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Modern Realities of Ensuring the National Security of Ukraine in Conditions of Armed Aggression

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Abstract

In recent decades, the doctrine of national security has become one of the most important and topical issues of jurisprudence, as national security is the basis of democracy, civil society development and the welfare of the state. The modern world strives for the development of democratic principles, the introduction of effective legal mechanisms for the protection of human rights and freedoms, the observance of state sovereignty and state borders. In this perspective, ensuring national security is a key aspect of the activity of both the state and the entire civilized world in general. This study was directed to the analysis and comprehensive disclosure of the theoretical and legal foundations of ensuring national security in Ukraine, which is especially important in the conditions of armed aggression of the Russian Federation. The methodological basis of the article is the dialectical method of scientific knowledge, the comparative legal method and the method of analysis, with the help of which a theoretical study of the problems of ensuring the national security of Ukraine was carried out. The study argued that violation of state borders and encroachment on national security is a violation of international humanitarian law, which leads to armed aggression, which, in turn, leads to the death of the civilian population, destruction of the state economy, aggravation of international politics, etc. To date, Ukraine has suffered a violation of its national security caused by armed aggression on the part of the Russian Federation. Given this negative factor, the article pays attention to the modern realities

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of ensuring the national security of Ukraine in the conditions of armed aggression by the Russian Federation. In their study, the authors came to the conclusion that ensuring the national security of each state should be based on a strategy adopted by the government, the implementation of which should be carried out by special state authorities in this area, taking into account the balance of interests of citizens and the state.

Keywords: *Ensuring, National Security, Armed Aggression, Human Rights.*

Introduction

The problem of effective provision of the protection of the aggrieved person's rights has always existed. But as historical events testify, the Second World War radically changed views on guarantees of world peace because humanity understood the true value of human rights and freedoms, which led to a fundamental update of the legal mechanism for their protection. Starting from this time, the protection of human rights is not a purely internal competence of states and has gained international significance, embodied in the idea of creating a new international law and order, the basis of which is the respect for fundamental rights and freedoms.⁶

The modern world is characterized by such dangerous factors as terrorism, political extremism, encroachment on state sovereignty and state integrity, cyber security in the information space, etc. These and other threats have a rather negative impact on the national security of any country in the world. The evolution of the concept of national security management after World War II has identified other components that require significant attention to preserve national security and the well-being of citizens. Therefore, it is not for nothing that there has recently been an increasing interest in states that are developing a regulatory framework for national security strategy. Discussions about security in international relations and in individual studies have been actively evolving along with changes in security threats around the world.

⁶ Ablamskyi S., Hlobenko H., Chycha R., Martovytska O., Burlaka I. "Ensuring Protection of the Rights of the Aggrieved Person in Criminal Proceedings through the Prism of Requirements of International Law Acts" (2020) 23 Special Issue Journal of Legal, Ethical and Regulatory Issues 1-7. <https://www.abacademies.org/articles/Ensuring-protection-of-the-rights-of-the-aggrieved-person-1544-0044-25-SI-540.pdf>

Many theories and views on security have evolved over time to explain, and sometimes rationalize and legitimize, state actions within the security prism.

To date, there are a number of internal and external threats, which are primarily related to the large-scale armed aggression of the Russian Federation against Ukraine. Since the first day of the invasion, which began in 2014, the Russian Federation has been violating international law and committing war crimes and crimes against humanity on a massive scale, killing civilians, destroying infrastructure, and deporting Ukrainian citizens. The Russian authorities conduct an active information war and use propaganda. Ukraine as a democratic state is fighting for its independence and freedom, courageously and decisively opposing the Russian authoritarian regime.

Given the above, an important task of the legislator and lawyers is to create an efficient and effective administrative and legal mechanism for ensuring the national security of Ukraine. The further economic, political and social development of Ukraine, its competitiveness on the global geopolitical and economic arena depends precisely on the effective activity of the state and all its institutions in the field of ensuring national security. It would be fair to note that in recent years, the legislator has taken a number of important steps in the direction of ensuring the proper functioning of the administrative and legal mechanism for ensuring national security, which was reflected in a number of state strategies, concepts and programs. However, such activity was not always high-quality and systematic, which is due to the presence of gaps and shortcomings of a legal and organizational nature.

PURPOSE AND OBJECTIVES OF THE STUDY

The purpose of the study is to develop a holistic scientific concept that comprehensively reveals the theoretical and legal foundations of ensuring national security in Ukraine.

Achieving the represented purpose determines the solution of a number of research tasks, namely: to comprehensively define the conceptual foundations of understanding the essence of national security; to reveal the peculiarities of the regulatory and legal regulation of the national security of Ukraine; consider the concept of national security as a set of theoretical (scientific) and practical approaches to countering threats to Ukraine's national security; to determine the ways and prospects of improving the regulatory and legal provision of national security in modern conditions.

When solving the tasks, general scientific and special scientific research methods were used, such as comparative legal one - in the study of legislation regulating the provision of national

security, the current state of the definition of the concept of national security and its demarcation with other related concepts.

RESULTS AND DISCUSSION

A. Conceptual Principles of Understanding the Essence of National Security

In the broadest sense, the security of the state and society is a state of protection of their vital interests from internal and external threats. At the same time, vital interests should be understood as a set of needs of both the state and society, the satisfaction of which can reliably ensure civilized life and progressive development of the individual, society and the state as a whole, which constitute a certain social system. Security is known to be one of the most important properties of a social system, as well as a guarantee of its existence, which is expressed in such systemic features as integrity, relative independence and sustainability. The loss of any of these features leads to the death of the system. The issue of Ukraine's national security is not exempt from these postulates. Emphasizing the problem of understanding national security, we always remember that it is a peculiar characteristic, and at the same time an indicator, of the state of protection of the interests of the state and society from external and internal threats, which can be both real and potential.

The development peculiarity of modern society is that any social activity is characterized by dynamics of all processes and their uncertainty. Thus, risk is a sign of any purposeful activity of a social subject, which in turn directs efforts to reduce the uncertainty of its results.⁷

Theoretically, social contract theories contributed to the inclusion of security in political discourse by liberating the individual from anarchy and guaranteeing his or her freedom and security. Since the Treaty of Westphalia, signed on October 24, 1648, simultaneously in Münster and Osnabrück, the concept of security has been linked to the state. Thus, the state had the exclusive right to decide what security meant for it. Contemporary historians consider the Peace of Westphalia as an event that laid the foundations of the modern world order - the division of the world into nation-states and the emergence of related principles of international

⁷ Reznik, O., Muzychuk, O., Yunin, O., Kaliuzhna, S., Dubenko, O. "Migration risk management as a factor of national security" (2020) 9:4 Journal of Security and Sustainability Issues 1469-1480 at 1471. DOI: [https://doi.org/10.9770/jssi.2020.9.4\(29\)](https://doi.org/10.9770/jssi.2020.9.4(29))

law. In some sense, it was the Peace of Westphalia that laid the foundations of modern Europe, most of which was part of the Holy Roman Empire at that time⁸.

The functioning of any modern state is accompanied by a number of external and internal threats. At the same time, when we say "threats", we do not mean only threats in the military sphere, we are talking about threats in various spheres of human activity. The situation is also aggravated by the fact that there is a constant geopolitical struggle in the world by the leading states of the world, which in turn gives rise to a number of external geopolitical threats. And therefore, the analysis of the latter enables the state to build a system of national security, as well as to develop a system of measures aimed at preserving the territorial integrity and foreign policy independence of the country.

Theories and perspectives such as idealism, realism, neoliberalism, and constructivism have considered the meaning of security in different ways. The traditional view of security before and during the Cold War, which focused on the defense of the state against threats to national interests, has been expanded in scope since the end of the Cold War. Despite the existence of different ideas that explain what security is and how best to guarantee the security of states and individuals, the world is still characterized by insecurity.

The topic of security plays a crucial role for the vital values of human existence. In modern society, there are human rights institutes that are designed to ensure basic conditions and a safe social and cultural sphere for every citizen, for whom life and health are the highest social value protected by law. Security is something without which there cannot be a guarantee of health and life in every state. In this regard, it is important to objectively analyze and reconsider key issues related to the definition of a security problem.

The desire for security was claimed by Socrates as early as 400 BC, speaking of the need to protect the state as one of the key positions of its creation. Thomas Hobbes (1588–1679), one of the first thinkers of the New Age, linked the problem of security with the activities of the state. According to his theory, the state is not an independent and self-sufficient value, but a means of achieving peace and security (self-preservation). The course of his reasoning meant that by nature people love the will and domination over others, but the concern for self-preservation and a more favorable life, that is, for security, forces them to limit themselves

⁸ Peace of Westphalia. Material from Wikipedia - the free encyclopedia.

while living in the state. They need to reach an agreement based on a contract and general power (an agreement without power, without a sword, only words that cannot guarantee a person's safety). General government is able to protect the people from the invasions of foreigners and from the injustices inflicted on each other. But for this it must be unified, concentrated in the hands of one subject.⁹

Ensuring security, according to John Locke's theory, is associated with "the need to divide power into legislative, executive and judicial, which makes it possible to form a system of prohibitions and counterbalances, due to which none of the branches of power can obtain it in full and is forced to interact with others according to certain rules". Therefore, his idea of security was reflected in the liberal theories and practice of Western European democracy, in which the security of the individual is not only identified with the security of society, but is also achieved through the use of certain legal mechanisms.¹⁰

What is national security? In democratic governments around the world, an important discussion is underway about how to rethink and reframe what should — and should not — be considered as core national security concerns. Emerging technologies and integrated global value chains have challenged more circumscribed and traditional conceptions of national security, but to date, there has been no concerted political discussion of how the concept should evolve to meet twenty-first-century realities.¹¹

Researchers tend to believe that national security is a category that characterizes the degree (measure, level) of protection of vital interests, rights and freedoms of an individual, society and the state from external and internal threats or the degree of absence of threats to human rights

⁹ Dzeban A. P. "Aksyology measuring of problem of safety (speaking to Thomas Gobbs)" (2010) 6The Bulletin of Yaroslav Mudryi National Law University. Series: Philosophy 3-13 at 8.

¹⁰ Abramov V.I., Sytnyk G.P., Smolianiuk V.F. et al. "Global and national security" (2016) Kyiv: NAPA at 31.

¹¹Blanchette Jude. Ideological Security as National Security. 2020. <https://www.csis.org/analysis/ideological-security-national-security>

and freedoms, basic interests and values of society and the state.¹² This statement formulates a methodological approach, according to which the key role is given to two categories of a separate "individual" and "state", and, accordingly, to the rights, freedoms and legitimate interests of each person, which further form the security of the state as a whole. A rather similar approach is considered in the American concept of national security, which is also based on the theory of "national interests," and this is where the corresponding model of correlation originates, in which national security is considered as part of national interests. This model is now widely recognized.¹³ It was first proposed by the American Walter Lippmann. According to the former US Secretary of Defense Brown, national security is the ability to preserve territory, maintain economic relations with other countries of the world, protect its institutions and management system from external negative influence at various levels, control its borders.¹⁴ In his concept, he combines ensuring national security with the need to maintain international relations with other countries.

Although historical and theoretical references to national security emphasize military aspects, the United Nations approach is now widespread. Besides the external security–military threat, the United Nations, for example, includes seven layers in its definition of national security: (1) economic: creating employment and implementing measures to prevent poverty; (2) food: taking measures to prevent famine and a lack of food; (3) health: ensuring means to prevent diseases, contaminated food, malnutrition, and lack of access to basic medical care; (4) environmental: taking measures against environmental damage, depletion of resources, natural disasters, and pollution; (5) personal security: employing measures to prevent physical violence, crime, terrorism, domestic violence, and child slavery; (6) community: applying measures

¹² Nyzhnyk N.R., Sytnyk H.P. & Bilous V.T. "National security of Ukraine (methodological aspects, state and trends of development)" (2000). Irpin: Academy of State Tax Service of Ukraine at 32.

¹³ Abramov V.I., Sytnyk G.P., Smolianiuk V.F. et al. "Global and national security" (2016) Kyiv: NAPA at 53.

¹⁴ Brown H. "Thinking About National Security. Defense and Foreign Policy in a Dangerous World" (1983). Colorado,

against ethnic, religious, and other identity-based tensions; and (7) political: taking measures against political repression and human rights violations.¹⁵

According to the proposals of the UNESCO Foundation for National International Security, national security is defined as a system of state and social guarantees for the stable development of the nation, protection of its basic values and interests, sources of spiritual and material well-being from external and internal threats.¹⁶

Ukraine's integration into the European Union significantly affects the very structure of society, and the integration process is not manifest just in economic factors. The integration process lies deeper than the relationship within international financial or market institutions and organizations. The process of Ukraine's integration into the EU determines the national economy restructuring towards the already existing rules of interaction.¹⁷ The European integration processes include the adaptation of the national legislation to the European Union law.¹⁸

¹⁵ Antebi Liran. “Artificial Intelligence, National Security in Israel, and the IDF Strategy” (2021) In *Artificial Intelligence and National Security in Israel* (pp. 91–96). Institute for National Security Studies. <http://www.jstor.org/stable/resrep30590.16>

¹⁶ Yadukha S., Lysak O. “National security. main aspects, principles and threats” (2018) **5:1 Herald of Khmelnytskyi National University. Series: "Economic Sciences" 131-136 at 132.**

¹⁷ Mohilevskyi, L., Fursa, V., Sievidova, L., Komziuk, M., Khloponina-Gnatenko, O., Pidkopai, D. “Ensuring the economic security of Ukraine in the aspect of the association agreement between the EU” (2021) 10:2 *European Journal of Sustainable Development* 171-186 at 174. DOI: <https://doi.org/10.14207/ejsd.2021.v10n2p171>; Reznik, O., Getmanets, O., Kovalchuk, A., Nastyuk, V., Andriichenko, N. “Financial security of the state” (2020) 9:3 *Journal of Security and Sustainability Issues* 843-852. DOI: [https://doi.org/10.9770/jssi.2020.9.3\(10\)](https://doi.org/10.9770/jssi.2020.9.3(10))

¹⁸ Panova, I., Andriiko, O., Kysil, L., Kurylo, T., Uralova, Y. “The investment environment management system in the framework of legal support as a factor of national safety” (2020) 10:1 *Journal of Security and Sustainability Issues* 149-162. DOI: [https://doi.org/10.9770/jssi.2020.10.1\(11\)](https://doi.org/10.9770/jssi.2020.10.1(11))

Therefore, it should be noted that the analysis of the definition of the concept of "national security" both in Ukraine and among most other foreign researchers inextricably associates this term with the protection of "interests". Thus, the interests concern both individual security of a person and the state as a whole. The security of the individual and the security of the state are the key elements of understanding the concept of "national security". Therefore, in a broad sense, we will consider the term "national security" primarily from the point of view of the protection of "interests" — the nation's ability to protect its citizens and its internal values from threats, including aggressor states and terrorist organizations. In a narrow sense, the concept of "national security" is transformed into the process of ensuring the existence of the nation and the state in general. The scientific works of most researchers of the "national security" era connect its concept with the component of defense and military defense forces. However, already after the threats of the Cold War, it became clear that the definition of national security in the context of conventional military forces is a thing of the past, and it is still necessary to expand the context of the meaning of the concept. In a political context, this proliferation of definitions of "national security" creates complex problems. In some cases, for example, they are simply a repurposing of domestic policy programs, such as infrastructure improvements, aimed at transferring funds and resources from the military. In other cases, they are necessary to respond to the complexity of the rapidly changing international environment. We support the opinion of the UN, which has set out clearly defined levels of "national security", thereby expanding its meaning.

B. Legal Regulation of National Security of Ukraine

For quite a long period of time, the issue of ensuring security, protecting state sovereignty and territorial integrity has been the subject of numerous theoretical and applied studies covering various sides and aspects of this problem. Using an interdisciplinary complex approach to the development of security issues and the positive global and domestic experience of its provision, scientists consistently expand the research field of this problem, offer significant theoretical and practical recommendations for strengthening the country's security. At the same time, in the scientific aspect, there are still a certain number of problems that need to be solved if we focus on creating a system of countering crimes against the state sovereignty and territorial integrity of Ukraine, and especially against the foundations of national security in general, which corresponds to the nature of threats and the national interests of the country. Among other things, issues of strengthening national statehood, regional stability, protection of human and citizen rights and freedoms, and strengthening the law and order directly depend on the solution of this problem.

In part 1 of Art. 17 of the Constitution of Ukraine it is emphasized that the protection of the sovereignty and territorial integrity of Ukraine, ensuring its economic and informational security are the most important functions of the state, the business of the entire Ukrainian people. At the same time, the Declaration of State Sovereignty of Ukraine emphasizes that the territory of the Ukrainian SSR within the existing borders is inviolable and cannot be changed and used without its consent.

According to the Law of Ukraine "On the National Security of Ukraine", "the national security of Ukraine is the protection of state sovereignty, territorial integrity, democratic constitutional system and other national interests of Ukraine from real and potential threats." According to paragraph 3 of Article 3 of the Law of Ukraine "On the National Security of Ukraine"¹⁹ fundamental national interests are:

- "1) state sovereignty and territorial integrity, democratic constitutional order, prevention of interference in the internal affairs of Ukraine;
- 2) sustainable development of the national economy, civil society and the state to ensure the growth of the standard of living and quality of life of the population;
- 3) Ukraine's integration into the European political, economic, security, legal space, membership in the European Union and the North Atlantic Treaty Organization, development of equal and mutually beneficial relations with other states".

Based on the above paragraphs of the law, the national security strategy of Ukraine is based on three main ideological views of the state policy: deterrence, stability and cooperation.

The Law of Ukraine "On the National Security of Ukraine" clearly emphasizes that: "the state policy in the areas of national security and defense is aimed at ensuring military, foreign policy, state, economic, information, environmental security, cybersecurity of Ukraine, etc.

Threats to the national security of Ukraine and relevant priorities of the state policy in the spheres of national security and defense are defined in the National Security Strategy of Ukraine (the main long-term planning document that defines the main directions of the state policy in the field of national security), the Military Security Strategy of Ukraine, the Cyber Security

¹⁹Law of Ukraine "On the National Security of Ukraine" № 2469-VIII. 2018. <https://zakon.rada.gov.ua/laws/show/2469-19>.

Strategy of Ukraine, other documents on national security and defense, which are approved by the National Security and Defense Council of Ukraine and approved by Decrees of the President of Ukraine. According to Art. 14 of the Law of Ukraine "On the National Security of Ukraine" coordination in the spheres of national security and defense is carried out by the National Security and Defense Council of Ukraine in accordance with Article 107 of the Constitution of Ukraine and the Law of Ukraine "On the National Security and Defense Council of Ukraine". According to Part 2 of Article 26 of the Law of Ukraine "On National Security", the National Security Strategy of Ukraine defines:

- 1) "priorities of national interests of Ukraine and ensuring national security, goals, main directions of state policy in the field of national security;
- 2) current and projected threats to national security and national interests of Ukraine, taking into account foreign policy and internal conditions;
- 3) the main directions of the state's foreign policy activities to ensure its national interests and security;
- 4) directions and tasks of reforming and developing the security and defense sector;
- 5) resources necessary for its implementation".

Thus, having studied the trend of normative regulation of ensuring the national security of Ukraine, we can come to a preliminary conclusion that the main foundation of the Strategy is the need to eliminate threats related to state sovereignty and create conditions for restoring the territorial integrity of Ukraine, to ensure a peaceful future of Ukraine, to ensure a new quality economic, social and humanitarian development, integration of Ukraine into the European Union and NATO. The goals of the security sector entities of Ukraine regarding the control over the process of formation and implementation of the national security policy are aimed at: protecting the democratic constitutional system, monitoring the functioning of the institutions of state power, designed to ensure sovereignty, territorial integrity, and sustainable development of the state; promoting the protection of basic human rights and freedoms; active participation in countering threats to national security, determining foreign policy priorities, protecting the interests of citizens abroad; assessment of the effectiveness of measures taken by state authorities to ensure the national security policy, as well as to prevent the interference of other states in the internal affairs of Ukraine.

The mechanism of ensuring national security can be used to effectively regulate social relations, satisfy the interests of national security subjects, as well as establish and ensure law and order.

The key elements of the structure of the national security mechanism should be considered as follows: the goals of the system's functioning; the system of subject-object relations; methods of activity related to security; indicators of the effectiveness of the national security mechanism".²⁰

The mechanism for ensuring national security primarily requires the presence of appropriate structures and the process of making and implementing management decisions in the field of national security, which are regulated by the state. One of the characteristics of this system is its efficiency, i.e. the ability to ensure qualitatively the widest range of national interests at the lowest cost. It is the state institutions that must be entrusted with the task of ensuring the functioning of the core of national security, which consists of its system-forming components, the key place among which is occupied by the vital interests of the Ukrainian nation.

The security and defense sector of Ukraine consists of four interrelated components: security forces; defense forces; the military-industrial complex; and citizens and public associations that voluntarily participate in ensuring national security. The functions and powers of the components of the security and defense sector are determined by the legislation of Ukraine. The security and defense sector includes:

The Ministry of Defense of Ukraine is the main body in the system of central executive authorities that ensures the formation and implementation of the state policy on national security in the military sphere, defense and military construction in peacetime and in a special period.

The Armed Forces of Ukraine, which are a military formation entrusted with the defense of Ukraine, protection of its sovereignty, territorial integrity and inviolability, deterrence and repulsion of armed aggression against Ukraine, protection of the airspace of the state and underwater space within the territorial sea of Ukraine, in cases determined by law, participate in measures aimed at combating terrorism.

The State Special Transport Service is a specialized military unit within the system of the Ministry of Defense of Ukraine designed to ensure the stable functioning of transport in peacetime and in a special period, including the performance of tasks related to technical cover,

²⁰ Dzeban Alexander, "Mechanism of social transformations: to the problem of philosophical understanding" (2016) 1:38 Strategic Priorities 41-52.

reconstruction, and installation of barriers at the facilities of the national transport system of Ukraine in order to ensure the activities of the Armed Forces of Ukraine and other military formations established in accordance with the laws of Ukraine.

The Ministry of Internal Affairs of Ukraine - implements the state policy in the following areas: protection of human rights and freedoms, protection of the state border of Ukraine, civil protection, protection of the population and territories from emergencies, migration (immigration and emigration), including counteraction to illegal migration, citizenship, registration of individuals, including refugees and other categories of migrants defined by law.

The National Guard of Ukraine, which is a military formation with law enforcement functions designed to perform tasks of protection and defense of life, rights, freedoms and legitimate interests of citizens, society and the state from criminal and other unlawful attacks, protection of public order and public safety, as well as in cooperation with other bodies - to ensure state security and protection of the state border of Ukraine, suppression of terrorist activities, activities of illegal paramilitary or armed formations, organized criminal groups and organizations.

The National Police of Ukraine - ensures public safety and order, protection of human rights and freedoms, interests of society and the state, combating crime, and provides services to assist persons who, for personal, economic, social reasons or as a result of emergencies, need such assistance as defined by law.

The State Border Guard Service of Ukraine is a special-purpose law enforcement agency that implements the state policy in the field of security of the state border of Ukraine and protection of Ukraine's sovereign rights in its exclusive (maritime) economic zone.

The State Migration Service of Ukraine - implements the state policy in the areas of migration (immigration and emigration), in particular, combating illegal migration, citizenship, registration of individuals, including refugees and other categories of migrants defined by law.

The State Emergency Service of Ukraine implements the state policy in the areas of civil protection, protection of the population and territories from emergencies, prevention of their occurrence, and elimination of the consequences of emergencies.

The Security Service of Ukraine and the Anti-Terrorist Center at the Security Service of Ukraine implement concepts and programs in the field of national security, maintain the national security forces and means of ensuring national security in a state of readiness to use them; counteract intelligence and subversive activities against Ukraine; and fight terrorism.

The Judicial Protection Service - a state body in the justice system to ensure protection and maintenance of public order in courts, bodies and institutions of the justice system.

The Department of State Guard of Ukraine - provides state protection of state authorities of Ukraine, security of officials and protection of objects defined by law.

The State Service of Special Communications and Information Protection of Ukraine is a state body designed to ensure the functioning and development of the state system of government communications.

The Office of the National Security and Defense Council of Ukraine - coordinates and controls the activities of executive authorities in the field of national security and, taking into account changes in the geopolitical situation, submits proposals to the President of Ukraine to clarify the National Security Strategy of Ukraine.

Intelligence agencies of Ukraine - carry out intelligence activities in order to promote the realization of Ukraine's national interests and counter external threats to Ukraine's national security.

The central executive body that ensures the formation and implementation of the state military-industrial policy - ensures the operational capabilities of the forces and means of the security and defense sector by supplying new and modernizing existing models of weapons, military and special equipment.

The manifestation of the "objects" of ensuring national security consists in: values, benefits as the achieved result in the prism of ensuring national security; the conditions in which the process itself is carried out for the desired result; development of new values and improvement of the mechanism of ensuring national security in general.

The methods of activity in relation to ensuring security consist in distinguishing the main methods of ensuring national security: violent - associated with the use of armed force, brutal methods of war (for example, in 1915, a chemical substance called "mustard gas" was used for the first time, which fatally affected the respiratory tract, skin and eyes); non-violent - peaceful way of resolving conflicts (compromise, concluding a contract, conducting interviews, etc.)

The main method of assessing the effectiveness of the mechanism of ensuring national security is the determination of management results obtained in the course of threats, under which a complex of institutions creates favorable conditions for the active development of national interests, the sources of existence of national security subjects. This is an assessment of the effectiveness of the result obtained in the course of "scanning" of threats to national security.

Therefore, the "mechanism of ensuring national security" allows to identify the main "foundation" of such security, the foundations on which it is based.

The identification of such elements can help in the future to reveal and specify conceptual categories into a homogeneous system, to provide an adequate assessment of such apparatuses, to reveal the main shortcomings and gaps in the functioning of the "national security mechanism", which in the future will further strengthen the importance of such a mechanism as a socio-cultural phenomenon. At the same time, the leading role in this process should be played by state institutions, the functional purpose of which is the maximum use of state powers and resources to achieve the goal of functioning of a coherent and mutually coordinated system of national security.

Defining the concept of the national security mechanism is the country's key basis for meeting the basic needs and security problems of citizens, as well as countering external and internal threats to the country. The main approaches to countering threats to the national security of Ukraine, which include the components of the mechanism, can be attributed:

Human security

Nowadays, the security of the person and the state as a whole is a holistic concept that encompasses human rights, good governance, access to education and health care and ensures that every person has the opportunities and choices to realize their own potential. Integrating a human security approach into the National Security Strategy can help identify and resolve cross-cutting challenges and prevent them from escalating into conflicts. Options for strengthening the emphasis on human security in the strategy or policy of national security include the steps: to consider the main causes of insecurity of citizens as part of strategies for achieving goals; promote multi-stakeholder partnerships involving human rights organizations and civil society at large in the definition and implementation of the National Security Strategy through broad public consultations and representation of groups representing different strata of society; integrate gender equality into the agenda in the field of peace and security in the country by applying an inclusive approach (equal conditions and rights); consider education and the role of youth as key to the security sector and its oversight and accountability mechanisms.

Oversight and accountability

Democratic oversight of the security sector is widely recognized as an international norm (emphasized, in particular, in UN documents). This involves the establishment of reliable systems of checks and balances, compliance with the principles of accountability and transparency, as well as ensuring the effective work of entities authorized to implement security,

as well as compliance with the legal and political framework. A focus on oversight and accountability greatly contributes to legitimacy. Options for strengthening the emphasis on oversight and accountability in the national security mechanism are:

- defining specific roles for civil society and other non-state accountability mechanisms to enable them to effectively contribute to security sector oversight and accountability, protecting them from undue influence and threats;
- including and emphasizing the role of parliament and independent state supervisory institutions, including measures to protect them from undue political influence and provide them with the necessary financial and human resources.

An example of the efficiency and effectiveness of such an element of the national security mechanism is the 2015 strategy of the United Kingdom, which states that the board is committed to "consolidate the investigative powers required by public authorities with robust oversight, transparency and safeguards to ensure national security".²¹

Human rights

Human rights are central to security at the national, community and international levels. A strong human rights approach also provides a framework for building partnerships with citizens and building their resilience to help address security challenges. Options for increasing the emphasis on human rights include:

- development of normative legal acts to reinforce the commitment to human rights contained in general documents such as the Constitution, etc., and thereby emphasize the focus on human rights as the main priority;
- the duty to eliminate violations of human rights in institutions of the security sector or the administration of justice;
- selection of national mechanisms that will ensure civil rights and international human rights norms.

²¹ National Security Strategy and Strategic Defence and Security Review 2015 by the Prime Minister (David Cameron). <https://studylib.net/doc/10744550/national-security-strategy>

Justice

The justice system is an important part of the security mechanism, directly contributing to the strengthening of public order and security. However, its contribution goes beyond this. The justice system contributes to the maintenance of a peaceful domestic environment through its role as a mechanism for conflict resolution. Options for strengthening the emphasis on justice in a national security strategy or policy include:

- highlighting the relevance of state and non-state dispute resolution mechanisms, access to justice, and focusing on judicial procedures and legislation to ensure consistency in the provision of justice to citizens;
- defining the relationship between national security and national justice strategies;
- inclusion justice institutions in coordination mechanisms.

Monitoring and coordination

Establishing a reliable monitoring system for national security is a crucial step for successful implementation, ensuring that the strategy and its implementation plan meet the sudden changes, the emergence of new unpredictable circumstances that change from day to day. Options for measures to increase focus on monitoring include:

- emphasize the requirement for periodic reviews of "national security" in countries, reflection of planned measures for the implementation of monitoring in regulatory and legal documents;
- emphasize the role of the state, in particular with regard to budgetary issues;
- establish an official monitoring role for civil society.

The functioning of such a monitoring system consists in providing management bodies with complete, timely and reliable information about the processes taking place in various spheres of the economy and affecting the state of national security of the country. It should be based on the following basic principles: - consistency of regulatory and organizational and methodological support, compatibility of technical, informational and software support of its components; – systematic monitoring of the state of various components of national security, socio-economic situation, transport infrastructure, potentially dangerous objects; timeliness of receiving, comprehensive processing and use of information received and stored in the monitoring system; - the objectivity of primary, analytical and predictive information, the efficiency of its delivery to state authorities, local self-government bodies, public associations, mass media, the population of Ukraine, interested international institutions and the world

community. That is, it is considered expedient to create an analytical institution in the country responsible for constant monitoring of the state of national security, its potential threats, providing comprehensive information on the scope, structure, dynamics, socio-economic consequences, etc.²². For example, the government of Jamaica recommends the creation of local councils (including community representatives) with an "advisory, monitoring and evaluation role" on security issues.

Communication

The development of such a concept can be a stressful and quite complex process, especially if it follows good practice to include a wide range of consultations with the public and government institutions. This approach helps ensure that the resulting document meets a variety of needs and challenges. However, it can also create expectations of rapid change and cause disappointment when immediate results are not seen. The communications will provide feedback to consultees on how their views have been taken into account and will explain the timelines and procedures for next steps. Communications will also support the level of resolution achieved on a particular issue to create a sense that everyone involved in its formulation is also part of its implementation. Options for an increased focus on communication include:

- the obligation to develop a specific communication strategy without discrimination to support the provision of "national security";
- emphasizing the role of civil society and the mass media in raising awareness of the various obligations of the state regarding security and promoting communication between citizens and the accountability mechanisms contained in the strategy;
- emphasizing the importance of internal communication with those responsible for security implementation to ensure they understand their new respective roles and the changes required to fulfill them.

Jamaica's 2013 National Security Strategy includes a Strategic Communications Program to support its implementation. Part of this includes developing partnerships and creating local

²² Kobko Ye. "Monitoring of Threats to the State National Security: Foreign Experience and Ukrainian Realities of Public-Legal Provision" 2018 1:106 *Naukovij visnik Nacional'noi akademii vnutrisnih sprav* 122-134.

bodies/councils where "citizens can express their concerns, find help from the police and other agencies, and give feedback on the work of the police and other security agencies". This component will provide an opportunity, based on communication measures, to obtain information about the effectiveness of the activities of protection bodies, as well as, in the case of their negative manifestations, to improve them in a certain way.

Thus, the concept of the security mechanism provides an opportunity to define the main approaches to combat the threats facing "national security". A set of approaches helps to establish criteria for a sufficient level of protection against them, to formulate mechanisms of influence on the sources of such threats. The development of strategic concepts is entrusted to the functioning of state governments of individual states, we proposed such a concept, which combines a set of interrelated elements: human security, oversight and accountability, human rights, justice, gender, monitoring and coordination, communication. It is worth noting that the effectiveness of the mentioned categories depends on the foreign and domestic policy of the state - "the power of the state, power and its influence", which will accordingly determine the degree of realization of "national interests".

Analysis of foreign countries' experience in developing strategies for the protection of the state sovereignty and territorial integrity has revealed that most foreign countries carry out strategic planning for the protection of the state sovereignty and territorial integrity in the medium-term perspective. The subjects of the development and approval of these strategies can be both legislative and executive agencies of the country, and its realization is usually associated with the adoption of plans for its implementation. A close link between security strategies for the protection of the state sovereignty and territorial integrity has been defined with other documents of doctrinal importance in the field of border protection, illegal migration, combating terrorism, organized crime, cybercrime, etc.²³

Thus, in modern conditions, the concept of priority directions for ensuring "national security" in three dimensions: collective security, joint security, security based on cooperation in the foreign political arena, has gained special importance. Each of them, taking into account its

²³ Nosach A. V. Criminological Provision for the Protection of State Sovereignty and Territorial Integrity of Ukraine [The Thesis for Scientific Degree of Doctor of Law (Dr. hab.), Specialty 12.00.08 «Criminal Law and Criminology; Criminal Executive Law» (081 – Law)]. 2022. Kharkiv National University of Internal Affairs, Kharkiv.

specificity, has its own peculiarities of its provision in one or another country. Defense as an integral component in the aspect of national security is present in every country, indicating the orientation of the protection of its "people" as well as its own "borders". The security complex in the countries is formed with the help of an information and technical base - the introduction of the latest monitoring and protection technologies. Based on foreign experience, we identified the principle of cooperation as one of the priority areas of ensuring national security, which involves the process of exchanging information between interested parties of international relations, holding a "dialogue" between them, as well as monitoring challenges to national security.

C. Improvement of Legal Provision of National Security in Modern Conditions

Against the backdrop of military operations, entropic processes are observed in society. The success of democratic transformations around the world, the growth of new global trade relations, the expansion of telecommunications, breakthroughs in information technology, and the strengthening of liberal ideology have significantly affected the external and internal security of all countries, and have led to the transformation of threats to criminal security, turning them into global ones.

Armed aggression by Russia caused sharp and rather serious decisions regarding the revision of national security in Ukraine. In this sense, the issue of national security remains open for Ukraine, which means the development of new trends and concepts of the National Security Strategy of Ukraine. Currently, the legislation needs improvement and highlighting of new aspects that should be implemented in the National Security Strategy.

According to M. F. Kryshtanovych, among the individual factors that have a negative impact on the development and implementation of national security policy in Ukraine, and on which it is necessary to work and improve accordingly, there are the following:²⁴

- "incompetence and corruption of the bureaucratic apparatus;

²⁴ Kryshtanovych M. F. "State policy of Ukraine regarding national security" (2019) 3:22 Public Administration and Customs Administration 248-253 at 252. DOI <https://doi.org/10.32836/2310-9653-2019-3-248-253>

- economic imbalances in the development of Ukraine's regions and political speculation around existing socio-cultural differences, which increase the tendency to inter-regional alienation and, therefore, pose a real threat to the integrity of Ukrainian society and the state;
- conflict and inconsistency in the actions of public authorities in the process of strategic planning of national security and, as a result, inadequate state and administrative influences by public authorities to threats to national security;
- lack of a well-thought-out and transparent personnel policy, which results in the selection of personnel based on their party affiliation rather than professionalism;
- speculative use of unresolved conflict problems by political leaders, which leads to deepening of contradictions and splitting of the state;
- expectation among the population of a worsening of the socio-economic condition, in particular due to threatening trends in the development of the world economic system;
- lack of systematicity in the work of state authorities regarding the implementation of decisions made in the field of national security;
- low rates of structural restructuring of the national economy, its preparation for functioning in conditions of fierce competition;
- increasing the probability of emergency situations of man-made and natural nature, deterioration of the ecological state of water resources;
- the presence of legal nihilism, increased mistrust of citizens in authorities due to improper implementation of current legislation, corruption, and bribery;
- threatening scale of growth in the number of non-canonical churches;
- the weakness of Ukrainian institutions in the search for consensus, necessary for outlining the ways of further development;
- unsolved most of the problems of state building and social development - from the way of managing the country to geopolitical orientation;
- the loss of former regulatory mechanisms in various spheres of social life and significant resources, the emergence of new problems, in particular, the weakening of social solidarity;
- insufficient level of development of civil society, due to which state authorities function without reliable control from its side;

- interference in Ukraine's internal affairs by foreign states".²⁵

In our opinion, for Ukraine in the field of national security, in addition to the above-mentioned issues, its movement in the prism of European integration is of great importance, which will thereby demonstrate the effectiveness of the economic, political and military base of Ukraine, will contribute to the attraction of the latest technologies, foreign investments, including in the military sphere. We identified a number of reasons that demonstrate the need for Ukraine to focus on the process of Euro-Atlantic integration:

1) "European views" on national security are somewhat different from "traditional views". It is implied that the traditional view, which is mainly focused on building up military and political strength, is the opposite of the European one, which encompasses a holistic system: the interdependence of socio-economic, military, political, and cultural spheres in order to build an effective strategic base of national security.

2) Giving preference to the so-called "informational environment" rather than forceful pressure. Thus, the European dimension of national security focuses on the creation of appropriate structures that solve national security issues with the help of "dialogue", compromise meetings and peaceful views.

Thus, European integration is a necessary component in determining the strategic directions of Ukraine's national security. As A. Yermolenko points out, since we are a country of late modernization, we have to focus on those liberal values (freedom, human rights, equality, etc.) that have been embodied in Western countries for several centuries through reformation and enlightenment. ... Without enlightenment, there would be not only a sovereign personality, but also new European democratic institutions, and therefore the transition to the post-conventional stage of the development of moral consciousness".²⁶

²⁵ Kryshchanovych M. F. "State policy of Ukraine regarding national security" (2019) 3:22 Public Administration and Customs Administration 248-253 at 252. DOI <https://doi.org/10.32836/2310-9653-2019-3-248-253>

²⁶ Yermolenko A. "Publicity as a factor of civil society in Ukraine in the age of globalization. Civil society in Ukraine in the era of globalization: value-normative and institutional support for its development" (2007) at 79 Kyiv: Institute of Liberal Society.

One more problem that arises in the field of national security of Ukraine is the insufficient regulation of the issue of "national interests" at the legislative level. Thus, Article 3 of the Law of Ukraine "On the National Security of Ukraine" defines the list of fundamental national interests of Ukraine, but in a rather general form. A political deadlock within the country or the existence of incompetent state bodies may make it difficult to agree on a clear set of national interests to be set out in the national security strategy.

Belgium is an example of a country that experienced such a difficult situation for years with numerous protracted negotiations over the position of the prime minister; this prevented the government from uniting around a clear set of national interests. In such cases, the national security strategy de facto loses priority in favor of domestic political maneuvering, and inertia rather than planned actions may become the dominant approach to national security. Thus, countries that have difficulties in formulating national interests risk failing to anticipate threats and prepare for them.²⁷

In our opinion, the final classification of "national interests" should be made at the legislative level. Thus, we agree with the opinion of H. Kostenko, who classifies national interests: "by nature (coalition, national), reciprocity (unilateral, mutual), degree of priority (primary, other), scale (global, regional, local), degree of importance (vital, important, essential), degree of urgency (permanent, long-term, medium-term, current)".²⁸ This classification, especially the one related to the degree of importance, will provide an opportunity to understand the meaning of national interests.

CONCLUSIONS

Today, national security issues come to the fore for Ukraine, as our country has been confronting the armed full-scale aggression of the Russian Federation for more than a year, which poses systemic threats to our national security, global stability and international

²⁷DuMont Malia, "Elements of national security strategy" (2019). <https://www.atlanticcouncil.org/content-series/strategyconsortium/elements-of-national-security-strategy>

²⁸ Kostenko H. F. "Theoretical aspects of national security strategy" (2002) Kyiv: DEMID at 156.

democratic values. This leads to the need to implement an effective strategy to ensure the cessation of aggression and the restoration of Ukraine's territorial integrity within its internationally recognized state borders on the basis of democratic and liberal principles.

National interests are not static, they tend to change from one sphere of realization to another based on domestic political priorities and problems arising around the world.

Modern research proves that by identifying certain factors that have a negative impact on the development and implementation of national security policy in Ukraine, it is possible to focus attention on those aspects that hold back the development of national security in Ukraine. The legislative consolidation of national security in Ukraine needs improvement, namely: focusing national security on "European views" that give preference to democratic and liberal positions rather than the power base, a clear formulation of the classification of "national interests" primarily by their degree of importance. It is impossible to ignore the fact that it is necessary to emphasize the state management of national security, as well as the formation of effective bodies of state management of national security. The formation of such bodies should take place with the awareness of the need to build a mechanism to balance the interests of the individual, society and the state, which will serve to preserve the integrity of this system.

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COMPETING INTEREST

The author declared that she has no competing interests.

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