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CONCEPTUAL PRINCIPLES OF LEGAL REFORM IN THE FIELD OF NATIONAL SECURITY OF UKRAINE

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ABSTRACT: The author of the article has conducted a comprehensive theoretical and legal research of the principles for reforming national security in the domestic jurisprudence. The author has defined the priorities and directions of the reform in the national security sector, and more important – its theoretical and methodological basis.

It has been outlined that theory of national security is currently undergoing a stage of active formation and dynamic development. The search for reliable theoretical principles for the organization of the strategic planning system in the national security sector requires its consideration in terms of the application of the most general political and legal methods and tools of the state's activities, built on the basic principles of complex and systematic nature and aimed at achieving the highest level of the national security.

It has been concluded that the formation and implementation of state national security policy in Ukraine is one of the main problems of effective management of a transforming society. Ukrainian political practice indicates that the technology of implementing the doctrines, strategies, concepts and programs of the state policy in the national security sector should objectively integrate all components of political activity of the state and should be based on sound theoretical principles and historical experience.

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It has been determined that the main purpose of the national security reform is such a quality improvement of legislation and governance in the national security sector, which can provide quality strengthening the protection of key national interests from external and internal, real and potential threats, in accordance with epy current and future needs of society. It may provide the creation or substantial renewal of the activities of existing entities that ensure the national security, a significant change (“reformatting”, “resetting”) of the national security sector in accordance with existing social needs.

INTRODUCTION

The concept of security occupies in the modern world a special place in all processes of human life: political, economic, social, technical, biological and others. It is evidenced by the events of recent years, which are related to the intensification of global security problems and the rather ambiguous impact of globalization processes on the development of different countries. Under such conditions according to scholars

the rivalry between the leading states for the redistribution of spheres of influence is gaining new strength and the threat of using force in resolving the existing contradictions is growing, as evidenced by the steady increase in expenses spent on new weapons systems. The global escalation of terrorism has become real, the flow of illegal migration and the likelihood of new nuclear states is constantly growing, and international organized crime is threatening (Sytnyka, 2016, p. 11).

The global COVID-19 pandemic stipulates the intensification of various socio-political and socio-economic problems, which are often transformed into armed conflicts, confrontation of various social groups, the escalation of which becomes a real threat to international peace and stability of further development.

Under the conditions of the ongoing Russian armed aggression (which is currently considered as the main challenge to the Ukrainian security space) (Kravchuk, 2019, p. 182), temporary occupation of part of Ukraine, growing threats to the state economic and information security, the preservation and further development of Ukraine as a sovereign, democratic,

social, legal state depends on successful implementation of the national security policy capable of guaranteeing the protection of vital interests of the state (its constitutional form of government, sovereignty, territorial integrity and inviolability of state borders), society (its material and spiritual valuables) and the individual (his rights and freedoms) from internal and external threats. In other words, the national security is the key determinant of state sovereignty and territorial integrity of the Ukrainian state both now and in the future (Antonov, 2017, p. 89).

National security is one of the key elements for the state's functioning, which provides not only the possibility of existence, but also the proper development and freedom of national interests. It is the reason why the concept of state policy in the national security sector of Ukraine should be comprehensive and systematic and provide the coordination of external and internal components of economic, social, environmental, scientific and technological, cultural, military, information policy of the state (Podkovenko, 2021, p. 12).

That is why, the problem of quality national security, the development of a systematic state policy to protect national interests and appropriate mechanisms for its implementation are extremely relevant in modern conditions. This problem attracts special attention of statesmen and public figures, scholars from various fields and ordinary citizens of Ukraine.

V. Kopanchuk rightly notes that "the multifaceted and complex nature of this problem has made it as the subject matter of research by specialists in almost all fields of scientific knowledge: engineering, philosophy, sociology, law, psychology, economics, mathematics, ecology, biology, health care, etc. Effective state management of the national security involves systematization, detailing, classification, definition of regularities, relationships and internal hierarchy between them, as well as the basic concepts used while studying the national security" (Kopanchuk, 2017, p. 2).

THEORETICAL AND METHODOLOGICAL BASIS OF LEGAL REFORM IN THE FIELD OF NATIONAL SECURITY OF UKRAINE

The concentration of scientific efforts on the problem of ensuring national security within the legal field in the current conditions is at the interdisciplinary level, but mainly within several areas of public law: criminal, administrative, environmental, financial ones. However, the problem of ensuring national security is not limited at the level of the indicated legal sciences.

The purpose of the article is a comprehensive theoretical and legal research of the conceptual principles of the national security reform in the domestic jurisprudence.

In this regard, there is the primary need not only to correctly determine the priorities and directions of the reform in the national security sector, but more importantly – to determine its theoretical and methodological basis. The success of such a reform will also depend on this. We are confirmed in this due to an unbiased analysis of the practice of reforming national security institutions in previous years (in particular, institutions of the Security Service of Ukraine, institutions of military and emergency situation, etc.), which was often carried out without sufficient scientific justification, mainly on the basis of empirical experience, by the rule of thumb. The results of such reforms, as we know, have not had a noticeable cumulative effect in increasing the institutional capacity of Ukraine's national security system, which was evident during the first stage of Russia's armed aggression and annexation of Crimea with virtually no resistance.

It should be noted that legal reform in the national security sector in theoretical and legal sense appears as an invariant (specific type) of legal reforms, which is subordinated to all general regularities of initiation, organization and implementation (realization) of legal reform as a generic phenomenon. At the same time, such a reform appears as a complex, multifaceted social phenomenon that reflects a certain level of general theoretical legal thought and national security area, features of legal science, the state of legislative and conceptual developments on this issue, on the basis of their generalization one can consider it in various aspects.

Legal reform in the national security sector from theoretical and legal point of view provides systematic, scientifically sound, socially acceptable and justified changes and amendments: 1) in legislation that guarantees the national security and protects national interests; 2) in the structure, organization and activities of state authorities and other entities responsible for ensuring national security, in the system of their functions and powers, as well as in the ways (forms, methods) of their implementation; 3) in the qualitative strengthening of the state of protection of the whole array of public relations centered around the national security and covered by the object of reform, from external and internal, real and potential threats. Thus, the reform of the national security appears in the unity of three components: normative and legal (regulatory), managerial (subjective) and object (change of the sphere of public relations in the national security sector) (Zahumenna, 2021, pp. 88-105).

Having certain chronological frameworks conditioned, as a rule, by conceptual (strategic) regulatory documents, which envisage the conduction of reform, the latter gradually grows into the current (ordinary, stable) process of functioning of institutions (elements) of the national security in the ordinary legal regime.

If we resort to the classifications of legal reforms established in legal science (Malyshev, 2011, p. 22), then the national security reform in its external manifestations can be democratic and bureaucratic, short-term or long-term, superficial (fragmentary) or comprehensive (systemic), can cover the entire security legislation or its individual institutions, be purely managerial, regulatory or mixed (managerial and regulatory).

PRIORITY DIRECTIONS OF LEGAL REFORM IN THE NATIONAL SECURITY SECTOR

The specificity of the reform in the field of national security is proved by the fact that, on the one hand, it appears as an autonomous legal reform, and, on the other hand, social relations covered by the reform (object of the reform) often intersect with objects of other legal reforms. Secondly, the reform in this area is closely related to the reform of the defense sector,

which sometimes leads to a more generalized scientific discourse and practical developments in the broader field – the national security and defense sector, which is reflected in the basic Law of Ukraine «On National Security» (The Verkhovna Rada of Ukraine, 2018).

In the course of studying the legal reform in the national security sector, its regulatory legal aspect naturally becomes the priority. As it is well known, a certain amount of knowledge about the goals and objectives, the main directions, stages and perspectives of the national security reform has been already accumulated. The generalized results of scientific research on the reform of public relations in the national security sector of Ukraine are reproduced in a number of regulatory legal acts of a conceptual nature. Thus, program normative documents, which contain goals, objectives, priorities of reforming the system of national security of Ukraine play the decisive role among them. Such acts are currently the Sustainable Development Strategy «Ukraine 2020», approved by the Decree of the President of Ukraine of 12 January 2015, No. 5/2015 (President of Ukraine, 2015), the National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine of 14 September 2020, No. 392/2020 (President of Ukraine, 2020), The Strategic Defense Bulletin of Ukraine, approved by the Decree of the President of Ukraine of 25 March 2021, No. 121/2021 (President of Ukraine, 2021), as well as a number of sectoral strategies and program documents for the development of individual state agencies endowed with powers in the national security sector. The most important aspects – goals, objectives, directions – reforms in the national security sector are published in the annual messages of the President of Ukraine to the Verkhovna Rada of Ukraine, are detailed in acts of the National Security and Defense Council under the President of Ukraine, the Cabinet of Ministers of Ukraine and other executive agencies, etc. They are discussed in details at scientific, scientific and practical seminars, conferences, “round tables”, in scientific periodicals, etc.

Upholding independence and state sovereignty; restoration of territorial integrity within the internationally recognized state border of Ukraine; social development, first of all development of human capital; protection of the rights, freedoms and legitimate interests of the citizens of Ukraine; European and Euro-Atlantic integration are recognized as the National

Security Strategy of Ukraine, approved by the Decree of the President of Ukraine of 14 September 2020, No. 392/2020, and as priorities of national interests of Ukraine and ensuring national security (President of Ukraine, 2020). The priority areas of the security sector reform in this document are: strengthening democratic civilian control in the field of national security, improving management efficiency, strengthening supervision and strengthening the accountability of officials and civil servants of the security sector; ensuring the implementation of legislation in the field of national security; creation of the system of effective management and coordination of the activities of the security sector agencies, improvement of its architecture; optimization of the structure, functions and personnel number of the Security Service of Ukraine; creation of an effective intelligence community, strengthening the system of coordination and control over the activities of intelligence agencies; formation of the national cybersecurity system; completion of the reform of the National Police of Ukraine; ensuring the development of the National Guard of Ukraine, taking into account the experience of EU Member States; development and use of integrated video surveillance systems with the analytical component in the interests of public safety; ensuring the development and improvement of the national system of state border protection, in particular the implementation of European standards of border security; optimization of the state system of civil protection; automation of the processes of providing administrative services to foreigners and stateless persons, strengthening migration control at the state border and within the state (President of Ukraine, 2020).

The Strategic Defense Bulletin was developed on the basis of the National Security Strategy of Ukraine and the Military Security Strategy of Ukraine. Representatives of the Ministry of Defense, the General Staff of the Armed Forces of Ukraine, other defense force elements, representatives of central executive bodies, scientific institutions, and nongovernmental organizations took part in shaping the document. Foreign experts (advisors) were also involved, in particular the NATO Representation to our country. The promising model of defense force will be achieved through the implementation of five strategic goals: 1) effective defense management and a system

of joint leadership of defense forces and military command in the Armed Forces, carried out on the principles of democratic civilian control, other NATO principles and standards, 2) professional and motivated personnel defense forces, the trained military reserve is supported by effective transparent systems of personnel management, military education and science, health care and social protection; 3) modern weapons and military (special) equipment, ensuring the fulfillment of tasks by the Armed Forces of Ukraine, other components of the defense forces, in particular together with the relevant structures of the NATO member states, 4) developed military infrastructure, unified logistics and sufficient supplies inventory, an effective system of medical support that meets the needs of the Armed Forces of Ukraine, other components of the defense forces to repulse armed aggression against Ukraine; 5) integrated operational (combat and special) capabilities of the defense forces that provide for repulsing and countering armed aggression against Ukraine, hybrid threats (President of Ukraine, 2021).

Although not all of the above areas can, in our opinion, be attributed to the priority areas of the reform in the national security sector, the outlined allows us to distinguish both as the approaches of scholars, who mostly arbitrarily identify priorities, and the official position of senior management on the specifics of such a reform. However, one way or another they cover a certain amount (set) of measures by the state, which are usually regulatory and administrative in nature and are aimed at a certain system of public relations, which are centered around the categories of national security and national interests that are fundamental, determining and structural for the organization and implementation of the relevant reform measures in general.

The pragmatist (or transformative) aspect of the reform, which reflects its main directions, ways of implementation, the expected results of this reform, etc. is equally important. Thus, S.P. Ponomarov offers to identify the following main areas of state activity in ensuring the national security of Ukraine: improvement of legislation, including harmonization of legal norms, elimination of conflicts and ambiguous interpretation of regulatory legal acts; interaction with foreign countries on exchanging experi-

ence, economic and political cooperation; development of information technologies to eliminate threats to information security of Ukraine and prevention of their occurrence; combating corruption; strengthening the state's defense capabilities; prevention of threats to security and defense of the state, where increase of social security, economic growth, financial and political stability in the state, etc. are the priorities (Ponomarov, 2018, pp. 109–114). Such domestic researchers as O.O. Reznikova and S.V. Somin pay attention to somewhat other reform priorities, in particular: enshrining a clear system of strategic decision-making and division of responsibilities in the field of national security in the legislation, taking into account the principles of national stability; strengthening of interdepartmental interaction, establishment of constant communications in the processes of state decision-making; more active involvement of the public into the processes of control over the activities of the security and defense sector and public decision-making (at the stage of developing concepts, regulatory legal acts, etc.) (Reznikova, Somin, 2019).

Finally, there are sometimes more detailed scientific approaches to outline the priority areas of the reform in the national security sector of Ukraine, where administrative and regulatory aspects are separately studied. Thus, it is envisaged in the field of reforming the system of public administration in the national security sector of Ukraine: improvement of the system of national security of Ukraine; development and implementation of the modern state policy of national security of Ukraine, adequate to current challenges and threats and subordinated to the principle of defense adequacy; establishment of effective mechanisms for the implementation of the state policy on ensuring national security in terms of military aggression; Improvement of the mechanism of coordination of the activities of executive agencies and local self-government on the national security issues; creation of an effective system for preventing and combating corruption; introduction of new mechanisms of democratic civilian control over the security and defense sector of Ukraine, etc. At the same time, the improvement of regulatory legal support of epy national security of Ukraine provides: improvement of basic legislation on epy national security of Ukraine, which should determine the principles and specific features of the national security system's functioning; elaboration

and submission to the Verkhovna Rada of Ukraine of a draft law on tasks and powers of the Verkhovna Rada Committee of Ukraine, whose powers include the provision of control functions of the Verkhovna Rada of Ukraine over the activities of state special purpose agencies with law enforcement functions, law enforcement agencies, special purpose law enforcement agencies and intelligence agencies, etc. (Sitsynskyi, 2020, p. 491).

Besides, given that national security is a phenomenon that closely interacts with the field of international security, it should be recognized that the reform of the national security sector must take into account Ukraine's commitments in the field of international law, especially in view of constitutionally proclaimed course for integration into EU and NATO organizations. Successful reform of the national security system of Ukraine is considered both on the basis of clear legal regulation of its parties, structure, functions, etc., and on the basis of effective integration of this system into the system of international and regional security (Sitsynskyi, 2020). In regard to Ukraine's commitments in the context of Euro-Atlantic integration, the national security reform must comply with NATO principles and standards ensured, inter alia, through the development and implementation of Annual National Programs under the auspices of the NATO-Ukraine Commission. It is important in the same context that deepening of international cooperation in the field of ensuring national security of Ukraine also creates additional opportunities for advanced training of servicemen, law enforcement officers and civilian employees of the security sector and training relevant personnel in accordance with EU and NATO standards (The National Institute for Strategic Studies, 2018).

CONCLUSION

The assessment of the actual, real legal reform in the national security sector in modern Ukraine has a dualistic nature, which is due to the discrepancy between the real and the desired state of its implementation. The real reform in the national security sector is characterized by the pre-

dominance of bureaucratic elements, superficiality (fragmentation), frequent inconsistency of legislative amendments, with the predominance of the managerial aspect and the relatively weak impact of the reform on the regulatory sphere.

On the contrary, the desired (expected) “snapshot” (image) of this reform is characterized by the democracy of its initiation, organization and implementation, complexity (system nature) and depth of amendments in legislation and changes in the real architecture of national security, the consistent nature of reform measures and implementation changes, the predominance of the regulatory aspect (changes in mainly social relations covered by the national interests of Ukraine) and a high level of public susceptibility to such changes. It is also expected to increase the dynamics of such a reform, expand its subject area, as well as deepen the reform itself, the public demand for which is not naturally reduced in Ukraine.

The main object of the reform in the national security sector is the whole complex of public relations, which is subject to special protection by the system of entities that ensure the national security. The system of such public relations is centered around the defining national interests, which usually include the vital interests of a human being, society and the state, and the implementation of which ensures the state sovereignty, its progressive development, as well as safe living conditions and welfare of citizens.

The tasks of ensuring national security and defense must be extraordinary in the activities of the state, because the very existence of the state depends on the status of the national security (Ponomarov, 2018, p. 5). The main purpose of the national security reform is such a quality improvement of legislation and governance in the national security sector, which can provide quality strengthening the protection of key national interests from external and internal, real and potential threats, in accordance with epy current and future needs of society. It may provide the creation or substantial renewal of the activities of existing entities that ensure national security, a significant change (“reformatting”, “resetting”) of the national security sector in accordance with existing social needs.

The reform in the national security sector in the procedural aspect appears as a progressive, step-by-step evolutionary process of expedient,

initiated and implemented changes in accordance with certain conceptual and regulatory guidelines, which implement a set of interrelated and logically conditioned steps – measures of initiating entities, organizing and conducting the reform, achievement of its goals and objectives. The evolutionary nature of the reform is manifested in the support of viable and constructive elements of the national security and the improvement or replacement of ineffective, conservative elements of its provision. The cumulative effect of each stage of the reform is to improve the institutional, functional, regulatory and other elements of ensuring national security, reproduction of its positive qualities, increase and strengthen of them, while eliminating inoperable and outdated elements of the national security system.

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