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PARTICIPATION OF UNIONS TO ENSURE POLICE OFFICERS' LABOR RIGHTS: EUROPEAN AND NORTH-AMERICAN EXPERIENCE

Abstract. The article deals with the place and role of unions in protecting police officers labor rights in the EU, as well as in the US and Canada, which stood at the origins of world history of the union movement in general. The author has found differences between concepts of "workers' labor rights" and "workers' professional rights", which further forms the means of ensuring and protecting them with through trade unions. Based on the analysis of the genesis and current activities of police unions in a number of countries (UK, France, Germany, Poland, USA and Canada) he has concluded that their participation is aimed at ensuring such basic labor rights of law enforcement officers as wages, working conditions, pensions, the right to collective bargaining, as well as the right to strike.

Keywords: *police union, police labor and professional rights, ensuring, protection, collective bargaining, strike.*

Relevance of the study. Labor activity involves not only the creation and maintenance of public goods, but also ensuring during this process the employee's private interests - material (wages), physical and reproductive (working hours, rest time, maternity leave, payments through temporary disability), social (childcare leave, study, etc.). The natural opposition of interests of employers and employees always leads to conflict situations between them, on the settlement of which the activity of trade unions is aimed. This have received appropriate legislation in Ukraine at the level of the following acts: 1) The Constitution of Ukraine (part 3 of article 36) [3]; 2) Code of Labor Laws of Ukraine (articles 246-252) [2]; 3) Law of Ukraine "On trade unions, their rights and guarantees of activity" [7]. The latter, in particular, in Art. 2 stipulates that trade unions are established for the purpose of representation and protection of labor, socio-economic rights and interests of trade union members, and Art. Part 2 of Art. 3 provides for the establishment by the relevant laws of the peculiarities of the application of this Law in the law enforcement agencies of the country. The National Police is no exception, the law on which in Art. 104 stipulates that in order to protect their rights and legitimate interests, police officers may form trade associations and trade unions under the trade unions legislation [6].

Taking into account the global trend of transformation of law enforcement forces from militarized to semi-civil structures, the problem of not only protection of socio-economic and labor rights of police officers, but also the observance of the principle of equality in their rights in relation to other citizens, and, consequently, the role of police unions in this process is growing. Thus, the Statute of the All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine stipulates that trade union members have the right, in particular, to represent and protect their rights and interests in public authorities, local governments, in relations with employers, in courts, when appealing to the Verkhovna Rada Commissioner for Human Rights, in international judicial institutions, etc. [8].

However, despite the well-established regulatory framework, the practical implementation of these provisions needs further study, Considering also that the processes of

demilitarization of the law enforcement system of independent Ukraine began somewhat late compared to other post-socialist countries that have chosen the path of democratic development. In this regard, it is worth our attention to cover the processes of formation and current state of the police trade union movement in foreign countries. Based on the volume of this publication, we consider for a convincing example such countries as the United Kingdom, Germany, Poland, France, the United States and Canada.

Recent publications review. Protection of police officers' rights is the subject of research in several branches of legal sciences in Ukraine. At the monographic level, this problem was studied: in the theoretical and legal aspect – by Yu. Kovalenko, O. Perederiy and S. Shestak; in administrative law it was considered by such scholars as O. Lapka, N. Maksymenko, O. Nehodchenko and V. Filshteyn; criminal-legal protection of law enforcement activity is covered in the works of V. Osadchy; the issue of civil legal protection of law enforcement officers' rights was studied by S. Pylypenko and O. Synehubov. This issue naturally found its most common coverage in the field of labor law in the dissertations of V. Honcharuk, M. Inshyn, L. Knyazkova, K. Melnyk, O. Obushenko, Yu. Serdyuk, T. Chavikina, N. Cherednichenko, I. Shvydkiy, I. Shulzhenko and others. However, the issues of the place and role of trade unions in the social and legal protection of law enforcement officers were not covered at all or were mentioned only in fragments and superficially. Instead, in the Western science of policing, they have attracted the experts' attention for almost half a century, as evidenced by the thorough publications of such, in particular, American authors as T. Cooper, H. Juris & P. Feuille, J. Grimes, M. Levi, H. More, J. Magenau, & R. Hunt, D. DiSalvo, R. Reiner; British – H. Nolan, A. Zammage and S. Sachs; Canadians – J. Duncan and K. Walby; French – A. Bargeau, J.-L. del Bayle et al.

The research paper's objective is given the lack of thorough domestic research in the field of social and legal protection by trade unions of law enforcement officers to analyze the place and role of trade unions in protecting the labor rights of police in the EU, USA and Canada, which are recognized as at the origins of world history of the trade union movement in general.

Discussion. First of all, we consider it necessary to distinguish between the categories of "employees' labor rights" and "employees' professional rights".

The constitutional and sectoral labor legislation of most democratic countries, as well as international legal acts on socio-economic rights, proclaim that the government ensures the citizens' right to work, ie to receive wages not lower than the minimum set by the government, the right to freely choose a profession, kind of occupations and works. The government makes conditions for effective employment, promotes employment, training and retraining, and, if necessary, provides retraining for those released as a result of the transition to a market economy. Employees exercise their right to work by concluding an employment contract with the company, institution, organization or individual. Employees have the right to rest, paid annual leave, the right to healthy and safe working conditions, to unite in trade unions and to resolve collective labor conflicts (disputes) in the manner prescribed by law, to participate in the management of enterprises, institutions, organizations, for material security in the form of social insurance in old age, as well as in case of illness, complete or partial disability, for financial assistance in case of unemployment, the right to go to court to resolve labor disputes regardless of the nature of work or position, except provided by law, and other rights established by law [4]. Legal guarantees of labor rights are divided into 1) general, applicable to all employees, and 2) special, which apply to certain categories of persons (workers with harmful and difficult working conditions, as well as women, youth, the disabled, the elderly and other special subjects of labor law, which also includes law enforcement officers). Special legal guarantees of police workers' labor rights are, in particular, the regulation of working hours (mostly non-limited), the procedure for calculating salary accruals and the duration of leave depending on years of service, provision of housing, healthcare and pension, social security for their families and more.

Guarantees of professional rights include the use of legal remedies related to the direct performance of official duties and professional functions, improper performance of which may result in physical or material harm to another person. In such circumstances, the employee is sometimes unjustifiably prosecuted or subjected to excessive sanctions, which require appropriate protection both in the form of legal aid (through a lawyer) and participation in the protection of the trade union of which the employee is a member. The service in the police imposes additional responsibilities and restrictions on the police officer. In this regard, ensuring the effective protection of social and labor rights of police officers is of particular

importance [1, p. 165].

Therefore, speaking of labor rights, it is advisable to use the term "provision" through mostly material and financial resources of the state, and in relation to professional rights, it is logical to use the term "protection" through the judiciary and public associations, among which the most common historically there are unions.

Undoubtedly, Europe, where the first bourgeois revolutions took place in the 16-17th centuries, which marked the industrialization and emergence of the free labor market, is considered to be the birthplace of both the strike movement in general and the trade union movement in particular. For example, in Great Britain, which is the ancestor of professional policing in the world, the interests of police officers are represented by the Police Federation of England and Wales (PFEW), founded by the 1919 Police Act. PFEW unites constables, sergeants and inspectors. Its activities are determined by the Federation Regulations of 1969. Under UK labor law, police are prohibited from joining regular unions to protect pay and working conditions, as police strikes pose an exceptional risk to public safety. There is also a separate Police Superintendents Association of England and Wales (PSA), and high-ranking officers are members of the Chief Police Officers Staff Association (CPOSA) [18].

As for France, it is known as police syndicalism (from the French "syndicat" – trade union), the first forms of which emerged in the late 19th century, first for commissioners as a "brotherhood" or "association" and gradually became a union legalized in 1924. In 1940, the government dissolved unions, and in 1944, the National Federation of Police Unions of France and its Overseas Territories (FNSPF) was reunited, uniting most police unions and associations, including the General Police Union (SGP). Since then, the right of the National Police to associate has been regulated with the right to strike too. In 1995, two major police unions, the Independent National Police Union (SIPN), which represented law enforcement officers, and the National Union of Investigators (SNE), decided to unite to form the largest organization – the National Police Alliance. There are currently three police unions in France: in addition to the Alliance, the Independent Federation of Police Unions (UNSA), which works most closely with professional lawyers to protect police officers' rights, and the General Police Union (SGP), which most often organizes police strikes [15], the last the largest of which took place at the end of 2019 with the participation of more than 20 thousand police and gendarmes against the pension reform and with demands to improve working conditions [17].

In Germany, DPoIG (Deutsche Polizeigewerkschaft – German Police Union) represents the professional, social, economic and financial interests of both current and retired police officers. Established in 1919, the forerunner of which were various police associations, founded in 1871, it later changed its name, and in 1933 was dissolved by the Nazis. In 1951 it re-established itself within the framework of Westrn Germany as the "Association of German Police" (BDP), in 1966 it was renamed the "Police Union in the German Civil Service Association" (PDB). Since 1987, it has been operating under its current name and also represents the interests of the Federal Border Guard Service (BPOL) and the Federal Bureau of Criminal Investigation (BKA) [11] and is a member of the European Police Union. However, police officers, like all German civil servants, are prohibited from striking [5].

The interests of the Polish police officers are represented by the Independent Self-governing Police Union, founded in 1990. Its 2008 Charter, in particular, provides for: protection of police officers, members of their families, and retirees from declining living standards; legal protection of police officers; influence on the policy of creating favorable conditions of service and salary, as well as other benefits; control over the implementation of measures in the field of labor protection and medical care; implementation of projects aimed at meeting the housing needs of employees; providing appropriate retirement and disability benefits; initiating and supporting measures to make conditions for professional development and socio-professional adaptation of police officers, etc. Also, if the dispute is not resolved through negotiations, this statute provides for protest forms by police union members, which are preventive actions (demonstrations, pickets), and if they are ineffective, the right to strike [20]. The last protest of Polish police took place in 2021 with the participation of 20 thousand officers (with a total of 100 thousand) in the form of an "Italian strike", which consists in refusing to fine drivers for minor traffic violations, limited to warnings, without replenishing the state budget in this way. The strikers' demands included a salary increase of € 150 (compared to the current average of € 1,000, but as a result of negotiations between the head of the union and the Minister of the Interior, it was increased by only € 65), as well as a return to early retirement, full overtime pay, and payments for the first 30 days of illness [19].

Unlike in European countries, the US police are characterized by a decentralized model of organization, activities and staffing, lack of a central law enforcement agency (except the FBI – the body to combat top corruption) and the dispersal of police agencies at the local and state levels which also affected the peculiarities of the police union movement.

Beginning in the 19th century, associations of police emerged to represent officers' interests publicly and offer solidarity privately. New York City's Patrolmen's Benevolent Association was formed in 1892 with the aim of raising money for widows of officers killed in the line of duty. Such benevolent associations and fraternal orders did not enjoy collective-bargaining rights, but they did seek to inform elected officials of officers' concerns.

Compared to recent decades, however, their lobbying and electioneering activities were modest. As labor unions began to emerge toward the beginning of the 20th century, many recognized that public-sector unions – especially groups representing police – posed challenges that differed from private-sector unions. The first prominent arguments that public-employee associations should be treated differently than those in the private sector came in 1895, when the postmaster general issued an order barring U.S. postal workers from visiting Washington for "the purposes of influencing legislation before Congress." Then in 1902, President Theodore Roosevelt issued a "gag rule" banning all federal employees from lobbying Congress on their own behalf.

These moves set the tone for state and local governments. In the first two decades of the 20th century, the question of whether police associations belonged in the labor movement at all was also debated. Some in the movement were concerned about the "divided loyalty" of police officers in situations where they were tasked with handling strikes by other unionists. Consequently, Samuel Gompers of the American Federation of Labor claimed to have "held off" on chartering police unions for years despite receiving numerous applications, beginning with a group of Cleveland police in 1897 [12].

In the USA police officers started to form unions in the early 1900s in conjunction with the labor movement that was sparked by the industrial revolution. The earliest example of why police officers started to form unions is commonly associated with the Boston Police Department. Boston police officers did not receive pay increases from 1898 through 1913. In addition, they were often required to work 72 hours per week and pay for their own uniforms.

After World War I in 1919, Boston cops unionized affiliated with the American Federation of Labor (AFL). After unionizing, 17 of the union leaders were suspended, which led to the majority of Boston's police officers walking off the job. Violence in the city ensued after the walkout and, needless to say, after this occurred police officers were prevented from striking. Despite this incident police officers would continue to unionize and, as a result, most police officers belong to some sort of collective bargaining unit today [13].

It was not until a wave of state legislation in the 1960s and 1970s which granted state- and local-government employees collective-bargaining rights that most police officers gained them as well. The transformation was swift and dramatic. Collective-bargaining rights were extended from 2% of the state- and local-government workforce in 1960 to 63% in 2010. The changes in state laws were spurred by President John Kennedy's 1962 Executive Order, which gave federal employees "the right...to form, join and assist any employee organization or to refrain from any such activity." The new state laws facilitated the conversion of police officer associations, lodges, and orders into unions [12].

Since the Boston Police Strike of 1919 one of few police strikes in the United States was the Baltimore Police Strike of 1974 labor action conducted by officers of the Baltimore Police Department (BPD) during 15 days. Striking officers sought better wages and changes to BPD policy. They also expressed solidarity with Baltimore municipal workers, who were in the midst of an escalating strike action that began on July 11. On July 7, police launched a campaign of intentional misbehavior and silliness; on July 11 they began a formal strike. The department reported an increase in fires and looting, and the understaffed BPD soon received support from state police. The action ended on July 15 when union officials negotiated an end to both strikes. The city promised (and delivered) police officers a wage increase in 1975, but refused amnesty for the strikers. Police Commissioner Donald Pomerleau revoked the union's collective bargaining rights, fired its organizers, and pointedly harassed its members.

Although it was followed by a wave of police unrest in other cities, it remains one of a very few notable police strikes in US history. The action was also a test case for the American Federation of State, County and Municipal Employees (AFSCME), which was rapidly growing in size and strength but had not had much success in unionizing police officers [9].

Police officers' union rights vary by state [14]. Today, police enjoy collective-bargaining rights in 41 states and the District of Columbia, and union locals are dispersed across the roughly 18,000 police departments nationwide. Only Georgia, North Carolina, South Carolina, Tennessee, and Virginia prohibit bargaining for public employees, while Alabama, Colorado, Mississippi, and Wyoming lack statutes to either advance or oppose police unions. Even where collective bargaining is prohibited, police associations provide members with legal services, political advocacy, and insurance policies [12].

In the 1960s, police associations became more politically active, especially since they were gaining labor rights during a period of urban unrest and public hostility to the police. In a 1977 book, Stanford University political scientist Margaret Levi described police unions as a "bureaucratic insurgency" that overcame policecommissioner opposition in several major cities. In some instances, the unions even served as platforms for launching the political careers of former officers and officials [16]. But this matter will be the subject of another publication while describing the role of police unions in protection of police officers' more professional than labor rights.

Unlike the United States, the police of neighboring Canada, on the other hand, are organized according to a centralized (British) model because of its formal affiliation with the British Commonwealth. In Canada the unionization of police is made in the form of Canadian Police Association (CPA). It is the national voice for 60,000 civilians and sworn police personnel across Canada. Membership includes police personnel serving in 160 police services across Canada, from Canada's smallest towns and villages as well as those working in largest municipal and provincial police services, and members of the railway police, and first nations' police personnel. As the national centre for police labour relations, the role of the Canadian Police Association is to:

- promote the interests of police personnel and the public they serve, in the national legislative and policy fields;
- provide a collective support network for Member Associations to successfully improve representation and conditions for their own members in collective bargaining, education and training, equipment, health and safety, and protecting members' rights (e.g. to provide by established in 2006 Memorial Fund immediate financial assistance, in the form of a one-time lump-sum payment, to the families of police officers killed in the line of duty;
- advocate for adequate and equitable resources for policing;
- identify key national issues which impact on Member Associations and facilitate the resolution of these issues;
- react and respond, upon request, to local policing issues that may have national ramifications; and
- liaise with the international policing community on issues affecting Canadian police personnel.

The CPA also keeps relationships with parliamentarians from all political parties. Its members want to make a difference in their communities. As the national voice for front-line police personnel across Canada, it bring a unique perspective on policing and public safety. By raising awareness on law enforcement and justice issues, the CPA promotes community safety. Police associations have contributed to the deliberations on such issues as youth criminal justice; child pornography; impaired driving; sentencing, corrections and parole reform; national sex offender registry; criminal pursuits; organized crime; and technological innovation in policing, such as DNA testing and the Canadian Police Information Centre renewal project [10].

The CPA is also managed centrally, namely by a board of directors, which is re-elected every 2 years. It is chaired by the President and consists of 23 members from all regions of the country: Western Region (Vancouver, Winnipeg, Edmonton, Calgary, etc.) – 6, Ontario (South and Toronto) – 7, French-speaking Quebec (East and Montreal) – 6, Atlantic Region (North, Halifax and New Brunswick) – 4. Associate members of the CPA are also more than 150 local and regional police organizations and unions [10].

Conclusions. Thus, the review of European and American practice showed not only the existence of similar problems for most countries, but also the various ways to solve them in the manner prescribed by law, which is extremely relevant for Ukraine, also in view of the recent protests of law enforcement officers against the reduction of pensions. In particular, police unions should be involved in the development of regulations governing social issues such as money security (most of which are not salaries, but bonuses and salary supplement set by the

chief of the police agency or department), benefits, social housing, preventive treatment and rehabilitation, etc.

The direction of further research of this problem is the study of the role of foreign police unions in protecting their employees professional rights.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Андрій САМОТУГА

**УЧАСТЬ ПРОФСІЛОК У ЗАБЕЗПЕЧЕННІ ТРУДОВИХ ПРАВ ПОЛІЦЕЙСЬКИХ:
ДОСВІД КРАЇН ЄВРОПИ ТА ПІВНІЧНОЇ АМЕРИКИ**

Анотація. Висвітлено місце й роль профспілок у захисті трудових прав поліцейських у країнах ЄС, а також у США і Канаді, які стояли біля витоків світової історії профспілкового руху загалом, що пов'язано із революційним започаткуванням нових соціально-економічних відносин між роботодавцями і найманими працівниками. Загальносвітова тенденція трансформації сил правопорядку з милітаризованих до напівцивільних структур визначає актуальність проблеми не лише захисту соціально-економічних і трудових прав працівників поліції, а й дотримання принципу рівності в їхніх правах відносно решти громадян, а отже, зростає роль у цьому процесі профспілок працівників поліції.

Автором з'ясовано відмінності між поняттями «трудові права працівників» та «професійні права працівників», що в подальшому формує засоби їх забезпечення та захисту за допомогою профспілок. Особливості службової діяльності накладають на поліцейських додаткові обов'язки та обмеження, у зв'язку з чим забезпечення ефективного захисту соціально-трудова прав працівників поліції набуває особливого значення.

На підставі аналізу генезису та сучасної діяльності поліцейських профспілок низки європейських країн (Великої Британії, Франції, Німеччини та Польщі) зроблено висновок, що їхня участь спрямована на забезпечення таких основних трудових прав правоохоронців, як заробітна плата, умови праці, пенсійне забезпечення, право на укладання колективних угод і ведення колективних переговорів з адміністрацією, а також право на страйк, хоча у Великій Британії вона дозволено частково, а в Німеччині заборонено.

Майже подібним чином організовано діяльність поліцейських профспілок у США, але відповідне законодавство дещо варіюється залежно від штату, що зумовлено широкою децентралізацією як публічної влади взагалі, так і системи охорони правопорядку, зокрема. У переважній більшості штатів передбачено право поліцейських профспілок на ведення колективних переговорів. Наймасовіші страйки американських поліцейських відбулися в м. Бостон 1919 р. та м. Балтімор 1974 р. На відміну від США поліція Канади організована за централізованою (британською) моделлю, що зумовлює наявність єдиного загальнонаціонального профспілкового органу – Канадської поліцейської асоціації, яка об'єднує всіх атестованих та вільнонайманих працівників, у т. ч. пенсіонерів.

На підставі викладено автором сформульовано пропозиції з розширення сфери діяльності профспілок поліцейських України для ефективного забезпечення соціально-трудова прав працівників Національної поліції.

Ключові слова: профспілка поліцейських, трудові та професійні права поліцейських, забезпечення, захист, колективні переговори, страйк.