Conclusions. Thus, the peculiarities of service in the Lithuanian police are contained in several legislative acts, namely in the Law «On Civil Service», «On Police», «On Police Activity» and in the Statute on Internal Service. The concept of policeman includes police officers, police officials and students of the departmental police academy. A police officer is a public servant, who in law is called a statutory civil servant. In the public service system police officers are guided by their own laws and statutes, which determine the procedure for selection, service, their powers, ranks, calculation of remuneration, social guarantees and conditions and grounds for dismissal. In comparison with the Ukrainian legislation on the requirements for a police candidate, it is worth focusing on such a requirement for a Lithuanian police officer as

fidelity or loyalty to the Republic of Lithuania. Ukraine has a negative experience in the statistics of the transition of police in the Autonomous Republic of Crimea and Donbas to the side of the occupier, however, the situation with police personnel and their position on Ukraine and the role of the aggressor state in the war requires the adoption of similar rules in Ukraine for screening potential traitors or those who take anti-state position from the ranks of civil service in general and the National Police in particular. However the situation with the grounds for dismissal from the service in the internal affairs bodies and the police, the Lithuanian experience should also be taken into account, which presupposes a lack of fidelity or loyalty to the grounds for dismissal.

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Submitted 04.12.2020

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Abstract

The study deals with the peculiarities of service in the police of the Republic of Lithuania in relation to the general system of civil service, the status of the police and police officials, highlights the regulations governing the police. It is pointed out that in each country the formation of the specifics of the civil service and the police service was influenced by historical features, being in a certain legal family, the form of the state. It is established that in the Republic of Lithuania there is a special category of civil servants, called statutory civil servants, and they are subject to special legislation and statutes governing their selection rules, service process, social guarantees, legal status and powers, system of ranks, rules for calculating wages, conditions and grounds for dismissal, etc., they are not covered by the Law «On Civil Service».

The grounds and conditions of dismissal from the police and the conditions under which a person is subject to dismissal from service in the system of the Ministry of Internal Affairs are given. Emphasis is placed on the need to introduce in Ukraine the Lithuanian experience in terms of loyalty and loyalty to the state.

Keywords: *statutory civil servant, police official, qualifications, selection, grounds for dismissal, loyalty, reputation.*