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## **COUNTERACTION TO FACTORS-THREATS TO NATIONAL SECURITY AS A SUBJECT OF LEGAL REGULATION**

*The article considers the main threats and factors that currently exist. Considering the legal regulation of ensuring national security, including reducing the impact of threats on our state, the main directions for the implementation of the national security strategy and the creation of a legal regime in which the security of the state will be maintained at a high level have been determined. It was determined that the necessary process of forming a legal regime for countering specific threats is to assign one or another problem to the sphere of national security, for this it is necessary to use strategic planning. The article outlines the difference between threats and challenges, where national security actors have less ability to counter threats than challenges, and threats are often associated with operating conditions, which in turn may not depend on human will. The difference also identified is that a threat is a multidimensional concept and a multifaceted problem for national interests, rather than a challenge.*

**Keywords:** *national security, legal principles, legal regime, national interests, legal policy, threat, risk.*

Formulation of the problem. The problem of legal regulation of ensuring national security at this stage of the state's existence is at a particularly important level. When forming a legal regime for countering factors-threats to national security, it is always possible to trace a certain typical logic, the dynamics of the involvement of the provisions

of the conceptual and actually regulatory levels of the legal infrastructure of this regime. First of all, the creation of this regime is a special case of the implementation of legal policy, which should be based on the combination of the principles of legitimacy and legality with expediency. All this requires a deeper study and understanding at this stage of the state's existence.

Analysis of recent research and publications. The number of diverse publications in the field of regulation of legal policy in the field of ensuring national security indicates an urgent need to improve existing ones and the advisability of developing and implementing new approaches to improving this system. The work of specialists is devoted to the study of the essence of problems of ensuring national security.

Presenting main material. A necessary process of forming a legal regime for countering a specific threat factor (or a specific group of threat factors) is to attribute this or that problem to the sphere of national security. Most often, second-level strategic planning acts are used for this: various doctrines and concepts, national plans. Countermeasures as a type of legal activity have legal definitions. Yes, there are laws of Ukraine "On Combating Corruption", "On Combating Terrorism", etc. As a scientific category, "counteraction" was developed within the framework of criminology as a form of law enforcement activity to combat crime. From the point of view of semantics, the word "counteraction" denotes one or another active activity, the purpose of which is to create obstacles in the development of another, primary process.[1] By definition, counteraction is, firstly, an active process (counteracting something through inaction is quite problematic), secondly, the process is purposeful, i.e. directed against some phenomenon or some of its aspects, which prevents the existence of this phenomenon, the implementation of any or a certain activity, formation of certain conditions; thirdly, the process is secondary to the phenomenon being countered. Thus, the existence of two conflicting systems is necessary for countermeasures. At the same time, there is a specific interaction between the systems, which is carried out through two channels. First, the countermeasure object must be perceived and perceived by the countermeasure system as such, reflected in an ideal form. Only in this case, the system, expressing itself in the

language of cybernetics, will be able to recognize it and, in accordance with the law of necessary diversity, will develop certain methods of reaction. We need a specific pattern, a sample object of countermeasures, which arises within the framework of self-learning of the system. Secondly, tools for active activity are needed. In this way, the system of counteraction begins to influence the system opposite to it (or the disordered social environment).

Such countermeasures must be developed taking into account the features of the opposing system. The set of countermeasures and threats is established in objective law as a result of law-making activity. The feed-forward rule is fulfilled by allowing the system and the environment (another system) to interact. [4] It is obvious that the combination "phenomenon - counteraction to the phenomenon" correlates with the connection "danger - safety" problematized in philosophical literature. Thus, the dialectical series of phenomena and categories that reflect them are observed, in which counteraction and security are on one side, while the object of counteraction and danger are on the other. From a functional point of view, counteraction has a certain institutional basis and requires the availability of certain resources, which is carried out by certain subjects, according to certain patterns of activity. In our opinion, in general, the structure of such a regime consists of two groups of legal means: means of legal consolidation of factors-threats to national security, which include the legal construction of a factor-threat to national security as a legal fact, and means of counteracting factors-threats, among which we can highlight actual legal (for example, restrictive and stimulating), informational, material, personnel methods (a combination of tools and methods of their application) and resources. Since the legal regime of countering factors-threats of national security in statics is always aimed at the legal programming of social relations, and in the practices programmed by such regimes, two groups of relations can be distinguished: aimed at maintaining the normal state of affairs and aimed at eliminating possible deviations.

The concept of a threat to national security is unique to the security system. Regarding this phenomenon, there are a large number of definitions in the scientific

literature, which, however, specify the legal definition given in the National Security Strategy, according to which a threat to national security is a set of conditions and factors that create a direct or indirect possibility of infliction. damage to national interests. [5] Social threats are a set of conditions and factors, intentions and opportunities capable of endangering the vital interests of the individual, society and the state. Quite often, especially in studies of political science, it is assumed that the meaning of the concept of "threats to national security" does not pose a problem, and lists of these threats in one or another field are immediately offered.

Most often, the definitions of threats to national security are quite abstract, and a fairly large amount of phenomena of social reality can be summed up under them. In part, this is justified from the point of view of the state interest, which allows us to promptly declare this or that phenomenon undesirable. However, from the point of view of jurisprudence, such a formulation of the question can hardly be considered satisfactory. [3] It will be incomplete without indicating the further functional load of the role of threats to national security in the formation of legal regimes in the security sphere.

In the political science literature, we found quite a large number of opinions that suggest distinguishing between the concepts of risk, threat, challenge, and danger. There are a number of review articles in which different positions of scientists on this issue are considered. In general, the difference between threats and challenges can be divided. First, national security subjects have fewer opportunities to confront threats than challenges. Secondly, threats are often associated with conditions of activity, which in turn may not depend on human will. The third difference is that a threat is a multidimensional concept and a multifaceted problem for national interests rather than a challenge.

Characteristics of the relationship between danger and threat: "Danger is a perceived, but not fatal, probability of harming national interests, a potential probability of harm, when this probability approaches unity, the danger turns into a threat." The state of danger acquires the quality of an immediate threat, and the threat, in turn, upon accumulation of relevant changes (reduction in the degree of risk, reduction of tension,

achievement of a compromise, etc.) turns into a state of danger. The threat is defined as a combination of two components: both subjective intentions and objective opportunities to cause this or that harm. [2] The concept of "threat" is close in meaning to the concept of "danger", but is not its synonym. The following differences are highlighted: 1) threat distinguishes from danger the degree of readiness to cause this or that harm. A threat is a stage of extreme aggravation of contradictions. Danger is the stage of birth and saturation of contradictions; 2) the threat must contain two components: the intention and possibility of harming security interests, and the danger is limited to the presence of only one of these components; 3) the threat is always personalized, specifically addressed, the danger is hypothetical, often addressless; 4) the danger contains a potential threat of harm to certain interests.

The threat is focused on the object of security, that is, before defining the concept of "threat", it is necessary to specify what is the object of the type of security. Second, unlike risks, security threats are targeted, which allows identifying segments that are adversely affected. Thirdly, the probabilistic characterization of this type of negative impact as a threat is preserved, which requires the management system to take measures to neutralize it or minimize the damage that may be caused as a result of the evolution of such a threat. At the same time, the clear intention to harm the object distinguishes threats from risks.[6]

We are close to the definition that "a security threat is a set of conditions and factors, intentions and opportunities that can pose a danger to the vital interests of an individual, our society and the state." The process of formation and implementation of threats is considered, which includes: the reasons leading to the emergence of the threat, the source and bearers of the threat; objects of encroachment; ways of causing damage; the result of the implementation of the threat. According to subjective and objective, as well as probabilistic and real criteria, he distinguishes the key concepts of the theory of national security.

Conclusions. From the above analysis, in addition to the conclusion that terminological unity has been established in this area, and each specialist builds the

author's structure of the theory of ensuring national security, based on the provisions of official documents, conclusions important for research emerge. For science, the difference between the categories of challenge, threat and risk is insignificant, since all these categories reflect different aspects of the same undesirable phenomenon. The variety of terms creates difficulties in their agreement in legal documents (which will be explained in detail below), reduces the universality of legal constructions and leads to purely terminological disputes. However, the structure and intensity of manifestation as the criteria underlying the demarcation of these categories influence the choice by law-making bodies during political and administrative activities of countermeasures and forms of legal representation of specific threats to national security. In the following exposition, in order to avoid confusion, we will use the terms "threat" and "threat factor" as generic concepts, synonymous with each other, and including in its scope the whole range of the above shades of the meanings of risk, danger, challenge and threat itself. It is this understanding that allows us to talk about a comprehensive regime of countering factors-threats to national security, without dividing it into regimes of countering challenges, threats, dangers, risks, etc. The threat to national security is a complex social phenomenon. This makes it possible to distinguish its elements by analogy with legal behavior and the composition of the offense. From the point of view of the structure, the threat can be characterized by the presence of an object, a subject, an objective and a subjective side. The object of the threat is one or another good against which the threat can be directed.

#### **References:**

1. Bodruk O.S. Struktury voiennoi bezpeky: natsionalnyi ta mizhnarodnyi aspekty: Monohr. / O.S. Bodruk. – K.: NIPMB, 2001. – 300 s.
2. Semenchenko A.I. Metodolohiia stratehichnoho planuvannia u sferi derzhavnoho upravlinnia zabezpechenniam natsionalnoi bezpeky Ukrainy: Monohrafiia / A.I. Semenchenko. – K. : NADU, 2008. – 429 s.

3. Sytnyk H.P. Derzhavne upravlinnia natsionalnoiu bezpekoiu Ukrainy (teoriia i praktyka): Monohrafiia / H.P. Sytnyk. – K : NADU, 2004. – 408 s.
4. Perepelytsia H.M. Voienna bezpeka Ukrainy na mezhi tysiacholit: Monohr. / H.M.Perepelytsia, S.O.Dmytrova, V.S.Korsydovych ta in. – K.: Stylos, 2002. – 384 s.
5. Horbulin V.P. Stratehichne planuvannia: vyrishennia problem natsionalnoi bezpeky. Monohrafiia / V.P.Horbulin, A.B.Kachynskyi. – K.: NISD, 2010. 288 s.
6. Sytnyk H.P. Kontseptualni zasady zabezpechennia natsionalnoi bezpeky: navch. posib.: / H.P.Sytnyk, V.I.Abramov; za zah. red.. H.P.Sytnyka: u 3 ch. Ch.2: Metodolohichni osnovy derzhavnoho upravlinnia natsionalnoiu bezpekoiu. – K.: NADU, 2009. – 240 s.