



Structure of the administrative and legal mechanism for ensuring national security of Ukraine in the context of European integration

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Abstract

The aim of the article was to reveal the structure of the administrative and legal mechanism for ensuring the national security of Ukraine in the context of European integration. In the course of the study the following methods were used and combined: axiomatic, analysis and synthesis, classification, hermeneutic, deductive, dialectical and metaphysical, logical and semantic and modeling. In the results of the research, it is generalized that the framework of national security provision in the circumstances of European integration is similar to the basic elements of any other instrument of provision of activities. In practical terms it is defined, what material and conceptual elements are included in the structure of the administrative legal mechanism. In the conclusions it is emphasized that these legal and administrative components can be: on the one hand, normative, institutional, instrumental, analytical, etc.; and, on the other hand, organizational, practical and implementation and mixed.

Keywords: administrative and legal mechanism; collective security; European integration; national security; Eastern Europe.

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Estructura del mecanismo administrativo y legal para garantizar la seguridad nacional de Ucrania en el contexto de la integración europea

Resumen

El objetivo del artículo fue revelar la estructura del mecanismo administrativo y jurídico para garantizar la seguridad nacional de Ucrania en el contexto de la integración europea. En el curso del estudio se utilizaron y combinaron los siguientes métodos: axiomático, de análisis y síntesis, de clasificación, hermenéutico, deductivo, dialéctico y metafísico, lógico y semántico y de modelización. En los resultados de la investigación se generaliza que el marco de provisión de seguridad nacional en las circunstancias de la integración europea es similar a los elementos básicos de cualquier otro instrumento de provisión de actividades. En términos prácticos se define, qué elementos materiales y conceptuales se incluyen en la estructura del mecanismo jurídico administrativo. En las conclusiones se destaca que estos componentes jurídicos y administrativos pueden ser: por una parte, normativos, institucionales, instrumentales, analíticos, etc.; y, por la otra, organizativos, prácticos y de aplicación y mixtos.

Palabras clave: mecanismo administrativo y jurídico; seguridad colectiva; integración europea; seguridad nacional; Europa del este.

Introduction

The task of ensuring national security and defense should be a priority in the activities of the State, since the very existence of the country depends on the state of national security. Its implementation directly depends on the proper mechanism for the formation and incorporation of the relevant State policy (Shilin *et al.*, 2022). This concept cannot be considered as some isolated phenomenon, separated from public life.

If the national security of Ukraine is considered as the protection of State sovereignty, territorial integrity and inviolability of borders, security and stability of the democratic constitutional system, protection of the rights and freedoms of an individual and citizen, protection of the national interests of Ukraine, then it becomes clear that such a state of security of society and the country, of each individual can be achieved as the result of joint efforts of State authorities, local self-government bodies, public associations and citizens. War stirred up by the Russian Federation possesses special threat to the national security of Ukraine; it is widespread and violates the military, economic, informational, ecological, ideological and other types of security of Ukraine.

As any direction of state activity, ensuring national security requires scientific approaches and the development of appropriate basic principles, on which the country's activity is based, including in the security and defense sector. Within such a model of the Ukrainian state development, there is a need to revise the existing views on the understanding of the essence, goals, tasks and principles of administrative and legal support of the security and defense sector in Ukraine.

Having studied within other scientific works the issue of the categorical and conceptual aspect of the administrative and legal mechanism for ensuring the national security of Ukraine in the contexts of European integration, we established that it is a system of mutually coordinated, interdependent and conceptually united elements with a common goal, which are planned to be adapted to key requirements, standards and the rules of EU security and defense legislation, the proper functioning of which contributes to the achievement of the state of security of Ukraine from dangerous factors, drivers and events relevant for a certain period, harmful to both individual and state security, as well as collective security in general.

Given the limited possibility of considering the issues of the administrative and legal mechanism for ensuring Ukraine's national security in the context of European integration within one scientific publication, we consider it necessary to continue its consideration with an emphasis on identifying the system of elements mentioned above, which is the goal of our Article.

1. Methodology

Using axiomatic method, the view on the national security as the object of administrative and legal regulation is formulated.

The application of methods of analysis and synthesis contributed to the identification of the features of the national security system and the system of ensuring national security.

With the use of the classification method, the elemental composition of the administrative and legal mechanism, including the one we are investigating, is studied.

Hermeneutic method made it possible to examine the views of a number of scholars on the issue under consideration.

On the basis of the deductive method, structural elements of the mechanisms of administrative and legal support for various spheres of the State activity are highlighted.

The use of dialectical and metaphysical methods made it possible to investigate the ways of formation and development of national security as a legal category.

Logical and semantic method and the method of analysis of dictionary definitions are used to deepen the understanding of the conceptual apparatus of the Article.

The application of modeling method helps to formulate the authors' view on the structure of the administrative and legal mechanism for ensuring Ukraine's national security in the context of European integration.

2. Literature Review

As a general rule, the elements of the administrative and legal mechanism of security activities are legal, organizational, economic and material ones. At the same time, they must necessarily be adequate to the tasks facing the state and aimed at achieving the implementation of the goals (Bezpalova, 2014) of this function of the State.

However, as Kovalenko (2018) points out, the definition of the elemental composition of the administrative and legal mechanism, including the one we are investigating, is complicated by the fact that to this day scientists interpret the structural content of this phenomenon, in particular, and the legal mechanism, in general, in different ways.

The scientist analyzes the views by other scholars regarding the definition of the structure of the administrative and legal mechanism for protection, countermeasures, provision, etc., of various spheres of life and comes to the conclusion that the structure of the administrative and legal mechanism of information support for combating corruption in law enforcement agencies of Ukraine has two levels: basic and additional. Consequently, the main level consists of the following structural elements: 1) subject; 2) administrative and legal relations; 3) rules of administrative legislation; 4) acts of implementation of the relevant norms, in particular, orders, on the accumulation and systematization of information; 5) guarantees, which are measures, means, forms, methods, with the help of which the State policy is translated into practice. In turn, the additional level covers the structural elements of this mechanism, which, although they are not mandatory ones, nevertheless, optimize, contribute to increasing the efficiency of its functioning; this is legal awareness; legal education; special educational programs.

Skakun (2000) notes that the legal mechanism consists of interconnected and relatively independent functional systems, to which the scientist includes: 1) regulatory system; 2) legal system; 3) system of legal self-regulation.

However, the problems of the administrative and legal mechanism of ensuring Ukraine's national security in the context of European integration generally do not have their scientific coverage, which indicates the relevance of considering its structure.

3. Results and Discussion

The implementation of the laws of Ukraine in the area of national security, defense, normative legal acts, and other laws of Ukraine on security and defense, as well as program documents is impossible without interaction, coordination and main participation in the process of ensuring national security of all actors of the security and defense sector, their bodies and forces support. Bodies are understood as the legislative, executive and judicial branches, and forces are executive agencies empowered to ensure national security on the territory of Ukraine (Sobakar and Kovaliv, 2016).

The analysis of scientific views of administrative scientists makes it possible to single out the principles of rule-making in the sphere of implementation of the national security of the state: 1) principle of legality of departmental rulemaking (projects of departmental legal instruments must be developed taking into account the requirements of laws and by-laws and regulations of the highest State bodies); 2) the principle of reasonableness (decision on the advisability of developing a specific departmental regulatory act must be properly justified); 3) the principle of planning and forecasting (in institutional rulemaking it is necessary to clearly articulate the objectives that must be achieved as a result of the adoption of a specific regulatory act; to determine the most effective ways to achieve the goals; to identify current and prospective tasks that must be set before specific entities implementing law enforcement function of the State); 4) the principle of scientific integrity (scientific soundness of normative activity is particularly relevant, because unscientific nature of legal instruments entails their ineffectiveness and instability) (Bezpalova, 2013).

Administrative and legal activity carried out by the actors of the security and defense sector is expressed in everyday organizational and practical measures for the implementation of external and internal administrative in order to solve the tasks set in the field of ensuring the components of national security, in particular, military, economic, environmental, informational, food, ideological and other types of security and to ensure the security of the individual, society and the State.

Ukraine's choice of European integration, entry into the European legal space, orientation to European standards – all this determines the need to take into account foreign practice when adopting relevant legal

instruments. The adaptation of Ukrainian legislation to the legislation of the European Union and the norms of international law plays crucial role. Passing departmental regulatory legal acts by the specified bodies, in turn, must comply with laws and other regulatory legal acts of national legislation that correspond to the legislation of the European Union and the rules of international law. That is, the bodies that adopt normative-legal acts, when developing them, must comply with the relevant directives of the European Union, international standards.

Turuta (2010), distinguishes the following levels in the structure of the legal mechanism for ensuring the rights and freedoms of citizens: 1) regulatory, consisting of two elements: a) regulatory and material; b) regulatory and procedural; 2) institutional (system of State bodies); 3) procedural – formation of experience by the designated bodies on the adoption of administrative, judicial, notarial decisions; 4) effective – effective consequences of procedural decisions made by judicial and administrative agencies, expressed in their implementation.

Slabunova (2013) singles out the following blocks in the structure of the administrative and legal mechanism for ensuring the rights of citizens by the prosecutor's office: 1) regulatory (set of legal norms and legal acts, legal facts); 2) institutional and organizational (the system of prosecutor's office in the field of ensuring citizens' rights); 3) procedural and functional (principles and tools, methods of regulation, as well as procedures and algorithms for the implementation of activities of the prosecutor's office to ensure rights and freedoms of citizens, including management techniques and technologies); 4) support (personnel, information, material and technical, etc.); 5) informational and analytical (analysis of the state of development and existence of the security object).

Without specifying levels, as an example, the structure of the mechanism for ensuring the rights and freedoms of citizens, Lazur (2009) defines as follows: a) rule of law; b) legal relations; c) principles of rights and freedoms of citizens; d) stages of their provision; e) guarantees of exercising the rights and freedoms of citizens; e) legal facts; g) acts of legal norms application.

An entirely different view of the structure is expressed by Frolkov (2013) in his research on the mechanism of administrative and legal protection of consumer rights, which includes special means, appropriate guarantees and legal liability as elements of such a mechanism.

Bezpalova (2015) defines the structure of the mechanism of implementation of the law enforcement function of the State as follows: 1) institutional component (subjects); 2) administrative and legal norms; 3) principles; 4) forms and methods; 5) legal relations, which translate the requirements contained in legal acts into practice; 6) resource component (personnel, information, material, technical support, etc.).

According to Shorskyi (2018), the above opinions by Bezpalova and Slabunova regarding the separation of structural elements of the mechanisms of administrative and legal support of various spheres are the most thorough, because: firstly, they cover various elements of a primary and secondary nature; secondly, they describe in detail the meaningful essence of the mechanism itself; thirdly, they allow to consider separately each of the principles of functioning of the mechanism for their further improvement; fourthly, they contain an exhaustive systematized list of structural units necessary for further activation of the mechanism.

The scientist also notes that despite the possibility, and in some cases, the expediency, of separating each constituent element of the mechanism of administrative and legal support in various spheres, it should be taken into account that, being an established system, its functioning is ensured by all collective elements and the relationship between them, as well as the levers of influence that bring it into action.

Therefore, the analysis of the above leads to the conclusion that, in general, the administrative and legal mechanism for ensuring various spheres includes:

- 1) organizational elements such as: norms of administrative law, objectified in the system of legal instruments; subjects of establishing and implementing the rules of conduct set out for a specific circle of legal relations; security objects;
- 2) elements combining organizational and practical manifestation such as legal relations in the field of its implementation, principles and guarantees regarding the activities of its incorporation;
- 3) practical implementation elements – forms, methods, procedures of activities of authorized subjects, as well as information and analytical activities.

We should also note that the mechanism for ensuring information security is the system of various means (political, personnel, operative and search, informational, legal), which actually ensure the protection of the informational interests of the State, society, and individuals from internal and external threats (Nashynets-Naumova, 2017), as information security of the country is a component of national security (Chernysh *et al.*, 2022) Logically, the administrative and legal mechanism for ensuring information security should be the system of administrative means of protection.

In order to understand the essence of the indicated opinion, let's clarify that the commonly accepted meaning, "means" is understood as reception, some special action that makes it possible to accomplish something, to achieve something; way; that which serves as a tool in any action, business. At the same time, "reception" is a way of performing or carrying out

something; a certain measure for the implementation of something, the achievement of some goal; means of expression.

“Method” is a certain action, technique or system of techniques that makes it possible to do, accomplish something, achieve something; that which serves as tools, means, etc. on any case, action. “Tool” is the set of actions or means to achieve, implement something. That is, means is a technique; reception is a method or measure; method is a certain action; tool is the set of actions (Zamryha, 2018).

Accordingly, the scholar limits the essence of this mechanism to an exclusively instrumental approach. In our opinion, by analogy with the administrative and legal mechanism of regulation, it is appropriate to take into account that the disclosure of their elements only on the basis of the instrumental component is incomplete. It is necessary to take into account the organic unity of all elements making written truths a practical reality.

Conclusions

Therefore, the analysis conducted leads to the conclusion that the structure of the administrative and legal mechanism for ensuring Ukraine’s national security in the context of European integration includes:

- 1) rules of administrative legislation, which determine:
 - a) the need to carry out security activities in the area of national security in the context of European integration and the conditions and grounds for the activation of protective, security and support measures;
 - b) the status of the actors of its implementation, the main principles of their activity;
 - c) the functionality of this mechanism and the framework of life support objects, etc.;
- 2) administrative and legal relations regarding the provision of national security of Ukraine in the context of European integration;
- 3) actors of ensuring the national security of Ukraine in the context of European integration;
- 4) forms, methods and procedures of ensuring the national security of Ukraine in the context European integration;
- 5) regulatory and legal principles of implementation of the administrative and legal mechanism for ensuring the national security of Ukraine in the context of European integration.

The structure of the administrative and legal mechanism for ensuring Ukraine's national security in the context of European integration is similar to the basic elements of any other administrative and legal mechanism of security activities. These elements can be, on the one hand, regulatory, institutional, instrumental, analytical, etc.; and on the other – organizational, practical and implementation, mixed.

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