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Supporting System of the National Security System of Ukraine: Legal Regulation

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Abstract

The purpose of the investigation is to determine the components of Ukraine's national security support system and the nature of its implementation in the context of current events in the country. As the main content of the investigation, it has carried out a comprehensive analysis of the state of national security in Ukraine, its system, main tasks, and structural elements. In addition, it has examined the state of realization of Ukraine's national security in the context of modern developments in the state. Methodologically, the documentary research technique was used since the main sources of the study were documentary. The basis is the dialectical method of knowledge of the facts of social reality, on which comparative formal and legal approaches are largely based. The main organs that guarantee the national security of the state include the country's Armed Forces and all state power structures who have as their main task assigned by the state: to guarantee the highest possible level of protection of the nation together with its strategic interests.

Keywords: state security; national security; national security elements; national security support system; legal basis of national security in Ukraine.

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Sistema de apoyo del sistema nacional de seguridad de Ucrania: Reglamento legal

Resumen

El propósito de la investigación es determinar los componentes del sistema de apoyo de la seguridad nacional de Ucrania y la naturaleza de su implementación en el contexto de los eventos actuales en el país. A modo de contenido principal de la investigación, se ha realizado un análisis exhaustivo del estado de la seguridad nacional en Ucrania, su sistema, tareas principales y elementos estructurales. Además, se ha examinado el estado de realización de la seguridad nacional de Ucrania en el contexto de los acontecimientos modernos en el estado. En lo metodológico se hizo uso de la técnica de investigación documental ya que las principales fuentes del estudio fueron documentales. La base es el método dialéctico de conocimiento de los hechos de la realidad social, en el que se sustentan en gran medida los enfoques legales formales y legales comparados. En las conclusiones cabe señalar que los principales órganos que garantizan la seguridad nacional del estado incluyen a las Fuerzas Armadas del país y a todas las estructuras de poder estatales que tienen como tarea principal asignada por el estado: garantizar el más alto nivel posible de protección de la nación junto a sus intereses estratégicos.

Palabras clave: seguridad del estado; seguridad nacional; elementos de seguridad nacional; sistema de apoyo a la seguridad nacional; bases legales de la seguridad nacional en Ucrania.

Introduction

Ukraine's progressive development in today's conditions depends primarily on the implementation of effective policies in the field of protection of national interests and territorial integrity. Thus, the security of the state is of great importance, which makes it possible to prevent and neutralize any threats to the destruction of the interests of citizens, their property, as well as life and health. The meaning of the concept of "national security" is determined by the historical and sociopolitical conditions of the state in which it is originated, operates and develops. It should be emphasized that the understanding of the essence of national security differs among different segments of the population. In particular, it is mainly associated with the activities of special services or identified with the defense of the state.

1. Literature review

Analysis of publications that have begun to explain the problem has been carried out. The issue of the national security and its understanding is in the purview of such scholars as Liutikov, Kondratiev, V. Lipkan, H. Sytnyk, etc. However, despite the large number of scientific papers that investigate various aspects of national security of Ukraine, we can say that in the context of recent events in our country and since the adoption of the new Law of Ukraine “On National Security of Ukraine”, today there are no fundamental theoretical and legal studies of the state of national security, its system, main tasks and structural elements.

2. Material & methods

The methodological basis of the study is philosophical, general, and special scientific methods. Thus, the system-structural method made it possible to formulate the main elements of legal regulation to Ukrainian national security system. Further, the application of the comparative and legal method was useful in analyzing the differences between national and international law of Ukrainian national security system.

The use of methods of analysis, synthesis, systemic and structural-functional methods allowed to study the main components of the system of public administration in the field of national security of Ukraine, their connections and at the same time to analyze the administrative-legal category “national security system” as a single whole, to formulate the concept of “public administration in the sphere of national security of Ukraine”, to analyze its nature and essence. The application of the structural-functional method contributed to a comprehensive study of administrative and legal relations that arise and are carried out in the process of protecting national interests and guaranteeing the security of individuals, society, and the state in Ukraine against external and internal threats in all spheres of life.

The comparative legal method was used in the process of studying and theoretically substantiating different models of public administration. The statistical method contributed to determining the main trends in the development of public administration in the sphere of national security of Ukraine in different conditions. The formal-legal method was applied to analyze the practice of public administration in the sphere of national security of Ukraine, etc. An integrated approach has contributed to a comprehensive consideration of national security as a category of administrative law, the study of its essence and content.

3. Results and discussion

The analysis of the domestic scientific literature makes it possible to distinguish different approaches to understanding the concept of national security. From the UN documents follows the approach according to which, national security is understood as the security of the state in all spheres of life of the people, as the sole bearer of sovereignty and source of state power (Leheza *et al.*, 2021).

For example, V.A. Lipkan understands national security as a set of officially adopted views on goals and state strategy in the field of ensuring the security of individuals, society, and the state against external and internal threats of political, economic, social, military, man-made, ecological, informational and other kinds, taking into account the available resources and capabilities (Lipkan *et al.*, 2006).

Ya.Yu. Kondratiev defines that national security is the ability of a nation to meet the needs necessary for its self-preservation, self-reproduction and self-improvement with minimal risk of damage to the basic values of its current state (Kondratiev and Lipkan, 2003).

M.O. Kosolapov affirms that security is a stability that can be maintained over the long term, a state of reasonable dynamic protection against the most significant of the actual threats and dangers, as well as the ability to recognize such challenges and take timely measures to their neutralization (Kosolapov, 1992).

It should be noted that it is traditionally believed that the basis of the national security of any country at any time is the preservation of the state within the borders in which it exists at this historical moment. Therefore, the threat to state “integrity” is supposedly a universal and non-ideological characteristic. This threat is especially evident during the war, as a result of which the latter is always a reason for national consolidation (i.e. emotional experience of unity beyond all social and class divisions) and national mobilization (Andrieieva, 2009).

Consequently, it can be confirmed that there are indeed many different approaches to understanding national security, all of which differ to a certain extent, but we can state that we are talking about a whole complex of political, economic, social, health, military and legal measures aimed at ensuring the normal functioning of the nation and eliminating possible threats to the state (Leheza *et al.*, 2021).

The problem of national security is related to political stability. If national security is a permanent system of protection of the interests of citizens of the country and the state in all spheres of society (from economy and defense to the daily security of citizens), then political stability is a state of society directly affected by the current national security system. If we consider

the national security of the country as a system of preserving the interests of the country as a whole to ensure its strategic development, it implies a certain balance between controlling resource flows and the implementation of decisions at all levels of executive power. In addition, this requires the effective functioning of all branches of state power (Sytnyk, 2012a).

It is well known that the main objects of national security are citizens, their constitutional rights and freedoms, as well as their lives and health. Based on this, the main task of every state governed by the rule of law and democracy, which recognizes the human being as the supreme social value, is to ensure proper conditions for human existence, preservation of health, honour, dignity, the right to self-determination and, of course, private property (Leheza *et al.*, 2021).

National security in Ukraine is seen as a state of protection through the implementation of an effective state policy of vital interests in accordance with national and international law in various spheres of public life (Prymachenko *et al.*, 2021).

In addition, the protection of individual and citizen, society and the state is also ensured by its relevant activities, which reduce or avert probable threats and increase the protective, mobilizing functions in times of danger. At the heart of this activity is the assertion and realization of the national interest of the country, a global, comprehensive integrated interest, the implementation of which allows the realization of vital private, group and public interests of the vast majority of citizens. Thus, national security is a kind of synthesis of interests and needs of all social actors (Smolianiuk, 2017).

As regards the threats in question, they can arise in various spheres of life. They are of a subjective and objective nature. Everything that man has created with his own hands can be a threat to his existence. Rapid scientific and technological progress, globalization, modernization, the constant growth of human needs have also given rise to negative consequences. Examples of new threats include transport accidents, catastrophes, explosions at nuclear power plants and chemical plants, the improvement of weapons of mass destruction, the destruction of the Earth's ozone layer, global warming, etc. There are many classifications of threats to national and international security based on various criteria. Most scholars distinguish according to the nature of threats: political, military, economic, social, cultural, environmental, and ideological (Pylypenko, 2014).

For example, speaking of Ukraine today, the current threats to the national security of our state include aggressive actions of the Russian Federation to deplete the Ukrainian economy and undermine social and political stability in order to destroy the Ukrainian state and seize its territory; inefficiency of the national security and defense system of

Ukraine, corruption and inefficient public administration system, economic crisis, depletion of financial resources, lower living standards, threats to energy security, threats to information security, threats to cybersecurity and security of information resources, threats to the security of critical infrastructure, threats to environmental security, etc (Pryimachenko *et al.*, 2021).

In addition, as an example, it is worth mentioning the events in Syria related to the conflict in this country, mass refugee flows, exacerbation of terrorism in Europe, the deteriorating humanitarian situation on the periphery of the EU, neighboring countries, growing internal tensions in some European countries and the strengthening of nationalist, extremist parties and movements - all this clearly illustrates the trends in the development of transnational threats to modern states (Yuskiv, 2016).

As already mentioned, national security is ensured by realizing the priority of national interests, timely action and based on the principles of a democratic state governed by the rule of law.

Any state and Ukraine is no exception, is not able to simultaneously cover the whole range of problematic issues in the field of national security and begin to solve them. There are quite obvious limitations on the means and resources that are available, the means of their application. Hence, it follows the need to identify priority national interests and goals, which should be clarified in the process of developing national security policy. That is why, under any circumstances, national security policy should primarily be aimed at ensuring the geopolitical interests of Ukraine, its independence, political stability, and progressive socio-economic development. In the field of domestic policy, the main prerequisite for achieving the protection of national interests should be the unification of the nation to solve spiritual, cultural, and material problems based on general stability and harmony in the state, nonviolent resolution of internal social conflicts, and external - planning and implementation of foreign policy actions from the point of view of ensuring national interests (Sytnyk, 2010).

In every developed foreign country, national security, due to its multi-component nature, requires an effective system to ensure it. One of the primary tasks is to ensure national security through actions aimed at protecting and realizing national values and interests, in the context of which the question of the need for a certain strategy is raised.

France, for example, has a national security strategy that includes five main functions to be provided by the defense and security forces: knowledge and warnings; prevention, deterrence, protection, and intervention. Knowledge and warnings are a new strategic function. The French believe that knowledge is the first line of defense in an unstable world. Knowledge guarantees their traditional autonomy in decision-making and provides an opportunity for France to take the strategic initiative within both NATO

and the EU. In addition, France identifies four priorities in protecting Europeans: strengthening cooperation in the fight against terrorism and organized crime; improving European defense capabilities; coordinating defense agencies against cyber attacks; and providing a reliable supply of energy and strategic raw materials. In order to combat them in France in 2008 a new body, the Defense and National Security Council, was created for the first time (Sytnyk, 2012b).

Thus, if there is a strategy of national security, the system of national security is created by the state, an appropriate system of both state and non-state institutions, using theoretical and methodological, normative and legal, information and analytical, organizational and managerial, intelligence principles are designed to solve problems of national security in a certain way defined by the legislation. The main elements of the national security system, respectively, are its subjects and objects. In order to ensure its integrity, it is also important to have direct and feedback links between them, interaction with the political organization of the state as a whole, the influence of internal and external environment (Reznikova, 2015).

The structures of the national security system include, inter alia, state authorities and their powers, legislative support (the regulatory framework for the activities of these authorities) non-governmental organizations and their regulations. As for the first structures, they should deal with national security in a systematic way, using the entire powerful potential of our state, while the second - non-governmental organizations - belong to civil society. It should be noted that with the weakness and fragmentation of civil society, it is difficult to believe that the network of these institutions is able to ensure the interests of the citizen at the state level.

It is worth noting that the system of ensuring national security is not just a set of interacting structures, but also a certain process of formation of the legal field and political decision-making in the sphere of ensuring national security. The structure of the system to ensure national security should include a subsystem, the main function of which is not only the development and adoption of state-management decisions on the implementation of national security policy, but also the formation of the legal field of the said policy. This function is performed by the system of state management of national security, which is a subsystem of the national security system (Sytnyk, 2012b).

Conclusion

Thus, the system of national security has its components, which include: protection of state sovereignty and territorial integrity; guaranteeing the constitutional order; creating conditions for political and economic independence; ensuring public order; fight against crime, etc.

It is clear that all these actions are carried out by authorized bodies, which in accordance with their competence implement various state programs, regulations, directives and international treaties, as well as the rules of domestic law. It should be noted that the main bodies that ensure the national security of the state include, first of all, the Armed Forces of the countries and all power structures of the state. All of them have the main task assigned to them by the state - to ensure a high level of protection of national interests, in the context of which appropriate conditions are created for the stable development of each individual, society and state. It should be emphasized that the condition for the effectiveness of this policy is the priority of non-violent ways to protect national interests and values.

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