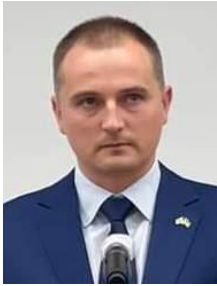


UDC 342; 922; 351.746
DOI 10.31733/2078-3566-2022-5-13-18



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CURRENT PROBLEMS OF ADMINISTRATIVE AND LEGAL PROCUREMENT OF NATIONAL SECURITY

Дмитро Припутень. АКТУАЛЬНІ ПРОБЛЕМИ АДМІНІСТРАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ НАЦІОНАЛЬНОЇ БЕЗПЕКИ. Стаття присвячена вивченню сучасного стану адміністративно-правового забезпечення національної безпеки і на цій основі вироблення пропозицій та рекомендацій щодо вдосконалення зазначеної сфери і підвищення ефективності діяльності органів публічної адміністрації.

У статті зазначається, що забезпечення національної безпеки є для нашої держави позачерговим і головним завданням, успішна реалізація якого обумовлює саме існування України. Обґрунтовується, що питання адміністративно-правового забезпечення національної безпеки – це справа не лише органів публічної адміністрації, але й суспільства в цілому і кожного громадянина зокрема. Звертається увага на те, що сьогодні інститути громадянського суспільства відіграють важливу роль у захисті державності та національних інтересів нашої країни, а іноді вони беруть на себе й виконання деяких окремих функцій влади, отримуючи при цьому іноді навіть більший рівень довіри у населення. Зазначається, що одним із шляхів удосконалення сучасного стану адміністративно-правового забезпечення національної безпеки має стати створення багаторівневої та багатофункціональної системи взаємодії між державою та інститутами громадянського суспільства в усуненні та нейтралізації загроз національній безпеці. Що, в свою чергу, потребує внесення змін та доповнень до відповідного законодавства.

Робиться висновок, що важливим кроком підвищення ефективності адміністративно-правового забезпечення у сфері національної безпеки України має стати перегляд деяких стратегічних цілей державної політики у цій сфері з врахуванням військової агресії (загрози безпеки та захищеності об'єктів критичної інфраструктури, здатність ефективно реагувати на неконтрольоване масове переміщення людей тощо), подальша розбудова системи національної незламності та стійкості (тут важливого значення мають такі напрямки, як забезпечення на державному рівні безперервності урядування та спроможності повноцінного функціонування системи органів публічної адміністрації, їх організаційна стійкість), підвищення рівня координації та взаємодії, у тому числі й інформаційної, між усіма суб'єктами сектору безпеки та оборони, підтримка тих реформ, які довели свою ефективність, створення системи адаптованого адміністрування (гнучкого менеджменту), здатної швидко та ефективно реагувати на кризові ситуації.

Ключові слова: безпека, національна безпека, забезпечення, адміністративно-правове забезпечення, стратегія, публічна адміністрація.

Relevance of the study. Ensuring national security is an urgent and main task for our state, the successful implementation of which determines the very existence of Ukraine. Protection of the sovereignty of Ukraine and its state borders, repelling military aggression, restoration of territorial integrity, reunification of temporarily occupied and uncontrolled territories, restoration of peace are important priorities for our state. The fulfillment of these tasks directly depends on the effective functioning of the national security system, which necessitates the creation of a qualitatively new model of state national security policy, reforming and improving the management system in this area. The study of the problems of administrative and legal ensuring of national security has not only great theoretical, but also important practical significance, as it is aimed at improving the legislation on national security and the activities of

public administration bodies in this area, determining the optimal means, ways and methods of effective provision of national security.

Recent publications review. The problems of national security and its administrative and legal ensuring attracted the attention of many scientists, among whom we can single out the works of such as O. Bandurka, M. Vikhlyayev, I. Golosnichenko, S. Kuznichenko, V. Lipkana, T. Minky, A. Starodubtseva, H. Yarmaki et al. At the same time, in the conditions of military aggression and global challenges, the issue of researching the problems of administrative and legal ensuring of national security becomes urgent.

The article's objective is to study the current state of administrative and legal provision of national security and, on this basis, to develop proposals and recommendations for the improvement of the specified area and increase the efficiency of public administration bodies.

Discussion. In articles 1, 2, 17, 18 and 92 of the Constitution of Ukraine, the legal bases, goals and basic principles of state policy in the field of national security, vectors of development of legislation and activities of public administration in this field are defined, which in general allows to protect society, the state and people from threats and challenges [1].

National security acts as an important function of every state, which is designed to guarantee favorable conditions for life and productive activities of citizens and state institutions, to protect the vital interests of people and society from external and internal threats. National security, as specified in Art. 1 of the Law of Ukraine "On the National Security of Ukraine" acts as "the protection of vital interests of man and citizen, society and the state, which ensures the sustainable development of society, timely detection, prevention and neutralization of real and potential threats to national interests" [1-2]. The protection of a person and a citizen, society and the state is ensured by appropriate activities that reduce or avert possible threats and increase protective and mobilization functions in times of danger. At the heart of this activity is the defense and implementation of the national interest of a certain country – a global, all-encompassing integral interest, the implementation of which makes it possible to realize the vital private, group and public interests of the vast majority of citizens. Therefore, national security is a kind of synthesis of the interests and needs of all social subjects [3, p. 240-244; 4].

Along with this, the modern security environment is characterized by a high degree of variability and unpredictability. The dramatic events currently taking place in the world, first of all, the war waged by the Russian Federation, a state that possesses nuclear weapons and is still a permanent member of the UN Security Council, against Ukraine, which at one time gave up nuclear weapons in exchange for international security guarantees, test the strength and viability of the existing mechanisms for ensuring peace and security, test the effectiveness of international organizations and alliances in practice, intensify the search for new mechanisms for ensuring global, regional and national security. The uncertainty of the situation significantly complicates the formation of national security policy by states, requires diversification of measures, strengthening of traditional security mechanisms with measures in the field of building national stability [5]. The above actualizes the issue of creating an effective state mechanism for ensuring national security in Ukraine.

Program documents, such as the National Security Strategy [6] and the Military Security Strategy of Ukraine [7] adapt to the changes taking place, balancing all types of security and changing the priority of implementing specific tasks of a regulatory, organizational, communicative, ideological, and functional nature. The main tasks are to achieve a new quality of stable development, even in the presence of an armed conflict and taking into account all existing or potential threats [8]. Along with this, the basis for the further development of the security environment is the need to reorient the entire system of public administration bodies, subjects of administrative and legal support of national security to unconditional observance of the principles of the rule of law, equality of all before the law, and transparency of government. After all, non-compliance with these principles contributes to the existence of facts of violation and non-compliance of human rights, the increase of corruption, violations in the field of humanitarian aid. Achieving this goal requires a decisive cleansing of the government from corrupt officials, agents of foreign states and non-professionals; radical reorganization of the state apparatus:

- 1) Reforming the civil service institute, creating effective state management bodies, forming a highly qualified, patriotic corps of civil servants, corresponding reform of the system of training and retraining of personnel, implementation of modern ethical norms of behavior of civil servants, military personnel, law enforcement officers, formation of a new security culture;
- 2) Balanced decentralization of state functions and budgetary resources, strengthening of

financial capabilities of local self-government bodies;

3) Concentration of the activities of executive authorities, local self-government bodies, prosecutor's offices and courts on the tasks of effective protection of the rights, freedoms and legitimate interests of citizens, national security of Ukraine;

4) Ensuring the openness and transparency of the functioning of state bodies, in particular, through the introduction of electronic government technologies [4].

Administrative and legal ensuring of national security directly depends on the priorities of the national security policy, which is the national security strategy of Ukraine, which reforms the institutions of the security sector – the Ukrainian army, other military organizations and law enforcement agencies to ensure readiness to perform national defense missions. In the context under consideration, the implementation of this strategic work is carried out in the following areas: support of the armed forces of Ukraine and other military organizations with high combat capabilities, combat and mobilization readiness, approximation of the composition, management system, training, equipment level to NATO standards; ensuring the budget funds for the security sector as a whole system within the limits of sufficient opportunities for reforming and developing the national security and defense sector; determination of the optimal structure and personnel of security sector agencies based on the urgent needs of national security [9, p. 10].

The restoration of the territorial integrity of the Ukrainian state, the rule of law throughout its territory, the reintegration of temporarily occupied and uncontrolled territories are the top priorities of the national security policy [10, p. 9-12].

The fundamental national interests of Ukraine are: state sovereignty and territorial integrity, democratic constitutional system, non-interference in Ukraine's internal affairs; sustainable development of the national economy, civil society and the state to ensure the growth of the population's level and quality of life; integration of Ukraine into the European political, economic, security, and legal space, acquisition of membership in the European Union and the North Atlantic Treaty Organization, development of equal and mutually beneficial relations with other states [11, p. 52-53].

Therefore, the effectiveness of the administrative and legal ensuring the national security directly depends on determining the characteristics of the security environment and determining the main sources of threats to national security. The further development of administrative and legal support in this area, methods of response, countermeasures and prevention of these threats will depend on how threats to national security will be defined and characterized.

First, corruption in the field of humanitarian aid is an urgent modern task that directly threatens national security. Therefore, the implementation of a principled and consistent anti-corruption policy, the priority directions of which should be the improvement of legislation and the procedure of verification and control in the field of humanitarian aid, the creation of effective control mechanisms for its receipt and use.

Secondly, the creation of an effective security and defense sector of Ukraine is a key task of forming a new model of guaranteeing national security. It should functionally unite military formations, law enforcement, intelligence agencies and special state bodies and services that protect national interests from external and internal threats through the use of weapons, special measures or legal coercion within the limits of their powers[4] the activities of all state bodies should be focused on forecasting, timely detection, prevention and neutralization of external and internal threats to national security, protection of the sovereignty and territorial integrity of Ukraine, security of its border area, promotion of the country's economy, provision of personal security, constitutional rights and freedoms of man and citizen, eradication of crime, improving the system of state power, strengthening law and order and preserving social and political stability of society, strengthening Ukraine's position in the world, maintaining its defense potential and defense capability at the appropriate level [11, p. 52-53].

Thirdly, in order to guarantee the effective functioning of the security and defense sector, it is necessary to create a system of strategic forecasting and planning in order to ensure an adequate response to real and potential threats to national security, to define a complex of political, military, economic, social, informational and other measures to prevent the emergence threats to national security, their neutralization and comprehensive countermeasures; ensuring the professionalization of the security and defense sector, raising the professional level of personnel, creating an integrated system of personnel training; improvement of the system of democratic civilian control over the security and defense sector of Ukraine [4].

Fourth, it is necessary to define normatively and enshrine in the National Security Strategy of Ukraine and other normative acts the threat of the destruction of the Ukrainian nation, people and state of Ukraine in order to mobilize all available resources to achieve victory over the aggressor-occupier, since there is no other way to survive in we simply do not exist [12-13]. Unfortunately, today the National Security Strategy and the Military Doctrine of Ukraine do not contain provisions regarding threats caused by military aggression.

Fifth, it is objectively necessary to develop and introduce effective civil control over the country's national security system into social practice, which corresponds to the forms, content and practice adopted in democratic countries of the world. The lack of political and legal justification and effective mechanisms (including legal) of such control leads to the fact that key decisions vital for the state and the nation are made behind the scenes, by a narrow, often unconstitutional circle of representatives of the executive power, and are "closed" to the general public, and most often even for the parliament and its committees [14; 15, p. 30]. Thus, the state's strategic orientations in the field of ensuring national security are that Ukraine should form sufficient own capabilities as a basis for ensuring its security and stability [5].

The creation and implementation of the system for ensuring national stability will contribute to: increasing the efficiency of the system for ensuring national security and public administration of Ukraine; ensuring the appropriate level of readiness of the state and society to respond to threats to national security and crisis situations of various origins at all stages of their deployment; establishment of effective interaction between all subjects of ensuring national stability; increasing the effectiveness of crisis management in the state; reducing the amount of human, material and financial losses as a result of the realization of threats, the onset of crisis situations of all kinds; consolidation of society, increasing the level of trust in the authorities; strengthening the potential of local communities, developing local self-government in the context of preventing and countering threats and crisis situations; savings of state and society resources due to their consolidation and effective use; international cooperation and exchange of experience in the field of strengthening national stability and integration of Ukraine into the Euro-Atlantic security system [16; 17, p. 384].

Conclusions. Summarizing, it should be stated that experience proves that the issue of administrative and legal ensuring of national security is a matter not only of public administration bodies, but also of society as a whole and of each citizen in particular. Today, civil society institutions play an important role in the protection of statehood and national interests of our country and sometimes they also take over the performance of some separate functions of the government, while sometimes gaining even a higher level of trust among the population. Therefore, one of the ways to improve the current state of administrative and legal ensuring the national security should be the creation of a multi-level and multifunctional system of interaction between the state and institutions of civil society in the elimination and neutralization of threats to national security. Which, in turn, requires changes and additions to the relevant legislation.

An important step in improving the effectiveness of administrative and legal ensuring in the field of national security of Ukraine should be the revision of some strategic goals of state policy in this field, considering military aggression threats to the safety and security of critical infrastructure facilities, the ability to effectively respond to uncontrolled mass movement of people etc.), further development of the system of national inviolability and stability (here, such areas as ensuring the continuity of government and the ability of the system of public administration bodies to function fully are important here, their organizational sustainability), increasing the level of coordination and interaction, including information, between all subjects of the security and defense sector, supporting those reforms that have proven their effectiveness, creating a system of adapted administration (flexible management), capable of quickly and effectively responding to crisis situations.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article deals with the study of the current state of administrative and legal provision of national security and, on this basis, the development of proposals and recommendations for the improvement of the specified sphere and the improvement of the effectiveness of public administration bodies. The article states that ensuring national security is an urgent and main task for our state, the successful implementation of which determines the very existence of Ukraine.

It is justified that the issue of administrative and legal provision of national security is a matter not only of public administration bodies, but also of society as a whole and of each citizen in particular. Attention is drawn to the fact that today civil society institutions play an important role in the protection of statehood and national interests of our country, and sometimes they also take over the performance of some separate functions of the government, while sometimes gaining even a higher level of trust among the population. It is noted that one of the ways to improve the current state of administrative and legal provision of national security should be the creation of a multi-level and multifunctional system of interaction between the state and institutions of civil society in the elimination and neutralization of threats to national security. Which, in turn, requires changes and additions to the relevant legislation.

It is concluded that an important step in improving the effectiveness of administrative and legal support in the field of national security of Ukraine should be a review of some strategic goals of state policy in this field, taking into account military aggression (threats to the safety and security of critical infrastructure objects, the ability to respond effectively to uncontrolled mass movement of people, etc.), further development of the system of national indomitability and stability (important here are areas such as ensuring at the state level the continuity of governance and the full functioning of the system of public administration bodies, their organizational stability), increasing the level of coordination and interaction, including information, between all subjects of the security and defense sector, supporting those reforms that have proven their effectiveness, creating a system of adapted administration (flexible management) capable of quickly and effectively responding to crisis situations.

Keywords: security, national security, provision, administrative and legal provision, strategy, public administration.