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DOI <https://doi.org/10.32849/2663-5313/2024.2.02>**Zhanna Marinich,***Adjunct Researcher, National Academy of Internal Affairs, 1, Solomianska square, Kyiv, Ukraine, postal code 03035, marinichzhanna@ukr.net***ORCID:** orcid.org/0000-0002-7138-8757

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EXERCISE OF PERSONAL NON-PROPERTY RIGHTS ENSURING THE SOCIAL EXISTENCE OF A POLICE OFFICER IN UKRAINE

Abstract. Purpose. The purpose of this article is to examine the exercise of personal non-property rights that ensure the social existence of a police officer in Ukraine. **Results.** The article investigates the implementation of personal non-property rights that ensure the social existence of a police officer in Ukraine. It has been established that such rights, which belong to the individual, constitute part of the system of subjective rights, represent a real social phenomenon, arise in connection with the possession of non-material benefits, and serve as a legal mechanism for securing one's social existence. The article outlines the characteristics of these rights as they pertain specifically to police officers. It is concluded that these rights belong to the category of exclusive rights. The article highlights the particularities of the exercise of certain personal non-property rights by police officers. It is emphasized that the content of such rights constitutes a set of entitlements vested in the individual as the holder of these rights. It is proposed to include among these rights the right to freedom of literary, artistic, scientific, and technical creativity; the right to freedom of association; the right to peaceful assembly, among others. **Conclusions.** It is concluded that the personal non-property rights ensuring the social existence of a police officer in Ukraine belong to the group of exclusive rights. Their content encompasses a set of entitlements vested in the individual as the bearer of these rights. These rights incorporate both a positive aspect—legal recognition of a person's entitlement to a non-material benefit (right of possession) and the ability to use it (right of use) within the limits established by law and in accordance with its intended purpose and the police officer's personal interests—and a negative aspect, manifested in the right to demand that others refrain from infringing upon such benefit, thereby ensuring protection against violations. The identified personal non-property rights ensure the police officer's social existence and are characterized by the following features: personal nature, non-material essence, a specific object, and orientation toward satisfying physical (biological), spiritual, moral, cultural, social, or other intangible needs (interests).

Key words: personal non-property rights, police officer, right to a name, right to one's image.

1. Introduction

The issue of personal non-property rights has long held a prominent position in Ukrainian civil law scholarship. The effective guarantee of human rights is traditionally regarded as an inherent feature of a legal, democratic, and social state that operates under the rule of law. In any society, human rights constitute a fundamental legal institution that defines the legal status of an individual, determines permissible limits of influence upon them, regulates the extent of interference in the personal sphere, and provides mechanisms for ensuring and protecting rights and freedoms. Consequently, respect for human dignity as the highest social value must become a foundational principle of social life, including

in Ukraine. Fundamental rights and freedoms belong to an individual from birth and are inalienable; thus, ensuring their realization is one of the core functions of the state.

As early as the beginning of the 20th century, scholars in the field of civil law, while analyzing the phenomenon of personal non-property rights, emphasized that the development of personality occurs primarily within a material context, which determines its further spiritual development.

Each branch of law governs a system of socially homogeneous relationships. As regards the subject matter of civil law regulation, it encompasses both property relations and personal non-property legal relations that ensure an individual's

natural existence and social being, as well as the relations arising from the exercise of such rights (Civil Code of Ukraine, 2003). Personal non-property relations hold a central position due to their legal nature and content. It is evident that civil law, with its regulatory methods, is better suited than any other branch of law to ensure the realization of personal non-property rights.

The issue of the exercise of personal non-property rights by individuals has been explored in the works of D.V. Bobrov, T.V. Bodnar, V.I. Borysov, O.V. Dzer, A.S. Dovhert, I.V. Zhylynkova, V.I. Kysil, V.M. Kossak, O.V. Kokhanovska, O.D. Krupchan, N.S. Kuznetsova, I.M. Kucherenko, V.V. Luts, R.A. Maidanik, V.F. Maslov, H.K. Matviiev, O.A. Pidopryhora, O.O. Pidopryhora, O.A. Pushkin, Z.V. Romovska, M.M. Sibilov, S.O. Slipchenko, I.V. Spasybo-Fatieieva, R.O. Stefanchuk, Ye.O. Kharitonov, L.V. Fediuk, A.O. Tserkovna, S.I. Chornoochenko, M.L. Sheliutto, Ya.M. Shevchenko, S.I. Shymon, R.B. Shyshka, among others. However, despite the significant volume of academic work on the subject, numerous general theoretical and practical questions remain unresolved concerning the understanding and exercise of personal non-property rights that ensure the social existence of a police officer in Ukraine. The aim of this article is to explore the exercise of personal non-property rights that ensure the social existence of a police officer in Ukraine.

2. The Significance of the Issue of Personal Non-Property Rights

According to researcher T.O. Sofiiuk, the importance of personal non-property rights is well-recognized within civil law scholarship. In all rule-of-law states, human rights are acknowledged as a fundamental component of social life. By focusing on the core needs and functions of the human being, personal non-property rights contribute to the structuring of an individual's legal status, subordinating it to a defined system of legal norms. Human rights determine the mechanisms for lawful influence over individuals, delineate permissible limits of intrusion into their private lives, and establish legal guarantees for the realization and protection of their rights and freedoms. Throughout different historical periods, the issue of human rights has remained integral to the process of societal transformation in terms of education and cultural maturity, reflecting the intellectual and moral development of society. This imbues the issue of human rights with exceptional importance, connecting it deeply to the realms of philosophy, religion, and morality, and endowing it with the corresponding features. The rights of an individual relating to their intangible

benefits are referred to as personal non-property rights (Sofiiuk, 2015).

Among the defining features of personal non-property rights are the following:

- they belong to every natural person from birth or by law;
- they lack economic content;
- they are inextricably linked to the individual (in this case, a police officer), who cannot waive such rights or be deprived of them;
- they are absolute in nature;
- they are held by the individual (police officer) for life (Article 269 of the Civil Code of Ukraine).

A key distinguishing feature of this category of subjective civil rights—personal non-property rights—is their intrinsic connection to the personality of the rights-holder. As some scholars rightly note, it is more accurate to refer to this feature as a “personalist character” rather than a “personal character,” since not only personal non-property rights but also other rights (e.g., property rights) held by individuals may be considered personal. This close connection between personal non-property rights and the authorized person determines the legal particularities of their origin, termination, exercise, and disposition. These legal consequences of the personalist nature of such rights are reflected in Article 269 of the Civil Code of Ukraine: they arise from the moment of birth of a natural person, and in certain cases, on the basis of the law; a natural person cannot renounce personal non-property rights or be deprived of them and retains them for life (Hora, 2014).

An analysis of Book 2 of the Civil Code of Ukraine, *Personal Non-Property Rights of a Natural Person*, allows for the identification of those rights that ensure the social existence of an individual (Chapter 22 of the Civil Code of Ukraine). These include: the right to a name (Article 294), the right to change one's name (Article 295), the right to use one's name (Article 296), the right to respect for dignity and honor (Article 297), respect for a deceased individual (Article 298), the right to inviolability of business reputation (Article 299), the right to individuality (Article 300), the right to privacy and its protection (Article 301), the right to information (Article 302), the right to personal documents (Article 303), the right to manage personal documents (Article 304), the right to access personal documents transferred to libraries or archives (Article 305), the right to confidentiality of correspondence (Article 306), protection of personal interests during photo, film, television, and videorecording (Article 307), the right to protection of personal interests in photographs and other artistic works,

or the right to one's image (Article 308), the right to freedom of literary, artistic, scientific, and technical creativity (Article 309), the right to residence (Article 310), the right to inviolability of the home (Article 311), the right to choose one's occupation (Article 312), the right to freedom of movement (Article 313), the right to freedom of association (Article 314), and the right to peaceful assembly (Article 315).

Thus, personal non-property rights vested in an individual constitute a component of the system of subjective rights and represent a tangible social phenomenon. These rights are not abstract; their classification encompasses a wide array of nuanced relationships and plays a key role in the regulation and guarantees of personal human rights. The Civil Code of Ukraine defines not only the range of social relations governed by civil law but also particular types of personal non-property rights. In doing so, it provides a legal foundation for the concretization and classification of personal non-property (intangible) rights (Chornoochenko, 2000).

3. Personal Non-Property Rights as a Legal Form of Social Relations

Personal non-property rights, which are the subject of this study, constitute a legal form of social relations arising from the possession of intangible benefits by an individual and serve as a legal mechanism ensuring their social existence. These benefits form an integral part of a person's social life, as they enable an individual to be a full-fledged member of society and are predominantly realized within the sphere of spiritual communication.

One such right is the right to a name, which entails the legally established possibility for a person to have a name, change it, use it, permit or prohibit its use by others, as well as demand its correct usage and prevent its distortion when addressing the holder of the respective right (Korchevna, 1998). Another example is the right to respect for honor and dignity, understood as the legally guaranteed possibility for an individual to require that the perception of their personality, activities, and actions by other subjects be based exclusively on accurate facts, without distortion of information or dissemination of false data. The concept of honor encompasses the societal evaluation of an individual's moral and ethical qualities, behavior, and social activities, reflecting the attitude toward them from their surroundings. Dignity, in turn, is understood as a person's internal awareness of their own value, grounded in their personal qualities, worldview, abilities, and social significance.

An example of a non-property right includes, in particular, the right to inviolability of business

reputation and the right to individuality. The right to inviolability of business reputation is a legally guaranteed possibility for a person to demand from others an objective and impartial assessment of their professional, business, or other qualities. This right also entails protection against unlawful encroachments that may harm the formed perception of the person. A distinguishing feature of this right is that its holder can be not only a natural person but also a legal entity, which differentiates it from the rights to respect for honor and dignity that belong exclusively to natural persons. The right to individuality means the legally established possibility for a natural person to maintain or change their national, cultural, linguistic, and religious identity, as well as freely choose forms and means of self-expression, provided these do not contradict current legislation or violate generally recognized moral and ethical norms of society (Dzera, 2001).

The right to access personal documents transferred to library or archival collections, stipulated by Article 305 of the Civil Code of Ukraine, by its legal nature is a personal non-property right of a natural person, which ensures the possibility of exercising certain actions to access private information contained in the respective collections. The content of this right lies in obtaining information that may be of public interest and possess scientific, historical, or cultural value. Its exercise aims to balance the public interest in access to significant data with the necessity of respecting the individual's right to privacy, which may be threatened by disclosure of confidential or sensitive information.

Also noteworthy is the right to confidentiality of correspondence, which encompasses guarantees of inviolability of letters, telephone conversations, telegraphic, and other forms of communication conducted in the private sphere. This right ensures the preservation of confidentiality of private communication and belongs to the personal non-property rights aimed at protecting private life. By its content, it is closely related to the right to personal documents, since both institutes ensure protection of private information from unlawful interference by third parties (Bandurka, 2004). Interference with the right to confidentiality of correspondence is permitted only by court decision and solely in cases explicitly provided by law. Such restriction may be imposed to prevent the commission of a criminal offense or to establish the truth during a pre-trial investigation, provided that the necessary information cannot be obtained by other, less intrusive means. Such limitation of individual rights must comply with the principle

of proportionality and be implemented strictly within the limits established by legislation (Antoniuk, 2004).

In the modern world, the right to information is also an important non-property right. It refers to the legally guaranteed possibility for an individual to freely seek, receive, store, use, and disseminate information. Legally, information means data fixed on material carriers or officially published concerning events, facts, and phenomena occurring or having occurred in society, the state, or the natural environment. However, the exercise of this right is subject to certain restrictions. In particular, it does not extend to information constituting personal secrets, except in cases provided by law, state secrets, or confidential information belonging to legal entities.

Additionally, non-property rights include the right to freedom of literary, artistic, scientific, and technical creativity; the right to freedom of association; and the right to peaceful assembly, among others.

4. Conclusions

Thus, the personal non-property rights that ensure the social existence of a police officer in Ukraine belong to the category of exclusive rights. The content of these rights constitutes a set of entitlements vested in the individual as the holder of these rights. They encompass both a positive aspect—legal recognition of the individual's right to the corresponding intangible benefit (right of possession) and the ability to use it (right of use) within the limits established by law, in accordance with the purpose of such benefit and considering the police officer's personal interests—and a negative aspect, which is manifested in the right to demand that other subjects refrain from encroaching upon this benefit, thereby ensuring protection against violations.

The identified personal non-property rights ensure the social existence of the police officer and are characterized by the following features: personal nature, intangible character, a specific

object, and orientation toward satisfying physical (biological), spiritual, moral, cultural, social, or other intangible needs (interests).

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Жанна Марініч,

ад'юкт, Національна академія внутрішніх справ, площа Солом'янська, 1, Київ, Україна, індекс 03035, marinichzhanna@ukr.net

ORCID: orcid.org/0000-0002-7138-8757

ФОРМИ ЗАХИСТУ ОСОБИСТИХ НЕМАЙНОВИХ ПРАВ, ЩО ЗАБЕЗПЕЧУЮТЬ СОЦІАЛЬНЕ БУТТЯ ПОЛІЦЕЙСЬКОГО В УКРАЇНІ

Анотація. Метою статті є дослідження форм захисту особистих немайнових прав, що забезпечують соціальне буття поліцейського в Україні. **Результати.** У статті досліджено форми захисту особистих немайнових прав, що забезпечують соціальне буття поліцейського в Україні. Підкреслено актуальність обраної теми статті, визначено базові категорії. Встановлено, що захист особистих

немайнових прав – це юридично закріплена можливість уповноваженої особи використовувати заходи правоохоронного характеру з метою відновлення порушеного немайнового права та припинення дій, що його порушують. Формою захисту особистих немайнових прав фізичної особи, які забезпечують її соціальне буття, визнано передбачену законодавством систему взаємоузгоджених дій уповноважених на те органів або самої фізичної особи чиї права порушуються, спрямованих на поновлення таких прав, припинення правопорушення та забезпечення відшкодування завданих ним збитків. **Висновки.** Зроблено висновок, що до захисту особистих немайнових прав, які забезпечують соціальне буття поліцейського в Україні, можливе застосування як юрисдикційної, так і неюрисдикційної форм захисту. До юрисдикційної форми захисту особистих немайнових прав, які забезпечують соціальне буття поліцейського в Україні, слід зарахувати: судовий захист та адміністративний порядок захисту, а до неюрисдикційної форми – самозахист і нотаріальну форму захисту. Підкреслено, що нотаріальна форма захисту особистих немайнових прав, які забезпечують соціальне буття поліцейського в Україні, має превентивний (попереджувальний) характер, оскільки захищає права поліцейського від порушень у майбутньому (зокрема, це стосується таких прав, як сприяння зміцненню законності та правопорядку, забезпечення захисту й охорони важливих прав та інтересів поліцейського, а також запобігання можливим правопорушенням. Оскільки об'єкт захисту не підлягає повному відновленню, захист у такому разі необхідно спрямовувати переважно на попередження порушення особистого немайнового права, що забезпечує соціальне буття поліцейського в Україні.

Ключові слова: цивільно-правовий захист, форми захисту, юрисдикційна форма захисту, неюрисдикційна форма захисту, самозахист, судовий захист.

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